
44.16

START

FIRST

SIDE

4A-88
4A-89

Sgt. Deane W.D.C.

Cpl. McGillivray W.A.

4458
4459

SCHEDULE.

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

Accused: M7233 Sgt Donald Charles Deane, 1 Cdn L of C Terminal Sig Sec RC Sigs
L22456 Cpl Willard Alexander McGillivray 1 Cdn L of C Terminal Sig Sec RC Sigs

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 18(4)	Guilty by both accused	Guilty in the case of each accused	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

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

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

Time in confinement awaiting present trial—a total of 2 days, of which nil days were spent in hospital.(1)

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

Sentence Awarded by the Court: to each accused - To be reduced to the ranks and to undergo detention for a period of ten months.

(Sgd) "D.G. Dean Capt" Judge Advocate, if any. 4 Oct 44 Date awarded. (Sgd) "E.J. Durnin Major" President (RP 45, 2.)

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

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

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

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

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

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

(Sgd) "H.G.H. Roaf Brig Commanding Cond 1 Cdn L of C Terminal Confirming Officer

Date 4 Oct 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date	Signature of Offr.
M7233 Sgt Donald Charles Deane	5 Oct 44	"A.E. Chapple Capt" SC'A'
L22456 Cpl Willard Alexander McGillivray		HQ 1 Cdn L of C Terminal

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

CPA90 (In lieu of AF A32)
10 P A S 1608 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig WHH Roaf OBE ED Comd 1 Cdn L of C Terminal dated 3 October 1944

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M7233	Sgt		DONALD CHARLES	DEANE	bothof 1 Cdn L of C Terminal Sig Sec RC Sigs
L22456	Cpl		WILLARD ALEXANDER	McGILLIVRAY	

Certified true copy
B.J.A. Strang Lt Colonel
D. J. A.
Can Sec GHQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 4th Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. XI 132 XI 133

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 26, 43-70, 73, 74, 94, 102, 108, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused ~~is~~ (are) amenable to military law, and each charge discloses an offence.(4)

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

A3. The Court is opened. The accused ~~is~~ (are) brought before the Court. At 0900 hours trial commences.

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

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

A5. President to accused ~~Do you object to~~ as interpreter I now as shorthand writer I Are ..... The Interpreter is sworn.(1) Do you object to ..... The shorthand writer is sworn.(1)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 31, RP 25, 71, 18, MML p 742.)

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

President	~~Major~~	E.J. Durnin	1 Cdn Offr Wks
Member	~~Major~~	C.C. Manley	10 Cdn Fd Hyg Sec
Member	~~Major~~	R.D. Theobald MC	5 Cdn Town Major
Judge-Advocate	~~Capt~~	D.G. Dean	HQ A Tps Area
Prosecutor	~~Capt~~	A.E. Chapple	1 Cdn L of C Terminal
Defending Offr	For Sgt Dean - Maj P.S. Galer		1 Cdn L of C Terminal
	For Cpl McGillivray - Major P.S. MacLeod		1 Cdn L of C Terminal

Questions by President: Is the Prosecutor a lawyer? Ans no Is the Defending Offr a lawyer? Ans Galer Yes MacLeod Yes

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

A8. The accused Sgt Dean and Cpl McGillivray before arraignment make(s) (no) (a) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

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

(1. RP 26, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. 3. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans Both accused yes (5)

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

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

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

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

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

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

(1. *If there is no Summary, or if it is inadequate, comply with RP* 17(*E*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(2) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(3) The Court is closed, and considers the submission.(4) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 104(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(*3*) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(*2*), *RP* 45, 117. *This alternative pronouncement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes. Will call character witnesses - Cpl McCaffery - Pte Chase as witness

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (the) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex DY C and Ex DY E respectively.(3)

(1. *MFR* 253 *or MFR* 294. 2. *MFM* 6. 3. *RP* 46, *KR Con* 552. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Both accused yes through their defending officer (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if one, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything here or previously stated which would affect the amount of punishment. RP* 37(*C*) *fn* 7.)

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

(1. *AA* 54(*3*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and* 86, *punishable, in so far awardable to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44A, 139, 182, *RP* 46-50, 89, 118, 119(*B*), *KR Con* 358, 330, 364-366. *Overseas KO* 309, 2323, *MML p* 90, 757-759. *As to sentences assigned for civil offences in the use of England see AA* 41(5), *MML p* 120. *When accused already under sentence of imprisonment or detention see AA* 44(1*B*), 96(*c*), *KR Con* 364. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names	Surname	Unit
M7233	Sgt		DONALD CHARLES	DEANE	both of
L22456	Cpl		WILLARD ALEXANDER	McGILLIVRAY	1 Cdn L of C Terminal Sig Sec RC Sigs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

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

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

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

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

PRESIDENT.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	E.J. Durnin	1 Cdn CME Works

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	C.C. Manley	1c Cdn Fd Hyg Sec
Major	N.D. Theobald MC	3 Cdn Town Major

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
C		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	D.G. Dean	HQ Army Tps Area

On Active Service in the Fd in France (Country.)

"W.G.H. Roaf"
(W.G.H. Roaf)
(Signed personally RP 105 fn 2.)

Brigadier (Rank.)

Date 3 October 1944

Commanding 1 Cdn L of C Terminal
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 10 Jan 83 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 119 provides that for procedure on defence RP 40-42 will apply so *far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 69(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 565(*a*).)

(vii) Summing up by *JA*, if any. (*RP* 82.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or *JA*, *if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or *JA*, *if any*, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificates. (*KR Can* 537.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR* (*Can*) 260. *As to certified copies of regimental books see AA* 162 (1) (*g*) (*k*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 58(*b*), *RP* 114(*C*), *MML p* 759.)

4. The President or *JA*, *if any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

CHARGE SHEET

The accused Number M.7233 Sgt Deane D.C., 1 Cdn L ofC Terminal Sig Sec and L 22456 Cpl McGillivray W.A., 1 Cdn L of C Terminal Sig Sec soldiers of the Cdn Army Overseas on Active Service are charged with

1st Charge Sec 18(4) Army Act — When on active service, STEALING PUBLIC PROPERTY, in that they

in the field on 28 Sep 44, stole 56 jerricans of petrol public property, from 134 Petrol Depot.

"R.E. YOUNG"

In the Field
2 Oct 44

(R.E. Young)Capt
OC 1 Cdn L of C Terminal Sig Sec

To be tried by FGCM

"W.G.H. ROAF"

In the Field
3 Oct 44

(W.G.H. Roaf)Brig
Comd
1 Cdn L of C Terminal

This is to certify that I have examined this day L.22456 Cpl McGillivray W.A. and in my opinion is fit to undergo trial by court martial

4 Oct 44
In the Field

"M.L. Allan Capt RCAMC"
Medical Officer

This is to certify that I have examined this day M7233 Sgt Deane D.C. and in my opinion is fit to undergo trial by court martial

4 Oct 44
In the Field

"M.L. Allan Capt RCAMC"
Medical Officer

Accused Cpl McGillivray duly sworn states.

I was brought up in a small town - had 13 years schooling. Four years I worked as a lineman during that 13 years and after about 1935 went to Calgary and worked for Cdn utilities, doing clerk accounting. 1938 transferred to Indian Head, placed in charge of accounting for that dist for Can utilities. Enlisted July 40. Spent 3 years in Dundern. 1 April 42, I was given confirmed rank of Cpl. Spent 8 months training at Vimy and arrived England 1 April 44. June 44 Capt Young was O/C chose me as the line corporal.

I dont know why I committed this offence. I am not short of money and have a balance of about $145 in my pay acct. After this is all over I would like to come back to my section as I feel I have let it and my O/C down very badly. I arrived in France 25 June.

Prosecutor declines to X examine

RP 83(B) is complied with.

Capt R.E. Young 1 Cdn L of C Terminal Sig Sec duly sworn - (called for both accused as a character witness)

Cpl McG has been with me about 15 June 44. It was a new section. His work has been exemplary and both my NCOs and I have been able to trust him. His character is first class. Icouldn't ask for a bbbberline corporal and would like to have him back

Sgt Deane joined me about 15 June 44. Before coming overseas he did a first class job of preparing the sec to come overseas. Overseas he continued to do a wonderful job. His responsibilities are great and his work is a credit to his section, corps and this HQ. His character is 1st class and I have been able to trust him fully. I couldn't ask for a better man. He has had charge of thousands of dollars of equipment which he has looked after well.

Prosecutor declines to X examine

RP 83(B) is complied with.

B.34811 Sgt Trimmer H.E., duly sworn
(called for Cpl McGillivray)

I have been Sec Serg of L of C Term Sign Section since it was first formed about 15 June 44 I have known C.l McG since then and have found him a fine type of Junior NCO. He is conscientous, trustworty, I would like to have him continue in the sec.

Prosecutor declines to X examine

RP 83(B) is complied with.

PLEA IN MITIGATION OF PUNISHMENT IN THE CASE OF

L.22456 CPL MCGILLIVRAY WA

Mr President and members of the court. You have heard evidence given by the accused himself and also evidence as to character given by the accused's commanding officer and section sergeant. The accused has pleaded guilty to the offence as charged. He admits he committed the offence, is very sorry he did it, and has made partial restitution. He has expressed willingness to make further restitution, but as the petrol has been partially restored, and money received sufficient to pay for the remainder, this does not appear necessary.

We realize that he must be punished. I would, however, like to draw the attention of the court to a few facts which may influence you in passing sentence.

I would like to emphasize that the accused was not short of money and did not do this thing with a motive of personal gain. He did it from a mistaken notion that he would be helping French civilians -- allies who could not obtain petrol to carry on their business.

The accused is a young man and as you see from his conduct sheet has never committed an offence before. I hope it will not be considered presumptous on my part to remind the court of the power you now hold over this man. It rests with you gentlemen whether he shall be thrown among habitual offenders and perhaps influenced by them or whether he is to be given another chance. I would ask you to think of this boy's father and mother and young wife out in Saskatchewan who are anxiously awaiting this lad's return on the cessation of hostilities. I further suggest that the sentence imposed should be the minimum required to maintain discipline. With a record of service such as Cpl McGillivray has, a reduction to the ranks might be considered one that would serve the interests of discipline and still not blight his career after the war. The consequent painful explanations that he would have to write to his wife and parents, I suggest, will be quite punishment enough.

Cpl McGillivray feels very keenly that he has let his section officer and comrades down, and if a sentence of field punishment is awarded, he would like to serve his time working with the section, so that he can be usefully employed at his trade and at the same time live down this unfortunate affair.

I might mention at this point that trained linemen with Cpl McGillivray's qualifications are few and far between, and are badly needed in Signals. I suggest that the best interests of the war effort would NOT be served by having Cpl McGillivray committed to a detention barracks ~~xxxxxxxxxxx~~ when he could be usefuly employed.

"D.N. MacLEOD"

(D.J. Macleod) Maj
RC Sigs
Defending Officer

PLEA IN MITIGATION IN THE CASE OF SGT DEANE, DC
1 CDN L OF C TERMINAL SIG SEC

Mr President and members of the Court. Sgt DEANE has pleaded guilty to the charge against him. You have heard the summary of evidence read, and the oral character evidence. I want to draw four points to your attention.

First. It is shown by the record that this is his first offence of any kind, and was a sudden lapse unnatural to hi, which would never now be repeated no matter what the temptation.

Second. He had made arrangements to send the money he obtained home for his children, but has since taken steps to make full restitution of it all, even though by such action his children will not have the use of this much needed money.

Third. There are many opportunities to steal or mis-apply petrol in the Army today. It is so easy for anyone to obtain any quantity of petrol that it almost amounts to putting an unfair temptation in the path of a man who has a temporary lapse of conscience. No evidence has been presented to prove this statement, but it is a matter of common knowledge in this theatre.

Fourth. Sgt DEANE is in great need of money, not for himself, but for his two children in Canada, aged 13 and 14 years respectively. A summary of his history in this respect follows. He returned to Canada in Jan 1943 after serving in England, to find that his wife had been living with another man for two years, and that his children had been utterly neglected by their mother. He obtained a divorce, and the custody of the children, but could find no suitable home for them, so moved them near Kingston, Ont, where he was stationed. Prior to his return to England in Feb 1944 he found a home for them in Picton, where he pays $40 a month for board and lodging alone. During this whole year he tried through all channels to get his case fully investigated by the Dependent's Allowance Board, with a view to increasing the allowance on hardship grounds. The children having nobody to look after them of his own family, it was expensive to bring them up, particularly now that extra clothes are required for this winter. All his efforts were without any result. Now he feels he has been treated unfairly by the Dependent's Allowance Board, whereas if he had received proper treatement he would have had enough money to have his children well cared for, and there would have been no incentive for him to even think of stealing petrol. In this same connection, a sentence of anything more than six months would impose a doubt hardship. One on himself and a much greater one on his children because their sole souce of income, their father's assigned pay and the Government allowance, would cease at that time.

For these reasons I suggest that the sentence imposed should be the lightest required to maintain discipline.

"P.S. OSLER"

(PS Ostler)Maj
Defending Officer

I have received Fr 11,200 from Sgt Deane which I undertake to return to the military authorities in full restitution.

"P.S. OSTLER Maj"

This is Exhibit "A" referred to in the summary of Evidence in the case of M7233 Sgt Deane DC and L22456 Cpl McGillivray WA taken before me this day of 2 Oct 44
C E Chappel Capt
Offr taking summary
E.J.D.

S U M M A R Y O F E V I D E N C E

IN THE CASE OF

No M7233 Sgt DEANE DC and No L22456 Cpl McGILLIVRAY WA

HQ 1 Cdn L of C Terminal Sigs Sec CAO, charged with

fraudulently misapplying public property (AA Sec 18(4))

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS Lieut Tom CRAWSHAW of 807 Cdn Pro Coy, sworn states:

I am Lieut Tom CRAWSHAW 2 i/c 807 Cdn Pro Coy. On the afternoon of Sep 29, 1944 I was in charge of LILLE detachment. I received certain information as a result of which I visited 85 RUE ST CHARLES Le MADELAINE, LILLE. Monsieur Le BLANC, gate keeper, gave me certain information which led to the arrest of two civilians of LILLE by the civilian police on the charge of receiving stolen property. The investigation involved an army vehicle CL 4216136 and two army personnel. I traced the vehicle through its number to 1 Cdn L of C Terminal Sigs Sec. I there interviewed M7233 Sgt DEANE DC and L22456 Cpl McGILLIVRAY WA whom I now identify as being present here. After certain questioning I cautioned Sgt DEANE and Cpl McGILLIVRAY in the following manner: "Do you wish to make any statement"? "You are not obliged to say anything but anything you do say will be taken down in writing and may be given in evidence". After having received the warning Sgt DEANE and Cpl McGILLIVRAY made a statement jointly which I took down in writing and which they both signed and which I now produce. I did not threaten them in any way nor did I offer them any inducement to make the said statement and it was purely voluntary.

The accused both decline to cross-examine this witness.

(T Crawshaw) Lt.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

Please turn to Page 2

848

SECOND WITNESS D57911 L/Cpl BOUTHILLIER B 807 Cdn Pro Coy, sworn states:

I am L/Cpl BOUTHILLIER B 807 Cdn Pro Coy. On the 29 September, 1944 at about 2300 hrs I was detailed by Lt CRAWSHAW in company with Sgt BAVIN to proceed to 14 RUE des BALLON WaTTRELOS and accompanied by the civilian police we discovered 35 full jerricans of army petrol, 20 empty jerricans and one barrel, full, and one barrel approximately one quarter full, which we removed. We then proceeded to 85 RUE SAINT CHARLES de la MADELAINE where we found another barrel three quarter full. We removed this with the other petrol and reported to our HQ which was at 39 RUE JEAN BART.

The accused both decline to cross-examine this witness.

(B. Bouthillier) L/Cpl

THIRD WITNESS Lieut ED COBB 2 i/c 1 Cdn L of C Terminal Sigs Sec, sworn, states:-

I am Lieut ED COBB 2 i/c 1 Cdn L of C Terminal sigs Sec and Sgt DEANE and Cpl McGILLIVRAY who are here and whom I now recognize are in my section.

Q. Who is responsible for the drawing and distributing of petrol in your section?
A. Normally the Section Sgt, Sgt Trimmer or Signn Harper who is acting storeman draw the petrol required by the Signal Section direct from the petrol depot and stored till required by individual drivers and despatch riders.

Q. What are Sgt DEANE'S and Cpl McGILLIVRAY'S duties in the Section?
A. They are the NCOs supervising and in charge of the personnel (linemen) and the laying of lines.

Q. To the best of your knowledge were Sgt DEANE or Cpl McGILLIVRAY detailed to draw petrol on the day of the 28 Sep 44 from the petrol depot?
A. No, they were not.

The accused both decline to cross-examine the witness.

(T.D. Cobb)Lt

Please turn to Page 3

The accused were questioned as follows:-

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

The accused do not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence of both the accused and that RP 4 (C)(D)(E)(F) xxxxxxxx have been complied with.

(A E Chapple) Capt
SC'A'
1 Cdn L of C Terminal

In the Field
2 Oct 44

STATEMENT OF M7233 SGT DRANE, D.C., 1 CDN L OF C TERMINAL SIGS SECTION,
666666666 TAKEN 2120 HRS 1 OCT 1944

I hereby certify that I have been duly warned and make the following statement voluntarily

On Wednesday Sep 27th, 1944 I left BETHUNE at approx 0830 hrs driving Ford 5 cwt 4 x 4 M7453778 accompanied by L22456 Cpl McGillivray, W.A., and proceeded to LILLE on duty. After working all morning until 12 noon mil time, we decided to stay in LILLE for dinner. We ate lunch at a place with CAFE - RESTAURANT on the window. We had finished eating when six men at a nearby table, or perhaps five men, beconed us over to their table. We went over and had some CHAMPAGNE with them and were then asked if we could get them some petrol. After a few questions back and forth they agreed to pay any price for gas. Conversation was mostly in English. All spoke fairly good English with one outstanding. Eventually we decided to see them some gas and a time and date were set. The following day the gas was procured and delivered at the time and place set. We drew the petrol at 134 Pet Point Depot. After meeting two of the men a proce was agreed on at four hundred fancs per jerrican. There fifty six cans in all. The total price was twenty two thousand four hundred fancs, French money. We then proceeded to the rendezvous and disposed of the gas. The place was in a big business office behind a big brick wall. There was an iron gate on the wall, allowing passage for a large truck. The gate was opened by a gateman. The place of business was a cotton waste manufacturers. We handed over the petrol in the yard and I was paid the full price in the office. We took the two men back to the same cafe in LILLE where we had first met them. That cafe was the rendezvous where we had met them the same day and they had guided us to the place where we left the petrol. The one man gave me his card and it reads "RENE VAN DEN DRIESSCHE, 14 RUE DES BALLONS, WATTRELOS, DEPARTS de COTES".

Please turn to Page 2

The other man was middle aged, say forty seven or eight, thin face, with a moustache. The man who first produced the card was a man of forty four or five, medium build, wearing glasses, slightly grey. Of the tree men who made up the party of five, on the previous day, one was quite swarthy, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was rather stout with fair hair, and in the forties. The third man was not noticed particularly and can not be described. I have disposed of my share of the money, eleven thousand two hundred francs by spending and by other means and I am not now in possession of any of it.

This is the first and only time I have dealt in this way with government property, or with anything illegal in my life.

"D.C. Deane"
D.C. Deane Sgt

"T Crawshaw Lieut"
Witness T Crawshaw Lt.

I have read over and corroborate the above statement of M7233 Sgt Deane, D.C., previous to which I was duly warned and make this corroboration voluntarily. I further state that the amount of eight thousand four hundred francs now in the possession of Capt Young, OC, Sigs Section, 1 Cdn L of C Terminal, is the balance of my share of the money, eleven thousand two hunred francs, the remainder of which I have disposed of by spending.

"W.A. McGillivray Cpl"
S.A. McGillivray, Cpl

"T Crawshaw Lieut"
Witness T Crawshaw Lt.

c.g.d.

Summary of Evidence
in the case of

No K.7233 Sgt Deane D.C. and N1 L.22456 Cpl McGillivray W.A., HQ 1 Cdn L of C Terminal Sigs Sec CAC, charged with fraudulently misapplying public property (AA Sec 8(4).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness Lieut Tom Crawshaw of 807 Cdn Pro Coy, sworn states:-

I am Lieut Tom Crawshaw 2 i/c 807 Cdn Pro Coy. On the afternoon of Sep 29/44 I was in charge of Lille detachment. I received certain information as a result of which I visited 85 Rue St Charles Le Madelaine, Lille. Monsieur Le Blanc game keeper gave me certain information which led to the arrest of two civilians of Lille by the civilian police on the charges of receiving stolen property. The investigation involved an army vehicle CL 4216136 and two army personnel. I traced the vehicle through its number to 1 Cdn L of C Terminal Sigs Sec. I there interviewed M7233 Sgt Deane D.C. and L22456 Cpl McGillivray W.A. whom I now identify as being present here. After certain questioning I cautioned Sgt Deane and Cpl McGillivray in the following manner "Do you wish to make any statement? You are not obliged to say anything but anything you do say will be taken down.

8/40

in writing and may be given in evidence".
After having received the warning Sgt Deane
and Cpl McGillivray made a statement
jointly which I took down in writing and
which they both signed and which I now
produce. I did not threaten them in any
way nor did I offer them any inducement
to make the said statement and it was
purely voluntary.
The accused both decline to cross-examine
this witness.

"T. Crawshaw Lieut"

The statement referred to in the evidence
of the above witness is attached hereto as
Exhibit 'A'.

Second Witness D57911 L/Cpl Bouthillier B
807 Cdn Pro Coy, sworn states:-
I am L/Cpl Bouthillier B, 807 Cdn Pro Coy. On the
29 September 44 at about 2300 hrs I was
detailed by Lt Crawshaw in company with Sgt
Hovie to proceed to 14 Rue des Ballon Wattrelas
and accompanied by the civilian police we
discovered 35 full jerricans of army petrol
and 20 empty ferricans and one barrel, full, and
one barrel approximately one quearter full, which
we removed. We then proceeded to 85 Rue
Sainte Charles de la Madelaine where we
found another barrel three quarter full. We
removed this with the other petrol and reported

our HQ which was at 39 Rue Jean Bard.

The accused both decline to cross-examine the witness.

"B. Bouthillier"

Third Witness Lieut R.D. Cobb 2 ic 1 Cdn L of C Terminal Sigs Sec sworn states:-

I am Lieut T.D. Cobb 2 ic 1 Cdn L of C Terminal Sigs Sec and Sgt Deane and Cpl McGillivray who are here and whom I now recognize are in my section.

Q. Who is responsible for the drawing and distributing of petrol in your section.

A. Normally the section Sgt, Sgt Trimmer or Sigmn Harper who is acting storeman draw the petrol required by the signal section direct from the petrol depot and stored till required by individual drivers and despatch riders.

Q. What are Sgt Deane's and Cpl McGillivray's duties in the section.

A. They are the NCOs supervising and in charge of the personnel (linemen) and the laying of lines.

Q. To the best of your knowledge were Sgt Deane or Cpl McGillivray detailed to draw petrol on the day of the 28 Sep 44 from the petrol depot?

A. No, they were not.

The accused both decline to cross examine the witness.

"T.D. Cobb" Lt.

The accused were questioned as follows:

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

A. The accused do not want to make a statement.

The accused do not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of four pages, was taken down by me in the presence of both the accused and that RP 4(C))D)(E)(F) have been complied with.

In the Field
2 Oct 44

"A.E. Chapple Capt"
SC'A' 1 Cdn L of C Terminal

This is Exhibit 'A' referred to in the Summary of Evidence in the case of M.7233 Sgt Deane, D.C. and LL22456 Cpl McGillivray WA taken before me this day of 2 Oct 44.

"A.E. ChappleCapt"

Statement of M7233 Sgt Deane, D.C. 1 Cdn L of C Terminal Sigs Section, taken 2120 hrs 1st October 1944.

I hereby certify that I have been duly warned and make the following statement voluntarily.

On Wednesday Sept 27th 1944 I left Bethune at approx 0830 hrs driving Ford 5 cwt 4 x 4 M7453778, accompanied by L22456 Cpl McGillivray W.A., and proceeded to Lille on duty. after working all morning until 12 noon mil time we decided to stay in Lille for dinner. We ate lunch at a place with Cafe - Restaurant on the window. We had finished eating when six men at a nearby table, or perhaps five men, beconed us over to their table. We went over and had some champagne with them and were then asked if we could get them some petrol. After a few questions back and forh they agreed to pay any price for gas. Conversation was mostly in English. All spoke fairly good English with one outstanding. Eventually we decided to see them some gas and a time and date were set. The following day the gas was procured and delivered at the time and place set. We drew the petrol at 134 Pet Point Depot. After meeting two of the men a price was agreed on at four hundred francs per jerrican. There were fifty six cans in all. The total price was twenty two thousand four hundred francs, French money. We then proceeded to the rendizvous and disposed of the gas. The place was in a big business office behind a big brick wall. There was an iron gate in the wall, allowing passage for a large truck. The gate was opened by a gateman. The place of business was a cotton waste manufacturers. We handed over the petrol in the hard and I was paid the full price in the office. We took the two men back to the same cafe in Lille where we had first met them. That cafe was the rendézvous where we had met them the same day and they had guided us to the place where we left the petrol. The one man gave me his care and it reads "Rene van den Driessche, Rue des Ballonns, Wattrelos". Dechets de Coton. The fifth other man was middle aged, say forty seven or eight, then face, with a moustache. The man who first produced the card was a man of forty four or five, medium build wearing glasses, slightly grey. Of the three men who made up the party of five on the previous day one was quite swarty, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was ruther stout with fair hard, and in the forties. The third man was not noticed particularly and cannot be described.

I have disposed of my share of the money eleven thousand two hundred francs by spending and by other means and I am not now in possession of any of it.

This is the first and only time I have dealt in this way with government property, or with anything illegal in my life.

"D.C. DeanSgt"

Witness T. Crawshaw Lieut"

I have read over and corroborate the above statement of M7233 Sgt Deane D.C. previous to which I was duly warned and make this corroboration voluntarily. I futher state that the amount of eight thousand four hundred francs now in the possession of Capt Young OC Sigs Section 1 Cdn L of C Terminal is the balance of my share of the money, eleven thousand two hundred francs, the remainder of which I have disposed of by spending.

"W.A. McGillivray Cpl"

Witness T. Crawshaw Lieut"

Exhibit B

"D 340"

M.F.R. 388

22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.R. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.7233	Sergt	Deane D.C.	1 Cdn L of C Terminal Sig Sec

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

Within last 12 months		Since enlistment or appointment	
For	times		times
For	times		times
For N/A	times	N/A	times
For	times		times

Number of instances of gallantry or distinguished conduct nil

or,

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

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

2. The accused has not been previously convicted

or,

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

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

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

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

5. The present age of the accused according to his statement / record of service is 40 / attestation paper is

6. The date of his commission specified in his statement / record of service is 22 Sep 39 / attestation / attestation paper

7. The service which the accused is allowed to reckon towards discharge is 5 yrs

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

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

CVSM and clasp

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

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit N/A dated N/A, and in his regiment (or corps), the rank of N/A dated N/A.

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

1 Jul 41 Date of promotion.

In the rank of Corpl 11 months xxxx

In the rank of Sargt 2 yrs 4 months xxx

In the rank of ---- years

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

SCHEDULE

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

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

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

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

Signed this 3rd day of October 1944 *R.T. Young Capt* OC 1 Cdn L of C Terminal Sig Sec

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

Exhibit C

"D/D"

M.F.B. 383
22M—5-41 (572-3)
H.Q. 1772-20-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L22456	Corpl	McGillivray WA	1 Cdn L OF C Terminal Sig Sec

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

	Within last 12 months		Since enlistment or appointment	
For		times		times
For		times		times
For	N/A	times	N/A	times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

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

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

2. The accused has not been previously convicted N/A

or,

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

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

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 1 days in Air Force military custody, making a total of 1 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is statement attestation paper is 29

6. The date of his commission specified in his record of service is statement attestation paper 29 Jul 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 3 months

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

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

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

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

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

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

1 Apr 42 Date of promotion.

In the rank of Corpl 2½ years.

In the rank of -------- years.

In the rank of -------- years.

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

SCHEDULE

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

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
----------	----------	N/A	----------	----------

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

"R.S. Young Capt"

Signed this 3rd day of October 1944 OC 1 Gen L of C Terminal Sig Sec

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

No. E7233 Name Donald DEANE Sqn, Battery, or Company Corps RC Sigs Date of enlistment 22 Sep 39 GC Badges Service or Proficiency Pay 50¢ MFM 6 (AFB 122) 40/P&S/136 (2438)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield Ont				Sheet destroyed after two years service 22 Sep 41			ME KETTNER Capt		
				I hereby certify that the above is a true copy of the a/m NCO's MF M6 "R.E. Young Capt" Officer Commanding 1 Cdn [illegible] of C Terminal Signal Section					

(PTO)

Exhibit D

572 36-8-5 [illegible]

No. L22456 Name Willard Alexander McGILLIVRAY Sqn, Battery, or Company Corps RC Sigs Date of enlistment 29 Jul 40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/P&S/156 (3438)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No One Signature OC Company, etc ME KETTNER Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17	Apr	44	Voluntary blood donation				KW GYDE Lieut	
				I hereby certify that the above is a true copy of the a/m NCO's MF M6 "R.E. Young" Capt Officer Commanding 1 Cdn D of C Terminal Signal Section.					

(PTO)

Exhibit 6

872 36-8-0 4/1

RECORDED AT CMHQ IN AB 160 WA-89 JA-89

FIELD GENERAL COURT-MARTIAL

CFA66 (To Ueu of AFA81) 40/P & R/1266 (6144)

4/388

Convened by Maj Gen Herbert Lumsden CB DSO MC Comd 1 Cdn Corps dated 3 October 1944

ACCUSED.

(If two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, date of appmt, Airforce or Aiappmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M7233	Sgt		DONALD CHARLES	DEANE	born of
L22456	Cpl		WILLARD ALEXANDER	McGILLIVRAY	1 Cdn

1 Cdn L of C Terminal
Sig Sec HQ Sigs

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) NW Europe on (date(s)) 4 Oct 44

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereinafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

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

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

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

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

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

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

The shorthand writer is sworn.(1)

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

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

Ans (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Major	E.L. Burnett	1 Cdn Corps
Member	Major	C.C. Manby	1 Cdn Hq
Member	Major	N.W. Theakston MC	3 Cdn Inf Bde
Judge-Advocate	Capt	W.H. Dean	HQ AFPU
Prosecutor	Capt	C. Charlton	1 Cdn L of C Terminal
Defending Offr	Lt	[illegible]	1 Cdn L of C Terminal

Questions by President: Is the Prosecutor a lawyer ? Ans Yes. Is the Defending Offr a lawyer ? Ans No.

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Confg Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See Dir p 2.)

A8. The accused Cpl McGillivray and Capt Manby before arraignment make(s) (no) objn(s). Plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposal, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: M 7233 Sgt Deane, Donald Charles and L 22456 Cpl McGillivray, Willard Alexander

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A A(8)(4)	Guilty except with record	Guilty except with record of court martial	
2nd			
3rd			
4th			
5th			
6th			

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

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

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

Time in confinement awaiting present trial—a total of 4 days, of which 4 days were spent in hospital.(1)

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

Sentence Awarded by the Court To each accused - To be reduced to the ranks and to undergo detention for a period of ten months

(Sgd) [illegible] Capt. Judge-Advocate, if any. Date awarded. 4 Oct 44 (Sgd) E.L. Burnett Major President. (RP 45, 50.)

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

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

Date (Sgd) Commanding

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

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

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

confirmed

~~I do not confirm the finding and sentence in the case of~~ (1)

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

(Sgd) W.H.S. Rose BRIG

Date 4 Oct 44 Commanding COMD 1 Can L of C Terminal Confirming Officer

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

Accused.	Date.	Signature of Offr.
M 7233 Sgt Donald Charles Deane L 22456 Cpl Willard Alexander McGillivray	5 Oct 44	SC A. HQ 1 Can. L. of C. Terminal

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B on p 2. Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a loose sheet.)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a loose sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*a*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copies of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to the soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex [illegible] and Ex [illegible] respectively.(3)
(1. *AFB* 255 *or AFB* 294. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans [illegible]
(1. *RP* 27(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 27(*f*) *fn* 7.)

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and* 10, *proviso, is to be pronounced to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 363-366, *Overseas* 40, 209, 2323, *MML p* 80, 737-738. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 1-30. *Where accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 140(*c*), *KR Can* 504. 2. *RP* 50. *As to release from arrest to attend Convening Offr see KR Can* 367. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused Number M7233 Sgt Deane DC, 1 Cdn L of C Terminal Sig Sec and L22456 Cpl McGillivray WA 1 Cdn L of C Terminal Sig Sec soldiers of the Cdn Army Overseas on Active Service are charged with

1st Charge Sec 18 (4) Army Act — When on active service, STEALING PUBLIC PROPERTY,

in that they

in the field on the 28 Sep 44, stole 56 jerricans of petrol public property, from 134 Petrol Depot.

(R E YOUNG) Capt
OC 1 Cdn L of C Terminal Sig Sec

In the Field
2 Oct 44

To be tried by FGCM

(W G H RCAF) Brig
Comd
1 Cdn L of C Terminal

In the Field
3 Oct 44

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
R7255	Sgt		DONALD CHARLES	DEANE	both of
L22456	Cpl		WILLARD ALEXANDER	McGILLIVRAY	1 Cdn L of C Terminal Sig Sec RC Sigs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Oct 44 endorsed by me, ~~for by me O/C 1 Cdn Sig Sec~~." To be tried by Field General Court-Martial ".

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

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

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

~~4. I am unable to appoint (a) three Offrs to form the Court, if [illegible] is President, for the reasons I have attached hereto.~~

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	A J DUNKIN	1 Cdn CME Works

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
MAJOR	G G MANLEY	10 Cdn Fd Hyg Sec
MAJOR	N P THEOBALD MC	3 Cdn Town Major

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
CAPTAIN	J G DEAN	RC Army Pay Corps

On Active Service in the Fd

in FRANCE (W G H Roof) Brigadier
(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 3 October 1944 Commanding 1 Cdn L of C Terminal
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Page 1) (Pages 2 and 3 on AFAA) (See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades."

RP 85(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 85(B) should be complied with. If taken verbatim, RP 85(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor. Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 86(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 82.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then joined by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificates. (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy as here of original see KR Can 560. As to certified copies of registered books see AA 103 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

(vii) Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 3 after minute of sentence awarded. (*AA 53(3), RP 113(C), MML p 759.*)

3. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Sfd

This is to certify that I have examined this day L22456
Cpt McGillivray WA and in my opinion is fit to
undergo trial by court martial

4 Oct 44
In the Field

M. L. Allan Capt RCAMC
Medical Officer

Sfd

This is to certify that I have examined this day M7233
Sgt Deane D.C. and in my opinion is fit to
undergo trial by court martial

4 Oct 44
In the Field

M. L. Allan Capt RCAMC
Medical Officer

Cpl 14

Accused Cpl McCilliray duly sworn states.

I was brought up in a small town - had 13 years schooling. Four years I worked as a lineman during that 13 years & after. About 1935 went to Calgary & worked for Can. utilities, doing clerk accountancy. 1938 transferred to Indian Head, places in charge of accounting for that dist. for Can. utilities.
Enlisted July 40. Spent 3 years in Wundern. 1 April 42, I was given confirmed rank of Cpl. ~~[illegible]~~ Spent 8 months training at Vimy & arrived ~~[illegible]~~ 1 April 44. June 44 Capt Young in O/C chose me as his line corporal.
I don't know why I committed this offence. I am not short of money & have a balance of about $145 in my pay acct. Afterthe is all over I would like to come back to my section as I feel I have let it & my O/C down very badly. I arrived in France 25 June.

Prosecutor declines to examine

RR & 3(B), is complied with.

Capt R E Young 1 Edn of Terminal Sig. duly sworn - (called for both accused as a character witness)
Cpl McC. has been with me about 15 June 44. It was a new section. His work has been exemplary & both my NCO's & I have been able to trust him. His character is first class. I could not ask for a better line corporal & would like to have him back

Sgt Deane joined me about 15 June 44. Before coming overseas he did a first class job of preparing the sec. to come overseas. Overseas he continued to do an wonderful job. His responsibilities are great and his work is a credit to his section, Corps this HQ. His character is 1st class & I have been able to trust him fully. I couldn't ask for a better man; he has had charge of thousands of dollars of equipment which he has looked after well.

Prosecutor declines to X examine

RD 83 (B) is complied with

B34511 Sgt Trimmer H E, duly sworn. (called by Cpl McGillivray)

I have been Lecherg. of Ed Cpl Sign Lecture since it was first formed about 15 June 44. I have known Cpl McG since then & have found him a fine type of Junior NCO. He is conscientious, trustworthy. I would like to have him continue in these.

Prosecutor declines to X examine

RD 83 (B) is complied with

Plea in mitigation for Sgt. Keane

PLEA IN MITIGATION OF PUNISHMENT IN THE CASE OF
L.22456 CPL MCGILLIVRAY WA.

Mr President and members of the court. You have heard evidence given by the accused himself and also evidence as to character given by the accused's commanding officer and section sergeant. The accused has pleaded guilty to the offence as charged. He admits he committed the offence, is very sorry he did it, and has made partial restitution. He has expressed willingness to make further restitution, but as the petrol has been partially restored, and money received sufficient to pay for the remainder, this does not appear necessary. We realize that he must be punished. I would, however, like to draw the attention of the court to a few facts which may influence you in passing sentence.

I would like to emphasize that the accused was not short of money and did not do this thing with a motive of personal gain. He did it from a mistaken notion that he would be helping French civilians -- allies who could not obtain petrol to carry on their business.

The accused is a young man and as you see from his conduct sheet has never committed an offence before. I hope it will not be considered presumptuous on my part to remind the court of the power you now hold over this man. It rests with you gentlemen whether he shall be thrown among habitual offenders and perhaps influenced by them or whether he is to be given another chance. I would ask you to think of this boy's father and mother and young wife out in Saskatchewan who are anxiously awaiting this lad's return on the cessation of hostilities. I further suggest that the sentence imposed should be the minimum required to maintain discipline. With a record of service such as Cpl McGillivray has, a reduction to the ranks might be considered one that would serve the interests of discipline and still not blight his career after the war. The consequent painful explanations that he would have to write to his wife and parents, I suggest, will be quite punishment enough.

Cpl McGillivray feels very keenly that he has let his section officer and comrades down, and if a sentence of field punishment is awarded, he would like to serve his time working with the section, so that he can be usefully employed at his trade and at the same time live down this unfortunate affair.

I might mention at this point that trained linemen with Cpl McGillivray's qualifications are few and far between, and are badly needed in Signals. I suggest that the best interests of the war effort would NOT be served by having Cpl McGillivray committed to a detention barracks when he could be usefully employed.

(DN Macleod) Maj
RC Sigs
Defending Officer

PLEA IN MITIGATION IN THE CASE OF SGT DEANE, DC
1 CDN L OF C TERMINAL SIG SEC

Mr President and members of the Court. Sgt DEANE has pleaded guilty to the charge against him. You have heard the summary of evidence read, and the oral character evidence. I want to draw four points to your attention.

First. It is shown by the record that this is his first offence of any kind, and was a sudden lapse unnatural to him, which would never now be repeated no matter what the temptation.

Second. He had made arrangements to send the money he obtained home for his children, but has since taken steps to make full restitution of it all, even though by such action his children will not have the use of this much needed money.

Third. There are many opportunities to steal or mis-apply petrol in the Army to-day. It is so easy for anyone to obtain any quantity of petrol that it almost amounts to putting an unfair temptation in the path of a man who has a temporary lapse of conscience. No evidence has been presented to prove this statement, but it is a matter of common knowledge in this theatre.

Fourth. Sgt DEANE is in great need of money, not for himself, but for his two children in Canada, aged 13 and 14 years respectively. A summary of his history in this respect follows. He returned to Canada in Jan 1943 after serving in England, to find that his wife had been living with another man for two years, and that his children had been utterly neglected by their mother. He obtained a divorce, and the custody of the children, but could find no suitable home for them, so moved them near Kingston, Ont, where he was stationed. Prior to ~~On~~ his return to England in Feb 1944 he found a home for them in Picton, where he pays $40 a month for board and lodging alone. During this whole year he tried through all channels to get his case fully investigated by the Dependent's Alllwance Board, with a view to increasing the allowance on hardship grounds, ~~because~~ The children having nobody to look after them of his own family, it was expensive to bring them up, particularly now that extra clothes are required for this winter. All his efforts were without any result. Now he feels he has been treated unfairly by the Dependent's Allowance Board, whereas if he had received proper treatment he would have had enough money to have his children well cared for, and there would have been no incentive for him to even think of stealing petrol. In this same connection, a sentence of anything more than six months would impose a double hardship. One on himself and a much greater one on his children because their sole source of income, their father's assigned pay and the Government allowance, would cease at that time.

For these reasons I suggest that the sentence imposed should be the lightest required to maintain discipline.

P S Osler

(PS Osler) Maj
Defending Officer

I have received Fr 11,200 from Sgt Deane which I undertake to return to the military authorities in full restitution

P S Osler Maj

This is Exhibit 'A' referred to in the Summary of Evidence in the Case of M 7233 Sgt Deane DC and L 22456 Cpl McGillivray WA taken before me this day of 2 Oct 44.
[signature] Capt
Offr. taking Summary

S U M M A R Y O F E V I D E N C E

in the case of

No M7233 Sgt DEANE DC and No L22456 Cpl McGILLIVRAY WA HQ 1 Cdn L of C Terminal Sigs Sec CAO, charged with fraudulently misapplying public property (AA Sec/8) (4).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS Lieut Tom CRAWSHAW of 807 Cdn Pro Coy, sworn states:-

I am Lieut Tom CRAWSHAW 2 i/c 807 Cdn Pro Coy. On the afternoon of Sep 29, 1944 I was in charge of LILLE detachment. I received certain information as a result of which I visited 65 RUE ST CHARLES Le MADELAINE, LILLE. Monsieur Le BLANC, gate keeper, gave me certain information which led to the arrest of two civilians of LILLE by the civilian police on the charge of receiving stolen property. The investigation involved an army vehicle CL421b136 and two army personnel. I traced the vehicle through its number to 1 Cdn L of C Terminal Sigs Sec. I there interviewed M7233 Sgt DEANE DC and L22456 Cpl McGILLIVRAY WA whom I now identify as being present here. After certain questioning I cautioned Sgt DEANE and Cpl McGILLIVRAY in the following manner: "Do you wish to make any statement"? "You are not obliged to say anything but anything you do say will be taken down in writing and may be given in evidence". After having received the warning Sgt DEANE and Cpl McGILLIVRAY made a statement jointly which I took down in writing and which they both signed and which I now produce. I did not threaten them in any way nor did I offer them any inducement to make the said statement and it was purely voluntary.

The accused both decline to cross-examine this witness.

(T Crawshaw) Lt

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A".

Please turn to Page 2.

SECOND WITNESS D57911 L/Cpl BOUTHILLIER B 807 Cdn Pro Coy, sworn states:-

I am L/Cpl BOUTHILLIER B 807 Cdn Pro Coy. On the 29 September, 1944 at about 2300 hrs I was detailed by Lt CRAWSHAW in company with Sgt HAVIE to proceed to 14 RUE des BALLON WATTRELOS and accompanied by the civilian police we discovered 35 full jerricans of army petrol, 20 empty jerricans and one barrel, full, and one barrel approximately one quarter full which we removed. We then proceeded to 85 RUE SAINT CHARLES de la MADELAINE where we found another barrel three quarter full. We removed this with the other petrol and reported to our Hq which was at 39 RUE JEAN BART.

The accused both decline to cross-examine the witness.

(B. Bouthillier) L/Cpl

THIRD WITNESS Lieut TD COBB 2 i/c 1 Cdn L of C Terminal Sigs Sec, sworn states:-

I am Lieut TD Cobb 2 i/c 1 Cdn L of C Terminal Sigs Sec and Sgt DEANE and Cpl McGILLIVRAY who are here and whom I now recognize are in my section.

Q-Who is responsible for the drawing and distributing of petrol in your section?
A-Normally the Section Sgt, Sgt Trimmer or Signalman Harper who is acting storesman drew the petrol required by the Signal Section direct from the petrol depot and stored till required by individual drivers and despatch riders.

Q-What are Sgt DEANE'S and Cpl McGILLIVRAY'S duties in the Section?
A-They are the NCOs supervising and in charge of the personnel (linesmen) and the laying of lines.

Q-To the best of your knowledge were Sgt DEANE or Cpl McGILLIVRAY detailed to draw petrol on the day of the 26 Sep 44 from the petrol depot?
A-No, they were not.

The accused both decline to cross-examine the witness.

(T D Cobb) Lt

Please turn to Page 3.

The accused were questioned as follows:-

Q-Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but what ever you say or any evidence you give will be taken down in writing and may be given in evidence.
A-The accused do not want to make a statement.

The accused to not call any witnesses.

I certify that the foregoing Summary of evidence, consisting of three pages, was taken down by me in the presence of both the accused and that AP 4 (3) (b) (x) (r) have been complied with.

(A E Chapple) Capt
SC "A"
1 Cdn L of C Terminal

In the field
2 Oct 44.

STATEMENT OF M7233 SGT DEANE, D.C., 1 CDN L OF C
TERMINAL SIGS SECTION, TAKEN 2120 HRS 1 OCT 1944

I hereby certify that I have been duly warned and make the following statement voluntarily.

On Wednesday Sep 27th, 1944 I left BETHUNE at approx 0830 hrs driving Ford 5 cwt 4 x 4 M7453778 accompanied by L22456 Cpl McGillivray, W.A., and proceeded to LILLE on duty. After working all morning until 12 noon mil time, we decided to stay in LILLE for dinner. We ate lunch at a place with CAFE - RESTAURANT on the window. We had finished eating when six men at a nearby table, or perhaps five men, beckoned us over to their table. We went over and had some CHAMPAGNE with them and were then asked if we could get them some petrol. After a few questions back and forth they agreed to pay any price for gas. Conversation was mostly in English. All spoke fairly good English with one outstanding. Eventually we decided to sell them some gas and a time and date were set. The following day the gas was procured and delivered at the time and place set. We drew the petrol at 134 Pet Point Depot. After meeting two of the men a price was agreed on at four hundred francs per jerrican. There were fifty six cans in all. The total price was twenty two thousand four hundred francs, French money. We then proceeded to the rendezvous and disposed of the gas. The place was in a big business office behind a big brick wall. There was an iron gate on the wall, allowing passage for a large truck. The gate was opened by a gateman. The place of business was a cotton waste manufacturers. We handed over the petrol in the yard and I was paid the full price in the office. We took the two men back to the same cafe in LILLE where we had first met them. That cafe was the rendezvous where we had met them the same day and they had guided us to the place where we left the petrol. The one man gave me his card and it reads "HENRI VAN DEN DRIESSCHE, 14 RUE DES BALLONS, WATTRELOS, DECHETS de COTON".

Please turn to Page 2.

The other man was middle aged, say forty seven or eight, thin face, with a moustache. The man who first produced the card was a man of forty four or five, medium build, wearing glasses, slightly grey. Of the three men who made up the party of five on the previous day, one was quite swarthy, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was rather stout with fair hair, and in the forties. The third man was not noticed particularly and cannot be described. I have disposed of my share of the money, eleven thousand two hundred francs by spending and by other means and I am not now in possession of any of it.

This is the first and only time I have dealt in this way with government property, or with anything illegal in my life.

D.C. Dean, Sgt

Witness T Crawshaw, Lt

I have read over and corroborate the above statement of M7233 Sgt Dean, D.C., previous to which I was duly warned and make this corroboration voluntarily. I further state that the amount of eight thousand four hundred francs now in the possession of Capt Young, OC, Sigs Section, 1 Cdn L of C Terminal, is the balance of my share of the money, eleven thousand two hundred francs, the remainder of which I have disposed of by spending.

W.A. McGillivray, Cpl

Witness T Crawshaw, Lt

Summary of Evidence
in the case of

No M 7233 Sgt Deane D C and No L 22456 Cpl McGillivray W A, HQ 1 Cdn L of C Terminal Sigs Sec CAO, charged with fraudulently misapplying public property (AA Sec 8)(4).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness Lieut TOM Crawshaw of 807 Cdn Pro Coy, sworn states:-

I am Lieut TOM Crawshaw 24c 807 Cdn Pro Coy. On the afternoon of Sep 29/44 I was in charge of Lille detachment I received certain information as a result of which I visited 85 Rue St Charles Le Madelaine Lille. Monsieur Le Blanc gate keeper gave me certain information which led to the arrest of two civilians of Lille by the civilian police on the charges of receiving stolen property. The investigation involved an army vehicle CL 4216136 and two army personnel. I traced the vehicle through its number to 1 Cdn L of C Terminal Sigs Sec. I there interviewed M 7233 Sgt Deane D C and L 22456 Cpl McGillivray W.A. ~~[illegible]~~ I now identify as being present here. After certain questioning I cautioned Sgt Deane and Cpl McGillivray in the following manner. "Do you wish to make any statement? You are not obliged to say anything but anything you do say will be taken down

Cpl

in writing and may be given in evidence".
After having received the warning Sgt Deane and Cpl McGillivray made a statement jointly which I took down in writing and which they both signed and which I now produce. I did not threaten them in any way nor did I offer them any inducement to make the said statement and it was purely voluntary.

The accused both decline to Cross-examine this witness

[signature]

The statement referred to in the evidence of the above witness is attached hereto as Exhibit "A"

Second Witness B57911 L/Cpl Bouthillier B 807 Cdn Pro Coy, sworn states:-
I am L/Cpl Bouthillier B. 807 Cdn Pro Coy, on the 29 September 44 at about 2300 hrs I was detailed by Lt Crawshaw in company with Sgt Hovie to proceed to 14 Rue des Ballons Wattrelos and accompanied by the civilian police we discovered 35 full jerricans of army petrol and 20 empty jerricans and one barrel, full, and one barrel approximately one quarter full, which we removed. We then proceeded to 85 Rue Saint Charles de la Madeleine where we found another barrel three quarter full. We removed this with the other petrol and reported

D

to our H Q which is now at 39 Rue Jean Bart.

The accused both decline to cross-examine the witness.

P. Boutbillier

Third Witness Lieut TD Cobb 2 ic 1 Cdn L of C Terminal Sigs Sec. Sworn states:-

I am Lieut TD Cobb 2 ic 1 Cdn L of C Terminal Sigs Sec. and Sgt Deane and Cpl McGillivray who are here and whom I now recognise are in my section.

Q- Who is responsible for the drawing and distributing of Petrol in your section.

A- Normally the section Sgt, Sgt Trimmer or Sgt Harper who is acting storeman draw the petrol required by the signal section direct from the petrol depot and stored till required by individual drivers and despatch riders.

Q- What are Sgt Deane and Cpl McGillivrays duties in the section.

A- They are the N.C.O.s supervising and in charge of the personnel (linesmen) and the laying of lines.

Q- To the best of your knowledge were Sgt Deane or Cpl ~~Deane~~ McGillivray detailed to draw petrol on the day of the 7/8 Sep 44 from the petrol depot?

A- NO they were not.

Sfd

The accused both decline to cross examine the witness.

[signature]

The accused were questioned as follows:—

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

A The accused do not want to make a statement

The accused do not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of four pages, was taken down by me in the presence of both the accused and that RP 4 (C)(D)(E)(F) have been complied with

In the Field
2 Oct 44

[signature] Capt
SC "A" 1 Cdn L of C Terminal

Exhibit A

This is Exhibit "A" referred to in the Summary of Evidence in the case of M1233 Sgt Deane D.C. and L22456 Cpl McGillivray W.A. Given before me this day of 2 October 1944

[illegible] Capt.

Statement of M7233 Sgt Deane, D.C.
1 Cdn L of C Terminal Sigs Section, taken
2120 hrs 1st october 1944.

I hereby certify that I have been duly warned and make the following Statement voluntarily.

On Wednesday Sept 27th 1944 I left Bethune at approx 0830 hrs driving Ford 5 cwt 414 & M7453778 accompanied by L22456 Cpl McGillivray W.A. and proceeded to Lille on duty. After working all morning until 12 noon mil time we decided to stay in Lille for dinner. We ate lunch at a place with Cafe-Restaurant on the window. We had finished eating when six men at a nearby table, or perhaps five men, beckoned us over to their table. We went over and had some champagne with them and were then asked if we could get them some petrol. After a few questions back and forth they agreed to pay any price for gas. Conversation was mostly in English. All spoke fairly good English with one outstanding. Eventually we decided to sell them some gas and a time and date were set. The following day the gas was procured and delivered at the time and place set. We drew the petrol at 134 Ret Point Depot. After meeting two of the men a price was agreed on at four hundred francs per jerrican. These were fifty six cans in all. The total

W.A. McGillivray Cpl.

D.C. Deane Sgt.

Price was twenty two thousand four hundred francs, French money. We then proceeded to the rendezvous ~~to~~ and disposed of the gas. The place was in a big business office behind a big brick wall. There was an iron gate in the wall, allowing passage for a large truck. The gate was opened by a gateman. The place of business was a cotton waste manufacturers. We handed over the petrol in the yard and ~~it~~ I was paid the full price in the office. We took the two men back to the same cafe in Lille where we had first met them. That cafe was the rendezvous where we had met them the same day and they had guided us to the place where we left the petrol. The one man gave me his card and it reads "Rene Van Den Driessche 1 Rue des Ballons, Wattrelos", "Rechets de Coton".

The other man was middle aged, say forty seven or eight thin face, with a moustache. The man who first produced the card was a man of forty four or five, medium build wearing glasses, slightly grey.

Of the three men who made up the party of five on the previous day one was quite swarthy, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was rather stout with fair hair, and in the forties. The third man was not noticed particularly and cannot be described.

I have disposed of my share of the money eleven thousand two hundred francs by spending and by other means, and I am not now in possession of any of it.

T. C. Lane Sgt.

W. A. D. Gillespie Sgt.

Sfd

"This" is the first and only 3 time I have dealt in this way with government property, or with anything illegal in my life.

J. C. Deane Sgt.

Witness [illegible] Crawshaw Lint

I have read over and corroborate the above statement of M7233 Sgt Deane D.C. previous to which I was duly warned and make this corroboration voluntarily. I further state that the amount of eight thousand four hundred francs now in the possession of Capt Young O.C. Sig's Section 1 Adm L of C Terminal is the balance of my share of the money, eleven thousand two hundred francs, the remainder of which I have disposed of by spending.

W. A. H. [illegible] Sgt.

Witness [illegible] Crawshaw Lint.

Exhibit B

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.2233	SERGT	DEANE DC	1 CDN L of C TERMINAL SIG SEC

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

	Within last 12 months	Since enlistment
For	times	times
For	N/A times	times
For	times	N/A times
For	times	times
	times	times

Number of instances of gallantry or distinguished conduct N/L

There are no entries in the conduct sheet of the accused. or N/L

Note:- If the charge is for drunkenness, the entries for drunkenness must be stated separately

2. The accused has not been previously convicted or N/A

Previous convictions of the accused by a court-martial or a civil court, of ~~XXX~~ summary awards under Section 47 of the Army Act and dispensations with trial under A.A.71 are set out in the schedule annexed to this statement. A.F.A.71

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

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A.

4. The accused has been in confinement awaiting trial on the present charges, for N/L days in civil custody and ONE days in military custody, making a total of ONE days in custody, of which N/L days were spent in hospital.

5. The present age of the accused according to his statement is 40

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation papers is STATEMENT 22 Sep 39

7. The service which the accused is allowed to reckon towards discharge is ~~7~~ 5 YRS

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

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

CVSM AND CLASP

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A...

11. (In the case of an officer.) The accused holds in the

Royal Canadian Air Force the rank of ....N/A.... dated ....N/A....,
Permanent Force unit
and in his regement (or corps), the rank of ..N/A.. dated ....N/A....

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

...1 JUL 41... Date of promotion

In the rank of ..CORPL.. 11 MONTHS

In the rank of ..SERGT.. 2YR 4 MONTHS

In the rank of ..... years

Note:- If any matter in any of the above paragraphs cannot be stated from regimental books, the paragraph must be struck through.

SCHEDULE

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

Name ....N/A.... of ....N/A.... Regiment

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

Description of Court by which tried	Date and Place of trial	Charges upon which convicted	Sentence of the court	Punishment Remitted
		N/A		

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

Signed this ...3 RD.... day of ..OCTOBER..1944

Regiment Capt
on ICAA C.F.C. Terminal Sig Sec.

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

Exhibit C.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L22456	CORPL	McGILLIVRAY WA	1 Con L of C Terminal Sil Sec

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

Within last I2 months		Since enlistment	
For	times		times
For	times		times
For N/A	times	N/A	times
For	times		times

Number of instances of gallantry or distinguished conduct Nil
or
There are no entries in the conduct sheet of the accused. Nil

Note:- If the charge is for drunkenness, the entries for drunkenness must be stated separately

2. The accused has not been previously convicted
or N/A

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

3. The accused is not under sentence at the present time.
or,
The accused at the present time is under sentence for.....N/A.....

beginning on the .....N/A...day of .....N/A.....

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

5. The present age of the accused according to his statement is 29
~~attestation papers~~

6. The date of his commission specified in his ~~record of service~~ is
attestation ~~attestation paper~~ STATEMENT 29 JUL 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 3 months

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

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

IO. (If the accused is a warrant officer.) The accused befor he was made a warrant officer last held the regimental rank of.....N/A...

II. (In the case of an officer.) The accused holds in the

Royal Canadian Air Force the rank of .....N/A...dated...N/A....., Permanent Force unit
and in his regement (or corps), the rank of..N/A..dated ...N/A.....

I2. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:-

1 APR 42..Date of promotion

In the rank of Corpl.....2 1/2...years

In the rank of.....years

In the rank of.....years

Note:- If any matter in any of the above paragraphs cannot be stated from regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number....N/A...Rank...N/A.....

Name.....N/A.....of.....N/A.....Regiment

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

xxxxxx

Description of Court by which tried	Date and Place of trial	Charges upon which convicted	Sentence of the court	Punishment Remitted
		N/A		

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

Signed this.....3RD.....day of..OCTOBER..1944

Dripping Capt
Officer Cdg Terminal Sig Sec

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

MFM 6
(AFB 122)
40/P&S/136 (3438)

No M7233 Name Donald DEANE | Sqn. Battery or Company | Corps RC Sigs | Date of enlistment 22 Sep 39 | GC Badges | Service or Proficiency Pay .50¢

Date of last entry in Company Conduct Sheet | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc MR KETTNER Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Barriefield Ont				Sheet destroyed after two years service 22 Sep 41				MR KETTNER Capt	

I hereby certify that the above is a true copy of the a/m NCO's MFM 6

[illegible] Capt

Officer Commanding
1 Cdn L of C Terminal
Signal Section

(PTO)

No L22456 Name Willard Alexander McGILLIVRAY Sqn, Battery or Company

Corps RC Sigs

Date of enlistment 29 Jul 40

GC Badges

Service or Proficiency Pay

MFM 6 (AFH 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No One

Signature OC Company, etc ME KETTNER Capt

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Apr 44			Voluntary blood donation				KW GYDE Lieut	

I hereby certify that the above is a true copy of the a/m NCO's MFM 6

Capt
Officer Commanding
1 Cdn L of C Terminal
Signal Section

(PTO)

SCHEDULE.

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

Accused: M7233 Sgt Donald Charles Deane, 1 Cdn L of C Terminal Sig Sec RC Sigs
L22456 Cpl Willard Alexander McGillivray 1 Cdn L of C Terminal Sig Sec RC Sigs

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18(4)	Guilty by both accused	Guilty in the case of each accused	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 713, and in loss of kit see RP 44 fn 6.)

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

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

Sentence Awarded by the Court: to each accused - To be reduced to the ranks and to undergo detention for a period of ten months.

(Sgd) "D.G. Dean Capt" — Judge-Advocate, if any.
4 Oct 44 — Date awarded.
(Sgd) "E.J. Durnin Maj or" — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

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

(Sgd) "W.G.H. Roaf"
Date 4 Oct 44
Commanding Brig Comd 1 Cdn L of C Terminal
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 573, 577.)

Accused.	Date.	Signature of Offr.
M7233 Sgt Donald Charles Deane	5 Oct 44	"A.S. Chapple Capt" SC'A'
L22456 Cpl Willard Alexander McGillivray		HQ 1 Cdn L of C Terminal

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

74-58

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 417 P.A.D. (1808) (1964)

Convened by Order of Brig W.G.H. Roaf OBE ED Comd 1 Cdn L of C Terminal dated 3 October 1944

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M7233	Sgt	DONALD CHARLES	DEANE	both of
L22456	Cpl	WILLARD ALEXANDER	McGILLIVRAY	1 Cdn L of C Terminal Sig Sec RC Sigs

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 4th Octr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. XI 132 XI 133

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

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

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused ~~is~~ (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~is~~ (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused ~~is~~ (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

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

The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans
~~The shorthand writer is sworn~~ (1)
(1. RP 72. Delete, if none employed.)

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

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

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

President	Major	E.J. Durnin	1 Cdn CHE Wks
Member	Major	C.C. Manley	10 Cdn Fd Hyg Sec
Member	Major	N.D. Theobald MC	3 Cdn Town Major
Judge-Advocate	Capt	D.G. Dean	HQ A Tps Area
Prosecutor	Capt	A.K. Chapple	1 Cdn L of C Terminal
Defending Offr	For Sgt Dean - Maj F.S. Osler		1 Cdn L of C Terminal
	For Cpl McGillivray - Major F.S. MacLeod		1 Cdn L of C Terminal

Questions by President: Is the Prosecutor a lawyer ? Ans no Is the Defending Offr a lawyer ? Ans Maj Osler Yes Maj Macleod
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 3 were not followed. See Questions.)

A8. The accused Sgt Dean and Cpl McGillivray before arraignment make(s) (no) plea(s) No (2)
(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressees made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused ~~is~~ (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do you intend to call witnesses on your behalf ?
Ans Are they witnesses as to character only ? Ans
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Sgt Williams Both accused yes Statement on oath Calling 3 character witnesses Sgt Mc Gillivray Private Thornton and Private Watson
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to the soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 37 C and Ex 37 E respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its perversion, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 139, 182, RP 46-50, 69, 118, 119(A), KR Can 358, 359, Sch 3-560, Overseas RO 309, 1323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1b), 58(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see orders on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M7233	Sgt		DONALD CHARLES	DEANE	both of
L22456	Cpl		WILLARD ALEXANDER	McGILLIVRAY	1 Cdn L of C Terminal Sig Sec RC Sigs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, ~~has~~ (have) committed the offence(s) set forth in the Charge Sheet~~s~~ attached and on (*date*) 3 Oct 44 endorsed by me, (~~or in any duly authorized manner~~), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.J. Durnin	1 Cdn CME Works

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	C.C. Manley	1c Cdn Fd Hyg Sec
Major	E.D. Theobald MC	3 Cdn Town Major

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
C		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	D.G. Dean	HQ Army Tps Area

On Active Service in the Fd

in France (Country.)

Date 3 October 1944

"W.G.H. Roaf"

(W.G.H. Roaf)
(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 1 Cdn L of C Terminal
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A

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

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Can 562, RP 26, 29, 111.*)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 762, RP 82, 111.*)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*RO (Can) 2692.*)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 144(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 60 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called *witnesses as to character.* (*RP 86(C).*)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 583(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 597.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 162 (1) (g) (h).*)
(v) Exhibits numbered Ex A, Ex B, etc.
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not forms part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minimum of sentence awarded. (*AA 53(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

CHARGE SHEET

The accused Number M.7233 Sgt Deane D.C., 1 Cdn L ofC Terminal Sig Sec and L 22456 Cpl McGillivray W.A., 1 Cdn L of C Terminal Sig Sec soldiers of the Cdn Army Overseas on Active Service are charged with

1st Charge Sec 18(4) Army Act — When on active service, STEALING PUBLIC PROPERTY,

in that they

in the field on 28 Sep 44, stole 56 jerricans of petrol public property, from 134 Petrol Depot.

"R.E. YOUNG"

In the Field
2 Oct 44

(R.E. Young) Capt
OC 1 Cdn L of C Terminal Sig Sec

To be tried by FGCM

"W.G.H. ROAF"

In the Field
3 Oct 44

(W.G.H. Roaf) Brig
Comd
1 Cdn L of C Terminal

This is to certify that I have examined this day M7233 Sgt Deane D.C. and in my opinion is fit to undergo trial by court martial

4 Oct 44
Inthe Field

"M.L. Allan Capt RCAMC"
Medical Officer

This is to certify that I have examined this day L.22456 Cpl McGillivray N.A. and in my opinion is fit to undergo trial by court martial

4 Oct 44
In the Field

"M.L. Allan Capt RCAMC"
Medical Officer

Accused Cpl McGillivray duly sworn states.

I was brought up in a small town - had 13 years schooling. Four years I worked as a lineman during that 13 years and after about 1935 went to Calgary and worked for Cdn utilities, doing clerk accounting. 1938 transferred to Indian Head, placed in charge of accounting for that dist for Can utilities. Enlisted July 40. Spent 3 years in Dundern. 1 April 42, I was given confirmed rank of Cpl. Spent 8 months training at Vimy and arrived England 1 April 44. June 44 Capt Young was O/C chose me as the line corporal.

I dont know why I committed this offence. I am not short of money and have a balance of about $145 in my pay acct. After this is all over I would like to come back to my section as I feel I have let it and my O/C down very badly. I arrived in France 25 June.

Prosecutor declines to X examine

RP 83(B) is complied with.

Capt R.E. Young 1 Cdn L of C Terminal Sig Sec duly sworn - (called for both accused as a character witness)

Cpl MfG has been with me about 15 June 44. It was a new section. His work has been exemplary and both my NCOs and I have been able to trust him. His character is first class. Icouldn't ask for a bbbberline corporal and would like to have him back

Sgt Deane joined me about 15 June 44. Before coming overseas he did a first class job of preparing the sec to come overseas. Overseas he continued to do a wonderful job. His responsibilities are great and his work is a credit to his section, corps and this HQ. His character is 1st class and I have been able to trust him fully. I couldn't ask for a better man. He has had charge of thousands of dollars of equipment which he has looked after well.

Prosecutor declines to X examine

RP 83(B) is complied with.

S.34511 Sgt Trimmer H.E., duly sworn
(called for Cpl McGillivray)

I have been Sec Serg of L of C Term Sign Section since it was first formed about 15 June 44 I have known Cpl McG since then and have found him a fine type of Junior NCO. He is conscientous, trustworty, I would like to have him continue in the sec.

Prosecutor declines to X examine

RP 83(B) is complied with.

PLEA IN MITIGATION OF PUNISHMENT IN THE CASE OF

L.22456 CPL MCGILLIVRAY WA

Mr President and members of the court. You have heard evidence given by the accused himself and also evidence as to character given by the accused's commanding officer and section sergeant. The accused has pleaded guilty to the offence as charged. He admits he committed the offence, is very sorry he did it, and has made partial restitution. He has expressed willingness to make further restitution, but as the petrol has been partially restored, and money received sufficient to pay for the remainder, this does not appear necessary.
We realize that he must be punished. I would, however, like to draw the attention of the court to a few facts which may influence you in passing sentence.

I would like to emphasize that the accused was not short of money and did not do this thing with a motive of personal gain. He did it from a mistaken notion that he would be helping French civilians -- allies who could not obtain petrol to carry on their business.

The accused is a young man and as you see from his conduct sheet has never committed an offence before. I hope it will not be considered presumptous on my part to remind the court of the power you now hold over this man. It rests with you gentlemen whether he shall be thrown among habitual offenders and perhaps influenced by them or whether he is to be given another chance. I would ask you to think of this boy's father and mother and young wife out in Saskatchewan who are anxiously awaiting this lad's return on the cessation of hostilities. I further suggest that the sentence imposed should be the minimum required to maintain discipline. With a record of service such as Cpl McGillivray has, a reduction to the ranks might be considered one that would serve the interests of discipline and still not blight his career after the war. The consequent painful explanations that he would have to write to his wife and parents, I suggest, will be quite punishment enough.

Cpl McGillivray feels very keenly that he has let his section officer and comrades down, and if a sentence of field punishment is awarded, he would like to serve his time working with the section, so that he can be usefully employed at his trade and at the same time live down this unfortunate affair.

I might mention at this point that trained linemen with Cpl McGillivray's qualifications are few and far between, and are badly needed in Signals. I suggest that the best interests of the war effort would NOT be served by having Cpl McGillivray committed to a detention barracks when he could be usefuly employed.

"D.N. MacLEOD"

(D.J. Macleod) Maj
RC Sigs
Defending Officer

PLEA IN MITIGATION IN THE CASE OF SGT DEANE, DC
1 CDN L OF C TERMINAL SIG SEC

Mr President and members of the Court. Sgt DEANE has pleaded guilty to the charge against him. You have heard the summary of evidence read, and the oral character evidence. I want to draw four points to your attention.

First. It is shown by the record that this is his first offence of any kind, and was a sudden lapse unnatural to hi, which would never now be repeated no matter what the temptation.

Second. He had made arrangements to send the money he obtained home for his children, but has since taken steps to make full restitution of it all, even though by such action his children will not have the use of this much needed money.

Third. There are many opportunities to steal or mis-apply petrol in the Army today. It is so easy for anyone to obtain any quantity of petrol that it almost amounts to putting an unfair temptation in the path of a man who has a temporary lapse of conscience. No evidence has been presented to prove this statement, but it is a matter of common knowledge in this theatre.

Fourth. Sgt DEANE is in great need of money, not for himself, but for his two children in Canada, aged 13 and 14 years respectively. A summary of his history in this respect follows. He returned to Canada in Jan 1943 after serving in England, to find that his wife had been living with another man for two years, and that his children had been utterly neglected by their mother. He obtained a divorce, and the custody of the children, but could find no suitable home for them, so moved them near Kingston, Ont, where he was stationed. Prior to his return to England in Feb 1944 he found a home for them in Picton, where he pays $40 a month for board and lodging alone. During this whole year he tried through all channels to get his case fully investigated by the Dependent's Allowance Board, with a view to increasing the allowance on hardship grounds, The children having nobody to look after them of his own family, it was expensive to bring them up, particularly now that extra clothes are required for this winter. All his efforts were without any result. Now he feels he has been treated unfairly by the Dependent's Allowance Board, whereas if he had received proper treatement he would have had enough money to have his children well cared for, and there would have been no incentive for him to even think of stealing petrol. In this same connection, a sentence of anything more than six months would impose a doubt hardship. One on himself and a much greater one on his children because their sole souce of income, their father's assigned pay and the Government allowance, would cease at that time.

For these reasons I suggest that the sentence imposed should be the lightest required to maintain discipline.

"P.S. OSLER"

(PS Ostler)Maj
Defending Officer

I have received Fr 11,200 from Sgt Deane which I undertake to return to the military authorities in full restitution.

"P.S. OSTLER Maj"

This is Exhibit A referred to in the Summary of Evidence in the case of M 7233 Sgt Deane, D.C. and L 22456 Cpl McGillivray W.A. taken before me this day of 2 Oct 44.
"A.E. Chapple" Capt
Officiating Summary
E.O.

S U M M A R Y O F E V I D E N C E

IN THE CASE OF

No M7233 Sgt DEANE DC and No L22456 Cpl McGILLIVRAY WA HQ 1 Cdn L of C Terminal Sigs Sec CAO, charged with fraudulently misapplying public property (AA Sec 18(4)).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS Lieut Tom CRAWSHAW of 807 Cdn Pro Coy, sworn states:

I am Lieut Tom CRAWSHAW 2 i/c 807 Cdn Pro Coy. On the afternoon of Sep 29, 1944 I was in charge of LILLE detachment. I received certain information as a result of which I visited 85 RUE ST CHARLES Le MADELAINE, LILLE. Monsieur Le BLANC, gate keeper, gave me certain information which led to the arrest of two civilians of LILLE by the civilian police on the charge of receiving stolen property. The investigation involved an army vehicle CL 4216136 and two army personnel. I traced the vehicle through its number to 1 Cdn L of C Terminal Sigs Sec. I there interviewed M7233 Sgt DEANE DC and L22456 Cpl McGILLIVRAY WA whom I now identify as being present here. After certain questioning I cautioned Sgt DEANE and Cpl McGILLIVRAY in the following manner: "Do you wish to make any statement"? "You are not obliged to say anything but anything you do say will be taken down in writing and may be given in evidence". After having received the warning Sgt DEANE and Cpl McGILLIVRAY made a statement jointly which I took down in writing and which they both signed and which I now produce. I did not threaten them in any way nor did I offer them any inducement to make the said statement and it was purely voluntary.

The accused both decline to cross-examine this witness.

(T Crawshaw) Lt.

The statement referred to in the evidence of the above witness is attached hereto as Exhibit 'A'.

Please turn to Page 2

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SECOND WITNESS D57911 L/Cpl BOUTHILLIER B 807 Cdn Pro Coy, sworn states:

I am L/Cpl BOUTHILLIER B 807 Cdn Pro Coy. On the 29 September, 1944 at about 2300 hrs I was detailed by Lt CRAWSHAW in company with Sgt BAVIN to proceed to 14 RUE des BALLON WaTTRELOS and accompanied by the civilian police we discovered 35 full jerricans of army petrol, 20 empty jerricans and one barrel, full, and one barrel approximately one quarter full, which we removed. We then proceeded to 85 RUE SAINT CHARLES de la MADELAINE where we found another barrel three quarter full. We removed this with the other petrol and reported to our HQ which was at 39 RUE JEAN BARD.

The accused both decline to cross-examine this witness.

(B. Bouthillier) L/Cpl

THIRD WITNESS Lieut ED COBB 2 i/c 1 Cdn L of C Terminal Sigs Sec, sworn, states:-

I am Lieut ED COBB 2 i/c 1 Cdn L of C Terminal sigs Sec and Sgt DEANE and Cpl McGILLIVRAY who are here and whom I now recognize are in my section.

Q. Who is responsible for the drawing and distributing of petrol in your section?
A. Normally the Section Sgt, Sgt Trimmer or Signn Harper who is acting storeman draw the petrol required by the Signal Section direct from the petrol depot and stored till required by individual drivers and despatch riders.

Q. What are Sgt DEANE'S and Cpl McGILLIVRAY'S duties in the Section?
A. They are the NCOs supervising and in charge of the personnel (linemen) and the laying of lines.

Q. To the best of your knowledge were Sgt DEANE or Cpl McGILLIVRAY detailed to draw petrol on the day of the 28 Sep 44 from the petrol depot?
A. No, they were not.

The accused both decline to cross-examine the witness.

(T.D. Cobb)Lt

Please turn to Page 3

The accused were questioned as follows:-

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

The accused do not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of three pages, was taken down by me in the presence of both the accused and that RP 4 (C)(D)(E)(F) xxxxxxxx have been complied with.

(A E Chapple) Capt
SC'A'
1 Cdn L of C Terminal

In the Field
2 Oct 44

STATEMENT OF M7233 SGT DEANE, D.C., 1 CDN L OF C TERMINAL SIGS SECTION,
555555555 TAKEN 2120 HRS 1 OCT 1944

I hereby certify that I have been duly warned and make the following statement voluntarily

On Wednesday Sep 27th, 1944 I left BETHUNE at approx 0830 hrs driving Ford 5 cwt 4 x 4 M7453778 accompanied by L22456 Cpl McGillivray, W.A., and proceeded to LILLE on duty. After working all morning until 12 noon mil time, we decided to stay in LILLE for dinner. We ate lunch at a place with CAFE - RESTAURANT on the window. We had finished eating when six men at a nearby table, or perhaps five men, beconed us over to their table. We went over and had some CHAMPAGNE with them and were then asked if we could get them some petrol. After a few questions back and forth they agreed to pay any price for gas. Conversation was mostly in English. All spoke fairly good English with one outstanding. Eventually we decided to see them some gas and a time and date were set. The following day the gas was procured and delivered at the time and place set. We drew the petrol at 134 Pet Point Depot. After meeting two of the men a proce was agreed on at four hundred fancs per jerrican. There fifty six cans in all. The total price was twenty two thousand four hundred fancs, French money. We then proceeded to the rendezvous and disposed of the gas. The place was in a big business office behind a big brick wall. There was an iron gate on the wall, allowing passage for a large truck. The gate was opened by a gatemen. The place of business was a cotton waste manufacturers. We handed over the petrol in the yard and I was paid the full price in the office. We took the two men back to the same cafe in LILLE where we had first met them. That cafe was the rendezvous where we had met them the same day and they had guided us to the place where we left the petrol. The one man gave me his card and it reads "HENRI VAN DER DRIESSCHE, 14 RUE DES BALLONS, WATTRELOS, DECHETS de COTON".

Please turn to Page 2

1/2

The other man was middle aged, say forty seven or eight, thin face, with a moustache. The man who first produced the card was a man of forty four or five, medium build, wearing glasses, slightly grey. Of the tree men who made up the party of five, on the previous day, one was quite swarthy, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was rather stou[illegible] fair hair, and in the forties. The third man was not noticed particularly and can not be described. I have disposed of my share of the money, eleven thousand two hundred francs by spending and by other means and I am not now in possession of any of it.

This is the first and only time I have dealt in this way with government property, or with anything illegal in my life.

"D.C. Deane"
D.C. Deane Sgt

"T Crawshaw Lieut"
Witness T Crawshaw Lt.

I have read over and corroborate the above statement of M7255 Sgt Deane, D.C., previous to which I was duly warned and make this corroboration voluntarily. I further state that the amount of eight thousand four hundred francs now in the possession of Capt Young, OC, Sigs Section, 1 Cdn L of C Terminal, is the balance of my share of the money, eleven thousand two hunred francs, the remainder of which I have disposed of by spending.

"W.A. McGillivray Cpl"
W.A. McGillivray, Cpl

"T Crawshaw Lieut"
Witness T Crawshaw Lt.

The other man was middle aged, say forty seven or eight, thin face, with a moustache. The man who first produced the card was a man of forty four or five, medium build, wearing glasses, slightly grey. Of the tree men who made up the party of five, on the previous day, one was quite swarthy, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was rather stout with fair hair, and in the forties. The third man was not noticed particularly and can not be described. I have disposed of my share of the money, eleven thousand two hundred francs by spending and by other means and I am not now in possession of any of it.

This is the first and only time I have dealt in this way with government property, or with anything illegal in my life.

"D.C. Deane"
D.C. Deane Sgt

"T Crawshaw Lieut"
Witness T Crawshaw Lt.

I have read over and corroborate the above statement of M72233 Sgt Deane, D.C., previous to which I was duly warned and make this corroboration voluntarily. I further state that the amount of eight thousand four hundred francs now in the possession of Capt Young, OC, Sigs Section, 1 Cdn L of C Terminal, is the balance of my share of the money, eleven thousand two hunred francs, the remainder of which I have disposed of by spending.

"W.A. McGillivray Cpl"
S.A. McGillivray, Cpl

"T Crawshaw Lieut"
Witness T Crawshaw Lt.

E 40

Summary of Evidence
in the case of

No K.7233 Sgt Deane D.C. and N1 L.22456 Cpl McGillivray W.A., HQ 1 Cdn L of C Terminal Sigs Sec CAO, charged with fraudulently misapplying public property (AA Sec 8(4).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness Lieut Tom Crawshaw of 807 Cdn Pro Coy, sworn states:-

I am Lieut Tom Crawshaw 2 i/c 807 Cdn Pro Coy. On the afternoon of Sep 29/44 I was in charge of Lille detachment. I received certain information as a result of which I visited 85 Rue St Charles Le Madelaine, Lille. Monsieur Le Blanc gate keeper gave me certain information which led to the arrest of two civilians of Lille by the civilian police on the charges of receiving stolen property. The investigation involved an army vehicle CL 4216136 and two army personnel. I traced the vehicle through its number to 1 Cdn L of C Terminal Sigs Sec. I there interviewed M7233 Sgt Deane D.C. and L22456 Cpl McGillivray W.A. whom I now identify as being present here. After certain questioning I cautioned Sgt Deane and Cpl McGillivray in the following manner "Do you wish to make any statement? You are not obliged to say anything but anything you do say will be taken down.

in writing and may be given in evidence".
After having received the warning Sgt Deane
and Cpl McGillivray made a statement
jointly which I took down in writing and
which they both signed and which I now
produce. I did not threaten them in any
way nor did I offer them any inducement
to make the said statement and it was
purely voluntary.
The accused both decline to cross-examine
this witness.

"T. Crawshaw Lieut"

The statement referred to in the evidence
of the above witness is attached hereto as
Exhibit 'A'.

Second Witness D57911 L/Cpl Bouthillier B
807 Cdn Pro Coy, sworn states:-
I am L/Cpl Bouthillier B, 807 Cdn Pro Coy. On the
29 September 44 at about 2300 hrs I was
detailed by Lt Crawshaw in company with Sgt
Hovie to proceed to 14 Rue des Ballon Wattrelas
and accompanied by the civilian police we
discovered 36 full jerricans of army petrol
and 20 empty jerricans and one barrel, full, and
one barrel approximately one quarter full, which
we removed. We then proceeded to 85 Rue
Saint Charles de la Madelaine where we
found another barrel three quarter full. We
removed this with the other petrol and reported

EJB

our HQ which was at 39 Rue Jean Bard.
The accused both decline to cross-
examine the witness.

"B. Bouthillier"

Third Witness Lieut E.D. Cobb 2 ic 1 Cdn L of C
Terminal Sigs Sec sworn states:-

I am Lieut T.D. Cobb 2 ic 1 Cdn L of C
Terminal Sigs Sec and Sgt Deane and Cpl
McGillivray who are here and whom I now
recognize are in my section.

Q. Who is responsible for the drawing and
distributing of petrol in your section.

A. Normally the section Sgt, Sgt Trimmer or Sigmn
Harper who is acting storeman draw the
petrol required by the signal section direct
from the petrol depot and stored till required
by individual drivers and despatch riders.

Q. What are Sgt Deane's and Cpl McGillivray's
duties in the section.

A. They are the NCOs supervising and in
charge of the personnel (linemen) and the
laying of lines.

Q. To the best of your knowledge were Sgt Deane
or Cpl McGillivray detailed to draw petrol on the day
of the 28 Sep 44 from the petrol depot?

A. No, they were not.

The accused both decline to cross examine the witness.

"T.D. Cobb" Lt.

The accused were questioned as follows:

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

A. The accused do not want to make a statement.

The accused do not call any witnesses.

I certify that the foregoing Summry of Evidence, consisiting of four pages, was taken down by me in the presence of both the accused and that RP 4(C))D)(E)(F) have been complied with.

In the Field
2 Oct 44

"A.E. Chapple Capt"
SC'A' 1 Cdn L of C Terminal

This is Exhibit 'A' referred to in the Summary of Evidence in the case of M.7233 Sgt Deane, D.C. and LL22456 Cpl McGillivray WA taken before me this day of 2 Oct 44.

"A.E. ChappleCapt"

Statement of M7233 Sgt Deane, D.C. 1 Cdn L of C Terminal Sigs Section, taken 2120 hrs 1st October 1944.

I hereby certify that I have been duly warned and make the following statement voluntarily.

On Wednesday Sept 27th 1944 I left Bethune at approx 0830 hrs driving Ford 5 cwt 4 x 4 M7453778, accompanied by L22456 Cpl McGillivray W.A., and proceeded to Lille on duty. after working all morning until 12 noon mil time we decided to stay in Lille for dinner. We ate lunch at a place with Cafe - Restaurant on the window. We had finished eating when six men at a nearby table, or perhaps five men, beconed us over to their table. We went over and had some champagne with them and were then asked if we could get them some petrol. After a few questions back and forh they agreed to pay any price for gas. Conversation was mostly in English. All spoke fairly good Englsih with one outstanding. Eventually we decided to see them some gas and a time and date were set. The following day the gas was procured and delivered at the time and place set. We drew the petrol at 134 Pet Point Depot. After meeting two of the men a price was agreed on at four hundred francs per jerrican. There were fifty six cans in all. The total price was twenty two thousand four hundred francs, French money. We then proceeded to the rendizvous and disposed of the gas. The place was in a big business office behind a big brick wall. There was an iron gate in the wall, allowing passage for a large truck. The gate was opened by a gateman. The place of business was a cotton waste manufacturers. We handed over the petrol in the hard and I was paid the full price in the office. We took the two men back to the same cafe in Lille where we had first met them. That cafe was the rendezvous where we had met them the same day and they had guided us to the place where we left the petrol. The one man gave me his care and it reads "Rene van den Driessche, Rue des Ballonns, Wattrelos". Dechets de Coton. The other man was middle aged, say forty seven or eight, then face, with a moustache. The man who first produced the card was a man of forty four or five, medium build wearing glasses, slightly grey. Of the three men who made up the party of five on the previous day one was quite swarty, thin faced, medium build, wearing black horn rimmed glasses. We saw him the next day and he was not wearing glasses. Another one was rather stout with fair hard, and in the forties. The third man was not noticed particularly and cannot be described.

I have disposed of my share of the money eleven thousand two hundred francs by spending and by other means and I am not now in possession of any of it.

This is the first and only time I have dealt in this way with government property, or with anything illegal in my life.

"D.C. DeanSgt"
Witness T. Crawshaw Lieut"

I have read over and corroborate the above statement of M7233 Sgt Deane D.C. previous to which I was duly warned and make this corroboration voluntarily. I futher state that the amount of eight thousand four hundred francs now in the possession of Capt Young OC Sigs Section 1 Cdn L of C Terminal is the balance of my share of the money, eleven thousand two hundred francs, the remainder of which I have disposed of by spending.

"W.A. McGillivray Cpl"

Witness T. Crawshaw Lieut"

Exhibit B

"B"

A.F.B. 355
22M—5-41 (272-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M.7233	Sergt	Deane D.C.	1 Cdn L of C Terminal Sig Sec

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

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	N/A times	N/A times
For	times	times

Number of instances of gallantry or distinguished conduct mentioned in the conduct sheets of the accused: nil

or,

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

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

2. The accused has not been previously convicted

or

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

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

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

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

5. The present age of the accused according to his record of service / attestation paper is statement 40

6. The date of his commission specified in his record of service / attestation paper statement 22 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 5 yrs

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

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

military

CVSM and clasp

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

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of N/A (Permanent Force) dated N/A, and in his regiment (or corps), the rank of N/A (unit) dated N/A.

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

1 Jul 41 Date of promotion.

In the rank of Corpl 11 months xxxx

In the rank of Sergt 2 yrs 4 months xxx

In the rank of ---- years.

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

SCHEDULE

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

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

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

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

Signed this 3rd day of October 1944 "H.E. Young Capt" OC 1 Cdn L of C Terminal Sig Sec

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

Exhibit C "DD"

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L22456	Corpl	McGillivray WA	1 Cdn L OF C Terminal Sig Sec

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

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	N/A times	N/A times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

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

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

2. The accused has not been previously convicted

or, N/A

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

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

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 1 days in military Air Force custody, making a total of 1 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is statement 29

6. The date of his commission specified in his record of service / attestation paper is statement 29 Jul 40

7. The service which the accused is allowed to reckon towards discharge is 4 yrs 3 months

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

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

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

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

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

1 Apr 42 Date of promotion.

In the rank of Corpl 2½ years.

In the rank of ------- years.

In the rank of ------- years.

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

SCHEDULE

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

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
----------	----------	N/A ----------	----------	----------

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

"R.S. Young Capt"
Signed this 3rd day of October 1944 OC 1 Cdn L of C Terminal Sig Sec

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

Exhibit E

No 22456 Name Willard Alexander Sqn, Battery, or Company | Corps RC Sigs | Date of enlistment 29 Jul 40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc ME KETTNER Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Spr 44			Voluntary blood donation				H.W. GYDE Lieut	

I hereby certify that the above is a true copy of the a/m NCO's MF M6

"R.E. Young" Capt
Officer Commanding
1 Cdn L of C Terminal
Signal Section

(PTO)

Exhibit D

No M7233 Name DONALD Deane Sqn, Battery, or Company | Corps RC Sigs | Date of enlistment 22 Sep 39 | GC Badges | Service or Proficiency Pay 50¢ | MFM 6 (AFB 122) 40/P&S/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc ME KETTNER Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Barriefield Ont				Sheet destroyed after two years service 22 Sep 41			ME KETTNER Capt		

I hereby certify that the above is a true copy of the a/m NCO's MF M6

"R.E. Young Capt"
Officer Commanding
1 Cdn L of CTerminal
Signal Section

(PTO)

COUNTER NUMBER 5442273

HOUR 21 00

OPERATOR'S INITIALS _____

RELIEVING OPERATOR _____

COUNTER NUMBER 542623

HOUR 21.00

OPERATOR'S INITIALS HMB

RELIEVING OPERATOR ff

YYY-142

Ste Diane. R..

SCHEDULE.

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

Accused: Ag737 Pte Robert Deane 16th Con. Depot

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

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~(specify sentence)~~ (1)

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

Time in confinement awaiting present trial—a total of 6 days, of which 0 days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo 90 days detention

11 Sept 44. (Sgd) Tom Nash Major
President. (or C.J.)

(Sgd) Judge-Advocate, if any. Date awarded.

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

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

Date (Sgd) Commanding

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

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

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

Confirmed Ewt

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

(Sgd) E.W. Harding Brig.

Date 17 Sept 44 Commanding COMMANDER
CONVENING OFFICER
CDN BASE REP GROUP

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

Accused.	Date.	Signature of Offr.
~~K.C.P.O.~~ A9737 Pte Deane R	18 Sept 44	T.H. Bergman Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 YYY-142

RECEIVED 1 OCT 1944 (K.109)

FIELD GENERAL COURT-MARTIAL

CPA95 (To Duty of AFA81 40/P & R/1000 (A1)) 4/38B

Convening Order of Brig E.W. Harding Comd 16 BAG dated 8-8-44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
Ag737	Pte.	Robert	Deane	16th Conv Depot

PROCEEDINGS REVIEWED
J.C. Campbell Major
11 Oct 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy. on (date(s)) 11 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 28 73

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Crossings do NOT include all relevant fmn RCs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF 455, for points and instrs on how to record attendance, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto (2) and Ewt The Court is satisfied that it is properly convened and constituted(3), accused is (4) amenable to military law, and each charge discloses an offence.(5)

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

A3. The Court is opened. The accused is (4) brought before the Court. As 11 to 0 hours trial commences. Ewt

A4. The Prosecutor produces a Medical Certificate that accused is (4) fit to undergo trial by court-martial.(1) The ~~Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

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

A5. President to accused: Do you object to ____ as interpreter? Ans ____

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

The shorthand writer is sworn.(1)

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

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

Ans No.(2)

(1. RP 116. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Major	Nash F.M.	(CAC)	5 Bn. 2 CBRD
Member	A/Capt.	Russell P.N.	(RCA)	17 Fld Regt.
Member	Lieut.	Tuft W.	(CAC)	5 C.A.R.
Judge-Advocate	Lieut	O'Hagen J.J.	(C.I.C)	H+P P.E.R.
Prosecutor	Lieut	O'Hagen J.J.	(C.I.C)	H+P P.E.R.
Defending Offr	Capt	Buchan J.h.	CAC	14 C.A.R.

(1. RP 25, 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 66 (3) and fn 2 were not followed. See Div p 33.)

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No(1)

A8. The accused Ag737 Pte Robert Deane before arraignment makes(s) (4) (a) plea Guilty. Ewt

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GE), or as to the jurisdiction of the Court (RP 34, 23(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 13a, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 nature and name of the accused making the plea.)

A9. The accused is (4) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (4) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 455 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Minute of Record.

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

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

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

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and allowed on the ..... charge(s), and disallowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete para not used. If accused acquitted on all charges, use second alternative in para* 5(*B*).)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, N* (5).)

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Offr, CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 80(*A*) *fn* 1, 81(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*B*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and ought to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2), *RP* 43, 120(*A*). 2. *AA* 54(2), *RP* 43, 117. *This alternative announcement is not appropriate when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 41 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *AFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 2.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 40. *As to sentences see AA* 44, 138, 182, *KR* 44-50, 69, 118, 119(*A*), *KR Con* 308, 330, 343-344. *Overseas: RO* 309, 1123, *MML p* 46, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(1), *MML p* 30. *When accused already under sentence of imprisonment or detention see AA* 44(1) (*b*), (*d*)(i), *KR Con* 504. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A-9737 Private Robert Deane Royal Canadian Regiment, presently a convalescent at 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, absented himself without leave from approximately 1310 hours 14 August 1944 until 2070 hours 4 September 1944.

Lieut-Colonel
(F.P. NORTHUP)
Officer Commanding
1 Canadian Convalescent Depot.

In the Field
5 Sep 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(E.W. Haldenby) Brigadier
Commander
1 Can Base Hft Group

In the Field
In Italy
8 Sep 44

fmb.

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number	(a) Prmnt R. (b) Appmt, A/B or A/Appmt	Full Christian Names	Surname	Unit
A9737	Pte	Robert	DEANE	1 Cdn Conv Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet attached and on (date) 6 Sep 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

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

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

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

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

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

PRESIDENT.

(Rank.)	(Name.) (Must be named. RP 106.)	(Unit.)
Major	Zane Beam (CAN)	2 Can S Corps

MEMBERS.

Capt or Lt to be detailed by OC 1 Cdn Conv Depot

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	Capt or Lt to be detailed by OC 1 Cdn Conv Depot	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	Capt or Lt to be detailed by OC 1 Cdn Conv Depot	

~~JUDGE-ADVOCATE~~

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

On Active Service in the Fd

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

In Italy (Country.)

(E.W. Baldenby)

Commanding 1 Cdn Para Brt Group

Convening Officer.

Date 6 Sep 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A (Para 15 SHQ/SF AFAG) 40-7 & 8/1367 (M2)

fmk

NO.1 CANADIAN CONVALESCENT DEPOT, C.M.F.

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined Regtl No A9737

Rank Pte Name Deane Robert Unit R.C.R.

and that he is in a fit state of health to undergo

trial by Court Martial.

Date 11 Sept/44

Signature of Medical Officer

12 AUG '44 [illegible]

Plea of Mitigation
for the accused A-9737 Pte DEANE, R

I came to #, Cdn Con depot 9/7/44 for a period of convalescence, with the understanding that if my stomach condition did not improve in one month I was to be returned to hospital. I was here approx five weeks during which I constantly suffered with my prevailing ailment.

After coming to the Con depot I was ordered to wear boots by the M.O. In hospital I had been excused wearing boots due to the fact that it was virtually impossible because of a scar that continually opened on my ankle from the friction of the boot. Whilst on a sick parade I did not see my regular M.O. but a substitute for him. I explained about my ankle & showed him the scar. He told me it was merely common sense that I should wear canvas shoes until my ankle improved. Later he communicated with my regular M.O. and I was told that I must continue wearing boots. I could hardly walk due to the intense

Ind

pain in my ankle. This, coupled with my stomach served to make life pretty miserable.

Several times during the night I went to the M.I.R., because of my stomach. I found it impossible to sleep and even in face of this I was refused treatment because I did not possess a treatment slip from an M.O. When I went on sick parade & complained that my stomach ailment was not improving but, if anything, getting worse. The M.O. refused me treatment.

This continued for five weeks and I was not returned to hospital, but was suffering as much as when I was in hospital. I could not continue marching & doing P.T. ~~[illegible]~~ So went A.W.O.L., with the idea of at least getting rest so as to approach a case I am much better now although far from normal.

R Deane

ARMY FORM I 3179A

PERSONAL CARD (CONVALESCENT DEPOT).

Depot Number B 1798

NAME DEANE. R

Army No. A 9737 Rank PTE

Admission No. 1798

Unit

Admitted from

Disability Epididymitis: appendicitis. Date

CLEARANCE CERTIFICATE.

Q.M. Stores	Library.	Pay Office.

54

Company.	Hut No.	Date.	Medical Category. Grade.	Medical Officer.
		28/7/44	5.	[illegible]
		To wear boots — Not low shoes.		
		No Medications.	[illegible]	
5/8/44.		5	[illegible]	

Notes.

O. [illegible] Mag Sulph ℥iii

[illegible] 745(P)

Ex. "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of A-9737 Pte Robert Dean, Royal Canadian Regiment, presently a convalescent at 1 Cdn. Convalescent Depot, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS for the Prosecution

M-7358, CSM Fox, D.W.R. 1 Cdn Convalescent Depot, having been duly sworn states as follows:-

I am Coy. Comd. "G" Coy. "B" Division, 1 Cdn. Convalescent Depot. The accused, Pte Dean, whom I recognize was on the strength of my Coy. on 14 Aug 44. I personally called the roll at 1310 hours 14 Aug 44 and the accused was not present and did not answer to his name. He had been duly warned for this parade which was a parade of outgoing personell discharged to duty. He was not on any subsequent parades.

The accused declines to cross-examine this witness.

D. W. Fox

SECOND WITNESS for the Prosecution

H-204404 L/Cpl Klein, F.A. 1 Cdn. Convalescent Depot having been duly sworn states as follows:-

I am employed on Regimental Police duties at 1 Cdn Convalescent Depot. At approximately 2030 hours 4 Sep 44 the accused, Pte Dean, whom I recognize reported to me stating that he had been A.W.L. and was reporting in. I took his particulars and placed him under close arrest in the Guard Room.

The accused declines to cross-examine this witness.

F. A. Klein L/Cpl

The accused was asked, "Do you wish to make a statement or to give evidence? You are not obliged to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

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

Taken down before me in the presence and hearing of the accused this 5th day of September 1944. I hereby certify that R.P. 4 (c)(d)(e) and (f) have been complied with.

R. S. Sherman Capt
(R.S. SHERMAN)
Officer detailed to take Summary of Evidence.

In the Field
5 Sep 44.

Ex. "B"

Fmd.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A-9737	Pte	LEANE, R	Royal Canadian Regiment

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

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

The conduct sheet(s) mentioned should be produced in court with this statement and annexed to the proceedings.

† See para. 477, K.R., 1940.

‡ The conduct sheet(s) should accord in all respects with the entries in the attested sheet, and therefore no erasure should appear in the most serious offence in a series, and no unexplained period left or unnumbered sheet.

Instruction.—If the character is not drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 15 SH	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

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

or

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

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

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

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~

~~_____ imposed on the _____ day of _____~~

4. The accused has been in confinement, awaiting trial on the present charges, for N/C days in civil custody, and SIX days in military custody, making a total of SIX days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 yrs 10 days

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 8 JAN 43

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

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

9. ~~The accused is entitled to reckon~~ _____ as qualifying service for the purpose of determining his service as _____

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)) Canada Volunteer Service Medal and clasp

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

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

(Printed) W. (1942) 12. 125,000. 8/42. A.T.E.W. Ltd. Gp.488

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

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

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

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

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

Signed this 11th day of September 1944

[signature] Capt. & Assistant, Pay
B.C. No. 1 CONVALESCENT DEPOT G.A.S.F.

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

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

Ex. "C"

No. A 9737 Name DEANE Robert

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company

No. and date of last drunk

Corps R.C.R.

Period not reckoning towards freedom from extra fine

Date of enlistment 8-1-43

G.C. Badges

Sheet No. 1

Signature O.C. Company, etc.

Service or Proficiency Pay

M.F.M. 6 Fmd.

(A.F. B.122) 40/P & /B136 (2965)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Character / Remarks
Field 3	Oct43	Pte		First sheet destroyed 8-7-43 A.A. 15(1) W.O.A.S. A.W.L. from 2200 hrs 3 Oct 43 to 1320 hrs 21 Oct 43 Time absent 17 days 15hrs 20 min (close arrest 18 days 3 hrs 10min)	L/Cpl Underwood Documentary	28 days F.P. 28 days Forf. pay underFRI 149(2)	8 Nov 43	Lt-Col. Hallett	18 dys. auto forf. FR&I 149(1)a) 19 dys forf pay FR&I 149(1)(c)

Certified true copy from the regimental books in my custody

(P.T.O.)

I hereby acknowledge receipt of one copy of the Summary of Evidence and Charge Sheet in my case

.....

Date.....

I request that an officer be appointed to represent me at my trial.

I request the services of.....

if he is available.

.....

Date.....

000-118
GNR DEARDEN TE

SCHEDULE.

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

*Accused : D-13586 Gnr Thomas Edward DEARDEN, RCA, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st aa Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

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

To undergo detention for 60 days beginning on (date) (1)

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

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital (1)

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

Sentence Awarded by the Court :

To undergo detention for 60 days.

2 Jun 44 (Sgd) J C Clennett Lt/c

Date awarded. President (RP 45, 50.)

(Sgd) Judge-Advocate, if any.

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

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

Date (Sgd) Commanding

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

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

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

I hereby confirm the findings and sentence but remit 15 days detention

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

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

(Sgd) H Francoeur (G. Francoeur) Brig

Date 3 Jun '44 Commanding Comd 2 Can Base Sub-Area

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

Accused.	Date.	Signature of Offr.
D13586 Gnr. Thomas Edward Dearden	JUN 5 - 1944	HQ Proceedings

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2 Can Base Vol. I p 24

ORDER AT CMHQ IN AB 160-00C-118

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G Francoeur Comd 2 CBSO dated 1 JUN 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-13586	Gnr	Thomas Edward	DEARDEN	RCA, 9 CBR

PROCEEDINGS REVIEWED

J C Campbell Major 13 Jun 44

REVIEWING OFFICER, HQ BRANCH, CMHQ

Held in the Fd in (country) ENGLAND on (date(s)) 2 JUN 44

PROCEEDINGS REVIEWED Date 13 Jun 44 D.J.A., Can Sec. G.H.Q. 2 Echn, 21 Army Gp

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~(if any, and Offrs under orders if any)~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 102, 119, 122.)

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

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

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

~~Accused is (are) not fit to undergo trial by court-martial, but is (are) fit to be tried by a court-martial with the following modifications :~~

~~The accused is (are) unfit to undergo trial by court-martial, and it is impracticable to assemble a court-martial which could try him (them).~~

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

~~The accused is (are) unfit to undergo trial by court-martial, and it is impracticable to assemble a court-martial which could try him (them).~~

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

A5. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

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

Ans No (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 31, RP 22, 71, 98, MML p 742.)

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

President	Lt/c for	J C CLENNETT	Regt N O R,	11 CBR Bn
Member	Capt	J A Macdonald	Halifax Rifles	9 CBR Bn
Member	Capt	R A Houston	27 Can Armd Regt	9 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	M A W Bosley.	RCA	9 CBR Bn
Defending Offr	Lieut	S A Rodway	RCA	9 CBR Bn

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 95 (B) and fn 2 were not followed. See p 3.)

A8. The accused D 13586 Gnr Dearden. T E before arraignment makes(s) (no) ~~no~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 63(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or as one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~The Court considers the accused's statement (1) The Offrs Strike (out) to advise accused to change (his) (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) (changes) his (their) plea(s) to Not Guilty.~~ Page 1 of the Schedule is amended accordingly.

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D5.)

NB: If trial proceeds, accused must be allowed the latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

Do you intend to call witnesses on your behalf? Ans .....

Are they witnesses as to character only? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 8, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 46(*F*). *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 84(*C*). *Include the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*E*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed by him.(2)

(1. *AA* 54(2) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 43, 117. *This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? (1) Ans .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFB* 255 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....

(1. *RP* 37(*E*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or witnesses to state on such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

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

(1. *AA* 54(*B*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and countersigned~~.(2)

(1. *Where several accused tried separately see RP* 77 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its reserve, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 338; 342-366. *Overseas NO* 309, 1223. *MML p* 60, 710-739. *As to sentences assigned for civil offences by the law of England see AA* 41(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-13586, Gnr. Thomas Edward DEARDEN, Field R.C.A., on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 18(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself from 9 Bn, 2 C.B.R. Group, from 2230 hours, 28 May 44, until reporting to the Guard Tent at 2230 hours, 29 May 44. Total time absent 1 day.

(H.W. Rick), Lt.-Col.
Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field

31 May 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Coad
2 Cdn Base Rft Gp

In the Field
1 JUN 44

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-13586	Gnr		Thomas Edward	DEARDEN	RCA, 9 CBR Bn

CONVENING ORDER.

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

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

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

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

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

PRESIDENT.

Major (Rank.)	M G CLINNETT (Must be named. RP 106.)	West N S R,	11 CBR Bn (Unit.)

MEMBERS.

Capt	to be detailed by OC 9 CBR Bn	9 CBR Bn
Lieut (Rank.)	to be detailed by OC 9 CBR Bn (Named or detailed. RP 106.)	9 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	to be detailed by OC 9 CBR Bn (Named or detailed, if any. RP 106.)	9 CBR Bn (Unit.)

~~JUDGE ADVOCATE~~

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

On Active Service in the Fd

in ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)
Commanding 2 Cdn Base Rft Gp
Convening Officer

Date 1 JUN 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A (Chart. (In lieu of AFAS) 10 P & S 1897 (4601))

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D-135 86
(No.)
GNR DEARDEN .E.
(Rank) (Name) and in my opinion he is

fit to undergo trial by Court-Martial.
~~unfit~~

Station FIELD

Date. 2 June 44

H Stanley Capt
(Sgd)
Medical Officer
(unit) 9 BN NO. 2 C BRG

Statement in mitigation of punishment in the case of Gnr. T.E. Deardon.

Sirs:

Gnr. Deardon first arrived overseas in September 1940 As you may observe from his crime sheet his conduct in military life has been very good. Although he is guilty of going A.W.L. at this critical time, I believe that only the extenuating circumstances which I will relate, could be responsible for this breach of discipline.

Gnr. Deardon was married in England and is the father of two children. His wife is in delicate health, and the bince the birth of the second child has been very ill indeed. Ill enough in fact to warrant her admission to hospital for a further operation. Telegrams were sent to Gnr. Deardon in an attempt to obtain his presence. As he was in hospital himself at the time he was unable to go. You can imagine his state of mind, especially so in view of the fact that his mother-in-law was unable to provide proper care for her grandchildren due to responsibilities of her own. It was shortly after Gnr. Deardon returned to No. 1 C.A.R.U. that he was sent to 9 Bn. The restrictions on passes made him give up hope to get his affairs straightened out, in the normal way. The worries on his mind coupled with a desire to see the baby he had not yet seen, I'm afraid were responsible for the upsetting of Gnr. Deardon's good judgment, and he went A.W.L. In view of the fact that he was absent for only one day, coming back of his own accord, and in consideration of his mental state, good military record. I crave the court's indulgence in passing sentence upon this man.

[illegible] Rodway Lieut
RCA.

cf Telegrams mentioned above
submitted as exhibits D & E respectively
mjc

Exhibit A Page

SUMMARY OF EVIDENCE

in the case of

D-135 86, Gnr. DEARDEN, T.E., R.C.A., on strengt h 9 Bn, 2 Ca nadian Base Reinforcement Group, a soldier of the Canadia n Army Ove rseas who is charged with:-

(1) Whe n on Active Serv ice , abs enting himself without leave. A.A. Se c. 15(1).

The Comma nd ing Office directs that the evidence be taken on oath.

FIRST WITNESS For prosecution K-9050, Sgt. CRAIG, R.J.A., 9 Bn., 2 C.B.R.Gp, ha ving been duly sworn, states:-

"I am the Sgt. in charge of the Field Artillery Troop in 44 Company. At Tattoo Roll call at 2230 hrs., on the 28th May 44, D-13586 Gnr. DEARDEN, T.E., whom I now recognize, failed to answer his name. After searching the lines until 2245 hr s on the 28 Ma y 44, I re porte d Gnr. Dearden as A.W.L., to the Orderly Sgt. I did not see Gnr. Dearden again until 0900 hrs, 30 May 44, in the 44 Compa ny Office."

The accused decline s to cross exa mine the witness.

K-9050 Sgt. Craig, R.J.A.

SECOND WITNESS For prosecution M-65723, L/Cpl. RADCLIFFE, H.E., 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am employed on the Bn. Regimental Police. At 2230 hrs, on 29th May 44, D-13586 Gnr. DEARDEN, T.E., whom I now recognize, reported to me at the Guard Tent, sober and properly dressed. He reported he was A.W.L., a nd I immedia te ly placed him under close arrest.

The accused declines to cross examine the witness.

M-65723 L/Cpl. Radcliffe, H.E.

The accused was cautioned as follows:-

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

The accused declines to give evidence on oath or to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of One page, was taken down by me in the presence of the accused, and that Rules of Procedure 4(C), (D),(E),(F),and have been complied with.

(M.A.W. BOCLEY), Lieut.
officer detailed to take the Summary of Evidence.

In the Field.
30 May 44.

NOMINAL ROLL

Date

To: O.C. R.C.C.S. Field Unit

From: O.C. Rft. Unit

1. Demand No.
2. Date of Demand
3. Officers Demanded
4. Officers Despatched
5. O.R's Demanded
6. O.R's Despatched
7. Last Meal
8. Rations Taken
9. Departure Date Time
10. How Despatched
11. S.O.S. Rft. Unit
12. To be T.O.S. Field Unit
13. Part I Pay Book Completed to date

Regt. No.	Rank	Name	Unit	Trade or Spec. Qual.	Type and Date last leave
	LIEUT	J.A. DAVIDSON			
D-139631	Sgmn	DOUGHERTY, R.		Dvr i/c	
B-32050	"	HENDON, N.W.J.		Dvr i/c	
B-132061	"	NASH, A.J.		Dvr i/c	
K-75726	Sgmn	GIBB, W.		D.R. Gp "C"	

DISTRIBUTION
1 copy to Reception Camp
1 " " Field Unit
1 " " 2nd & Jelson
1 " " Records Officer

Records Officer

O.C. Reception Camp

O.C. Field Unit

HOLD-8

Exhibit "B" vs C.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-13586	Gnr	T. Edward DEARDEN	9 Bn, 2 C.B.R Gp.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L.	AA 15(1)	11 times.
For ~~C.P.C.C. & M.D.~~	~~AA 40~~	~~1~~ times.
For Neg to obey orders	AA 11	1 times.
For		times.

Date of first entry in Field Conduct Sheet 16 Feb 41

Date of last entry in Field Conduct Sheet 16 Jan 44

~~2. Previous convictions of the accused by a court-martial or a civil court are set out in the accordance overleaf.~~

~~2a. The accused [illegible] under sentence for [illegible]~~

~~[illegible] on the [illegible] day of [illegible]~~

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for [illegible] days in military custody, *i.e.*, nil days in open arrest, [illegible] days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 22 yrs (Born 7 Feb 22)

6. The date of his attestation is 7 Mar 40

~~filling up his number's service~~

7. The service which the accused is allowed to reckon is 4 yrs, 2 months

8. The accused is in possession of† C.V.S.M. & Clasp

~~9. If the accused is a warrant officer or N.C.O. The accused has not been reduced~~

~~[illegible] on reduction to the present rank~~ ~~Date of Promotion~~

~~In the substantive rank of~~

~~In the non-substantive rank of~~

~~In the army rank of~~

*Strike out if not applicable.

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] W4.5670.9/44 100,000 4/42 A. & E. W. Ltd. Gp.498 Forms/B.296(War)/2
[illegible] W4.2901/6.1/42 40,000 7/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 3rd day of May, 1944

(C.L. Nelson), Capt., & Adjt.,
9 Bn, 2 C.B.R.Gp.

Exhibit S

No D13586 Name DEARDEN, T.E. Sqn, Battery, or Company — Corps R.C.A. — Date of enlistment 7 Mar 40 — GC Badges — Service or Proficiency Pay N/A — MFM 6 (AFB 122) as PAS/186 (3458)

Date of last entry in Company Conduct Sheet 10 Jul 40 — No and date of last drunk n/a — Period not reckoning towards freedom from extra line n/a — Sheet No 1 — Signature OC Company, etc Major R.C.D. Stewart, R.C.A. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Sheet destroyed 7 Sep 40 on completion of 6 months service: last entry 10 Jul 43.								
Ewshott	16-2-41	Gnr		AWL 0200 hrs 16 Feb 41 to 2300 hrs 16 Feb 41. Absent 21 hrs.	Sgt Allan Bdr Brown	7 days C.B.	17-2-41	Major Keefler	Forf 1 day pay FR&I 149(1)(a)
Field	16-7-41	Gnr		AWL 2359 hrs 16 Jul 41 to 0400 hrs 17 Jul 41. Abs. 4 hrs, 1 min.	Sgt Brown	14 days C.B.	17-7-41	A.H.Birks	
Field	5-8-41	Gnr		AWL 2245 hrs 5 Aug 41 to 2359 hrs 5 Aug 41. Abs 1 hr, 14 mins	Sgt Malcolm	5 days forf of pay	8-8-41	REG Roome Lt.Col.	
~~Field~~	~~15-12-41~~	~~Gnr~~		~~Neglect to the prej, etc, i.e. on 15 Dec 41 did not exercise proper care of equipment under his control. A.A. 40.~~	~~Documentary~~	~~Stoppage of pay - 8s~~	~~5 Mar 42~~	~~ED Nighswander~~	
Field	30-4-42	Gnr		AWL 2359 hrs 30 Apr 42 to 0130 hrs 1 May 42. Abs 1 hr, 31 mins A.A. 15(1)	BSM Drummond L/Bdr Marchand	3 days C.B.	1 May 42	A.Powis Major	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ove, Hants	2 Jul 42	Gnr	1.	AWL 0800 hrs 2 Jul 42 to 2300 hrs 2 Jul 42. Abs 15 hours.	Sgt Lamb L/Bdr McCloy	7 days C.B.	4 Jul 42	Lt.Col Conrad	Forf 1 days pay FR&I 149(1)(a)
			2.	Neg to obey camp orders in that he failed to turn in his pass at Guard Room. A.A. 11.					
Field	7 May 43	Gnr		AA 15(1) WOAS AWL 1800 hrs 7 May 43 to 2030 hrs 7 May 43. Abs 2 hrs, 30 mins.	L/Sgt Green	3 days C.B.	24May43	RCD Stewart Major	
Field	1 Jul 43	Gnr		AWL 2259 hrs 1 Jul 43 till reporting himself at 2030 hrs 4 Jul 43. Abs 2 days 21 hrs 31 mins.	Sgt Kitchen L/Bdr king	7 days C.B.	5 Jul 43	ED Nighswander	Forf 3 days pay FR&I 149(1)(a)
Field	15 Jul 43	Gnr		AWL 2259 hrs 15 Jul 43 till reporting in at 0730 hrs 16 Jul 43 Absent 8 hrs 31 mins. AA 15(1)	L/Sgt McKnight	5 days C.B.	17Jul43	RCD Stewart Major	Forf 1 days pay FR&I 149(1)(a)
Field	23 Aug 43	Gnr		AWL 2259 hrs to 2320 hrs 23 Aug 43. Abs 21 mins. A.A. 15(1)	Documentary	3 days C.B.	23Aug43	RCD Stewart Major	

No D13586 Name DEARDEN, T.E. Sqn, Battery, or Company

Corps R.C.A. . .

Date of enlistment 7 Mar 40 GC Badges

Exhibit G

Date of last entry in Company Conduct Sheet 10Jul40 No and date of last drunk N/A

Period not reckoning towards freedom from extra fine N/A

Sheet No 2

Signature OC Company, etc

Service or Proficiency Pay N/A

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

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 4	Jan 44	Gnr		AWL 0800 hrs 1 Jan 44 to 0800 hrs 4 Jan 44 (Abs 3 days) AA15(1)		14 days C.B. 14 days Forf pay FR&I 149 (2)	4 Jan 44	Captain Murtchie	Forf 3 days p FR&I 149(1)(a)
Field 16	Jan44	Gnr		AWL while undergoing C.B. from 1300 hrs 16 Jan 44 to 0830 hrs 17 Jan 44. Abs 19 hrs 30 mins. AA 14(1)	Lt JL Field L/sgt Heckbert	7 days C.B. 7 days Forf pay FR&I 149 (2)	19Jan44	ED Nighw-wander	Forf 1 days p FR&I 149(1)(a)

CERTIFIED true copy taken from Regimental Books in my custody.

[signature] 31 May 44

(C.L. Nelson), Capt., & Adjt.,
9 Bn, 2 C.B.R.Gp.

(PTO)

Charges to pay

s. d.

RECEIVED

POST OFFICE

TELEGRAM

No.

OFFICE STAMP

Prefix. Time handed in. Office of Origin and Service Instructions. Words.

8

From m

To m

307 5:30 NORWOOD F 27 =

PRIORITY D 13586 ONR T DEARDEN 73 FIELD

RTY 5 CH FIELD RGT RCA CANADIAN - ARMY - ENGLAND

CANRECORDS - W 3 -

ADMISSION TO HOSPITAL ADMISSION TO HOSPITAL

STRONGLY RECOMMENDED PLEASE COME AT ONCE = LIND =

NQUIRY" or call, with this form orm, and, if possible, the envelope.

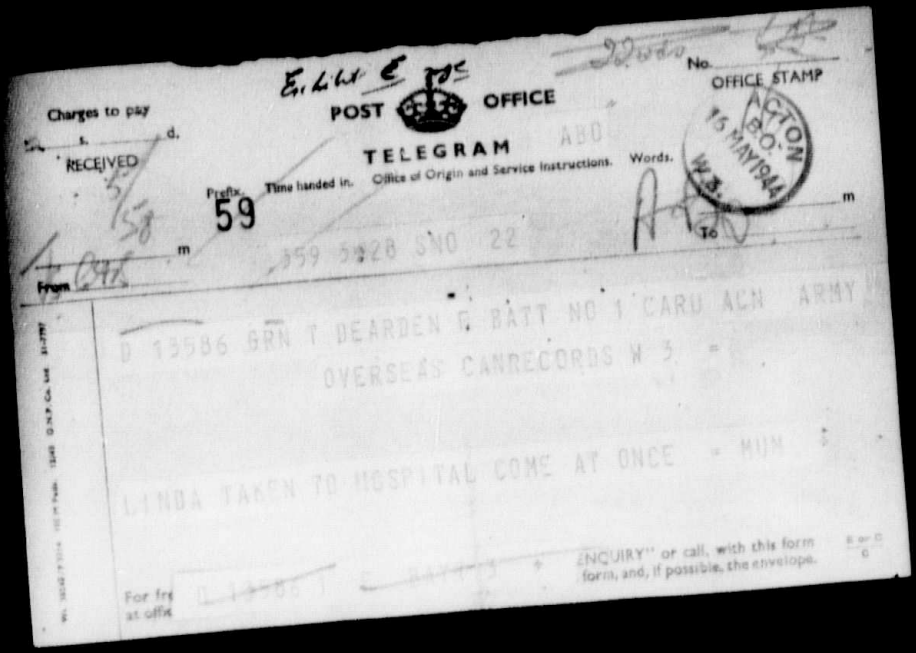

Exhibit E 79c

No. 22080

OFFICE STAMP

ACTON B.O. 15 MAY 1944 W.3.

Charges to pay

s. d.

RECEIVED

5/58

POST OFFICE

TELEGRAM

ABO

Prefix 59 Time handed in. Office of Origin and Service Instructions. Words.

m

To

From

359 5428 SNO 22

D 13586 GRN T DEARDEN E BATT NO 1 CARU ACN ARMY

OVERSEAS CANRECORDS W 3 =

LINDA TAKEN TO HOSPITAL COME AT ONCE = MUM

For fr... ENQUIRY" or call, with this form
at offic... form, and, if possible, the envelope.

B or C
G

W.3. 58242 7 5214 150 M Pads 12/43 G.N.P. Co. Ltd. 31-7797

LIST OF WITNESSES

in the case of

D-13586, Gnr T. Edward DEARDEN

FOR PROSECUTION

(1) M-9050 , Sgt. Craig, R.J.A. 9 Bn, 2 C.B.R.Gp.

(2) M-[illegible], L/Cpl. Radcliffe, H.E. 9 Bn, 2 C.B.R.Gp.

FOR DEFENCE

N i l

222-37

TPR DEARNESS J.H

SCHEDULE.

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

Accused: B 36738 TPR JOHN HAROLD DEARNLEY CAC TRNG UNIT

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A A 15 (g)	GUILTY	GUILTY.	
2nd			
3rd			
4th			
5th			
6th			

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

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

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

Time in confinement awaiting present trial—a total of 28 days, of which nil days were spent in hospital (1)

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

Sentence Awarded by the Court: To undergo detention for twenty eight (28) days.

18 Sept 44. (Sgd) K.B. Tackaberry President

Date awarded.

(Sgd) ..... Judge-Advocate, if any.

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

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

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

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

(For duties and powers see AA 54, 57, RP 37(D) to 6.46(A), 51-56, 120, MML pp 759-761, KR Can 562-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

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

(Sgd) .....

Date ..... Commanding ..... Confirming Officer

21 SEP 1944

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

Accused. Date. Signature of Offr

B.36738 Tpr. Dearnley J.H. C.A.C. Trg Unit — 25 Sep 44 — J.C. Smith Maj/IC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 222-37

RECEIVED 18 OCT 1944 JAG BRANCH CMHQ

CFA90 (In lieu of AFA4) 40 D A G S 1608 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig E.G. Weeks Comd 6th Sec GHQ Con Regt dated 16 SEP 44.

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 36738	Tpr.	John Harold	Dearnley's	C.A.C. Trng. Unit

PROCEEDINGS REVIEWED 16 Oct 44

JCFC W.C. Arnold Capt

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 18 SEP 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns BOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1400 hours trial commences. ~~adv.~~

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

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

~~Pr~~ President to accused: Do you object to be tried by me as Interpreter ? Ans ~~A~~ ~~Do you object to be tried by me as shorthand writer ? Ans~~

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

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Capt.	R.B. TACKABERRY	C.A.C. TRNG. UNIT.
Member	Lt.	G.R. FOUCHER	C.A.C. TRNG. UNIT.
Member	Lt.	W.S. FULLER	C.A.C. TRNG. UNIT.
~~Waiting Member~~			
Prosecutor	Lt.	S.B. ALLEN	C.A.C. TRNG. UNIT.
Defending Offr	Lt.	R.E. ARMSTRONG	C.A.C. TRNG. UNIT.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DF p 33.)

A8. The accused B 36738 Tpr. Dearnley J.H. before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All rank and name of the accused making the plea.)

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

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

A10. The Court ~~is about to~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

B4. On the charge[s] to which the plea[s] of Guilty is [are] not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP* 37(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

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

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

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

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(1. *RP* 37(*A*) (*E*).)

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin Here Loose Sheets of Record.

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

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

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

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

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Do you intend to call witnesses on your behalf?

Ans [redacted]

Are they witnesses as to character only? Ans [redacted]
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

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

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[s] as to Character and Particulars of Service(1), and certified true copy [copies] of Conduct Sheet[s](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier[s] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex M respectively.(3)
(1. *MFR* 251 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him[self] and the [redacted].(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments (and, above in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*B*), *KR Con* 308, 330, 563-566. *Overseas* 80 308, 1323, *MML p* 90, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*B*), 68(1), *KR Con* 564. 2. *RP* 50. *As to remission (such action by Confirming Offr) see KR Con* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B36738 Tpr John Harold DEARNESS Canadian Armoured Corps Training Unit, a soldier of the Canadian Army Overseas, is charged with:-

When on Active Service, absenting himself without leave,

In that he,

FIRST CHARGE
Army Act
Sec 15(1)

In the Field, in Italy, absented himself without leave from 2200 hours 16 July 44 until surrendering himself at LAGONEGRO at about 1000 hours 16 August 1944.

(G.J. Smith) Maj.
Commanding Officer
C.A.C. Training Unit

FIELD, ITALY

13 Sep 44

To be tried by Field General Court Martial.

(E G Weeks) Brigadier
Officer i/c
Cdn Sec GHQ 1 Ech

In the Field
16 Sep 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/FAS/1497 (2nd)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B36738	Tpr		John Harold	DEARNESS	CAC Trg Unit

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on *(date)* 16 Sep 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~[REASON WHY IT IS NOT PRACTICABLE TO DETAIL FIVE OFFICERS]~~

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

NOTE:

The reason referred to in para 4 herein is that there is no Fd Offr except the OC C.A.C. Training Unit within a reasonable distance of the place at which the trial is to be held.

Capt	R B Tuckaberry	CAC Trg Unit
(Rank.)	*(Must be named. RP 106.)*	*(Unit.)*

MEMBERS.

A Capt or Lt to be detailed by OC CAC Trg Unit

A Capt or Lt to be detailed by OC CAC Trg Unit
(Rank.) *(Named or detailed. RP 106.)* *(Unit.)*

WAITING MEMBER.

N/A
(Rank.) *(Named or detailed, if any. RP 106.)* *(Unit.)*

JUDGE-ADVOCATE.

N/A
(Rank.) *(Must be named, if any. RP 106.)* *(Unit.)*

On Active Service in the Fd

in Italy *(Country.)* *(Signed personally. RP 105 fn 2.)* Brigadier *(Rank.)*

Date 16 Sep 44 Commanding Cdn Sec GHQ 1 Echelon AFHQ
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CFAAO (In lieu of AFAS) 40(FAS)1697 (2nmb)

FIELD GENERAL COURT-MARTIAL

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt	Full Christian Names. Surname.	Unit.
B36738	Tpr	John Harold DEARNESS	CAC Trg Unit

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[x] named above as the accused, being subject to military law, has ~~xxxx~~ committed the offence[s] set forth in the Charge Sheet[x] attached and on (date) 16 Sep 44 endorsed by me, ~~(or by an offr of my staff for me)~~. " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence[x] should be tried by an ordinary General Court-Martial ; ~~xxx xxx xxxx xxxxxxxxxx xx xxxx xxxxxxx xxx xxxxxxx xxxxxxx xxxxxxx xxxxx~~

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

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

4. I am unable to appoint ~~xx xxxxx xxxx xxxxx xxxxxxxxx xxx~~ a Fd Offr as President, for the reasons I have attached hereto. #[1]

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

~~xxxx xxx xxxxx xx xxxxx xxxxxx xxxxxx xxxxxxx xxxxxxx xxxxxx~~

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

PRESIDENT.

Capt	R B Tackaberry	CAC Trg Unit
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

A Capt or Lt to be detailed by OC CAC Trg Unit

A Capt or Lt to be detailed by OC CAC Trg Unit

(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

	N/A	
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.)

Date 16 Sep 44

(Signed personally. RP 105 fn 2.)

Commanding Brigadier (Rank.)

Cdn Sec GHQ 1 Echelon AAI Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CANADIAN ARMOURED CORPS TRAINING UNIT

18 Sep 44

This is to certify that I have this day examined

B36738 Tpr. DEARNESS, J. H. and found him fit to stand trial by FIELD GENERAL COURT MARTIAL.

(N. Guadagni) Captain
Medical Officer
1 Cdn. Armd. Corps Trgn Unit.

Statement in mitigation
By punishment R.O.

18 Sep 44.

Mr President and Gentlemen of the Court,

The accused has readily admitted his guilt in reference to the charge. There are however, some points which I would like the Court to consider before passing sentence on the accused.

The accused joined the Army in September of 1939 and at that time was sixteen years of age. He was later discharged for being under age. A short while after he endeavoured to join both the Army and the Air Force, but was rejected owing to his age. He joined the R.C.Ds. and after spending a week with them was again discharged for under age. The accused was successful in joining the Navy, but after a week was discharged for under age. At the age of nineteen he was successful in joining the Armoured Corps and came to England as a reinforcement. In England he was used as an Instructor for almost a year. During this time he made several applications to be sent to a unit, but was unsuccessful and was retained as an instructor. This explains the first charge shown on his N.F.W. 6 being A.W.L. It was successful to a point, as he was sent to Italy as a reinforcement, which was his desire. Arriving in C.A.C.T.U. he was retained as instructor and many men had been sent to units, which privilege he never enjoyed. He now come to the charge which he has pleaded guilty to. Reasoning that the first charge of A.W.L. in England was successful in getting him to Italy, why wouldn't another charge get him to a unit. Gentlemen, that is all I ask on behalf of the accused, that he be sent to a unit immediately. He has been under close arrest for over a month and will automatically lose two months pay. This, I believe, is sufficient punishment, He is available and it is no secret that we are short of reinforcements. I believe he could be sent forward to a unit this week and that is his sincere wish.

A.E. Armstrong Lieut
Defending Officer

W. F.

SUMMARY OF EVIDENCE

in the case of

B36738 Tpr DEARNESS, J.H.

Canadian Armoured Corps Trng Unit

By direction of the Commanding Officer

evidence is taken on oath.

Taken at

FIELD, ITALY, C.M.F.

13 Sep 44

RSH

First Witness Capt S.A. Nicol, having been duly sworn states:-

I am the Adjutant of C.A.C. Trng Unit and Officer i/c Regimental Records. I produce the following documents in connection with the case against the accused, whom I now recognize, "

1. AFB 115

2. X List C.A.C. (See "D") Pt II Order #120 d/12 Aug 44 - Note Para 8.

3. X List C.A.C. (See "D") Pt II Order #135 d/7 Sep 44 - Note Para 3(c).

The accused declines to question this witness.

S.A. Nicol Capt

The accused having been duly cautioned as under R.P. 4(e) declines to make any statement or to give evidence on oath.

The following are appended to summary.

"A" AFB 115

"B" "X" List C.A.C. (See "D") #120 d/12 Aug 44.

"C" "X" List C.A.C. (See "D") #135 d/7 Sep 44.

I Certify that the above summary was taken before me in the presence and hearing of the accused and in accordance with R.P. 4 (c)(d)(e) and (f).

A.W. Allen, Lieut
Officer taking Summary

13 Sep 44

LIST OF APPENDICES

In the case of B56736 Tpr DEARNESS? J.H.

Canadian Armoured Corps Training Unit,

Canadian Army, C.M.F.

Appx "A"	AFB 115
Appx "B"	"X" List C.A.C. (Sec "D") #120 d/12 Aug 44
Appx "C"	"X" List C.A.C. (Sec "D") #138 d/7 Sep 44

(S.A. Nicol) Capt & Adjt
C.A.C. Training Unit

In lieu of AFB 116

RECORD of the Declaration of a Court of Inquiry assembled at FIELD C.M.F. on the 9th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Regimental Necessaries, or Clothing of No. B36738 Tpr Dearness, J.H.

D E C L A R A T I O N

The Court declare that No. B36738 Tpr Dearness, J.H.

CANADIAN ARMOURED CORPS TRAINING UNIT

illegally absented himself without leave (and is still so absent)

at Field on the 16th day of JULY 1944

and that on the 9th day of August 44 he was deficient, and that he is still deficient of the following articles:-

ARTICLES	VALUE
BLANKETS (one)	3.72
TROUSERS B.D. prs (one)	6.22
SHIRTS, bush (one)	1.15
BELTS W.E. (one)	1.01
SHOES, canvas prs (one)	.90
	21.32

Signed at FIELD, ITALY

This 11th day of August 1944.

Capt H.D. ROBERTSON President

Lieut A.E. ARMSTRONG Member

Lieut A.B. BROWNE Member

Signature of Commanding Officer "GCSmith"

(G.C. Smith) Major
Commanding Officer
C.A.C. Training Unit

Certified to be a true copy from the Regimental books in my custody.

Officer IC
Regimental Books

"X" LIST CANADIAN ARMOURED CORPS (SEC "D") No. 120
- Page five - 12 Aug 44

6. HONOURS AND AWARDS
(a) Awarded 1939-43 Star.
G-37045 L/Cpl Carr, J.C.
B-61739 Cpl. McCourt, A.
A-44041 SQMS. Gale, G.H.W.

7. REVERSIONS
(a) Reverts to Tpr on 8 Aug 44. To draw Daily Rates of Pay $1.50 per diem.
B-142861 Tpr. (A/Cpl) Fairbarn, H.E.

(b) Reverts to Tpr on 8 Aug 44. To draw Tradesman's Rates of Pay $1.75 per diem.
A-116162 Tpr (A/Cpl) Airriess, H.E. Gnr Opr "C"

8. ABSENCE WITHOUT LEAVE
(a) AWL from 2200 hrs 16 Jul 44. Still absent 2200 hrs 24 Jul 44. (8th day)
B-36738 Tpr. Dearness, J.H.

(b) AWL from 2200 hrs 16 Jul 44. Still absent 2200 hrs 7 Aug 44. (22nd day)
B-36738 Tpr. Dearness, J.H.

9. PUNISHMENTS
(a) On 4 Aug 44 awarded 2 days C.B. for an offence under A.A. Sec 15 (1) AWL from 1830 hrs 3 Aug 44 to 0800 hrs 4 Aug 44. (Absent 13 hrs 30 mins) Forfs. 1 days pay under FR&I 149 (1) (a).
A-61063 Tpr. Couper, J.W. ("A"Sqn-ADR)
B-131874 Tpr. Evans, E.J. ("A"Sqn-ADR)
M-27077 Tpr. Johnson, B.P. ("A"Sqn-ADR)

(b) On 4 Aug 44 awarded 6 days F.P. and a forf. of 6 days pay for an offence under A.A. Sec. 15 (1) AWL from 1830 hrs 3 Aug 44 to 0800 hrs 4 Aug 44. (Absent 13 hrs. 30 mins) Forfs 6 days pay under FR&I 149 (2) - Forfs. 1 days pay under FR&I 149 (1) (a) (2 days forf. concurrent with award of 2 Aug 44) TOTAL FORF. 5 days pay.
K-42384 Tpr. Sharp, R.S. ("A"Sqn-ADR)

(c) On 5 Aug 44 awarded forf. of 3 days pay for an offence under A.A. Sec. 15 (1) AWL from 1830 hrs 3 Aug 44 to 1645 hrs 4 Aug 44. (Absent 22 hrs. 15 mins) Forfs. 3 days pay under FR&I 149 (2)- Forfs. 1 days pay under FR&I 149 (1) (a). TOTAL FORF. 4 days pay.
H-100902 Tpr. Linklater, R.N. ("A"Sqn-ADR)

(d) On 4 Aug 44 awarded a forf. of 1 days pay for an offence under A.A. Sec. 15 (1) AWL from 1830 hrs 3 Aug 44 to 0800 hrs 4 Aug 44. (Absent [illegible] hrs 30 mins) (2) A.A. Sec 19. (3) A.A. Sec. 40. Forfs 1 days pay under FR&I 149 (1) (a) (1st Off)
H-111 Tpr. Prescott, F. ("A"Sqn-ADR).

(e) On 4 Aug 44 awarded a forf. of 7 days pay for an offence under A.A. Sec. 15 (1) AWL from 2030 hrs 3 Aug 44 to 2230 hrs 3 Aug 44. (Absent 2 hrs) Forfs. 7 days pay under FR&I 149 (2)
B-41860 Tpr. Gatfield, M.H. (5 Bn)

(f) On 2 Aug 44 awarded a forf. of 7 days pay for an offence under A.A. Sec. 40. Forfs. 7 days pay under FR&I 149 (2).
M-106284 Tpr. Kenney, P.D. (5 Bn)

9. PUNISHMENTS (Cont'd)

(g) On 7 Aug 44 awarded a forf. of 15 days pay for an offence (1) A.A. Sec. 15 (1) AWL from 2230 hrs 4 Aug 44 to 0020 hrs 5 Aug 44. (Absent 1 hr 50 mins) (2) A.... Sec. 40. (3) A.... Sec. 10(3) Forfs. 15 days pay under FR&I 149 (2) (X-3)
B-60766 Tpr. Owles, E....

(h) On 7 Aug 44 awarded a forf. of 5 days pay for an offence under AA Sec. 15 (1) AWL from 2300 hrs 5 Aug to 0500 hrs 7 Aug 44. (Absent 1 day 6 hrs) Forfs. 5 days pay under FR&I 149 (2). - Forfs. 2 dys. pay under FR&I 149 (1) (a). TOTAL FORF. 7 days pay. Opr CAC "C" (X-3)
H-8310 Tpr. Vipond, E.

(i) On 7 Aug 44 awarded a forf. of 5 days pay for an offence under AA Sec 15 (1) AWL from 2300 hrs 5 Aug 44 to 0500 hrs 7 Aug 44. (Absent 1 day 6 hrs.) Forfs. 5 days pay under FR&I 149 (2) - Forfs. 2 days pay under FR&I 149 (1) (a). TOTAL FORF. 7 days pay. (X-3)
B-60619 Tpr. Corrigan, M.

(j) On 3 Aug 44 tried by FGCM.

CHARGES: (1) A.A. Sec. 15 (1) AWL from 2130 hrs 28 Jan 44 to 2100 hrs 3 Mar 44. (Absent 34 dys. 23 hrs. 30mins)
(2) A.... Sec. 15 (1) AWL from 1900 hrs 3 Apr 44 to 2030 hrs. 21 Apr 44. (Absent 18 days 1 hr 30 mins)
(3) A.... Sec. 18 (1)
(4) A.... Sec. 15 (1) AWL (whilst in lawful custody) from 0630 hrs 24 Apr 44 to 2220 hrs 27 Apr 44. (Absent 3 days 15 hrs 50 mins)

FINDINGS: Guilty of charges (1) (2) (4).

SENTENCE: 18 months Detention.

Confirmation: Findings confirmed by Comdr. 1 CBRGp (6 mths remitted)

CLOSE ARREST: In close arrest from 2100 hrs 3 Mar 44 to 1900 hrs 3 Apr. 44.
In close arrest from 2030 hrs 21 Apr 44 to 0630 hrs 24 Apr 44.
In close arrest from 2220 hrs 27 Apr 44 to date of trial.

FORFEITURES: Forfs. 58 days pay under FR&I 149 (1) (a).
Forfs. 140 days pay under FR&I 149 (1) (c) (i).
Forfs. 365 days pay under FR&I 149 (1) (b).
TOTAL FORF. 563 days pay. (5 Bn)
B-41044 Tpr. Graton, J.L.M.

10. NEXT OF KIN

(a) N. of K. verified as shown:
B-62540 Tpr. McKinney, C.A.... - Ruth Elizabeth McKinney (Wife)
12 Cayuga Ave.,
Weston,
Toronto, Ont.,
Canada.

8 Aug 44

11. STRENGTH DECREASE

(a) S.O.S. X-3 List to C.M.C "F" X-List
(Auth: 2 Mch Memorandum No. 40 d/9 Aug 44)

A-102707	Tpr.	Drumor, C.	Gnr Opr "C"
M-65606	Tpr.	Garford, G.H.	Gnr Opr "C"
C-120514	Tpr.	Harwood, A.V.	
C-100425	Tpr.	McCallum, P.	
H-63966	Tpr.	Shooski, P.	
U-1951	Tpr.	Dukor, J.H.	
A-104062	Tpr.	Townsend, H.E.	
D-121095	Tpr.	Evans, F.E.	
M-56015	Tpr.	Poltier, L.U.	

5 Aug 44

(b) S.C.S. X-4 ("A" Sqn-.DH) to HQ 1 C.A.B
(Auth: PC/C-52/2 HLO/HQ 1 C.A.B/C 5 Aug 44)

M-107361	Tpr.	Holmes, J.E.	
D-20762	Tpr.	Sims, W.	

(c) S.C.S. X-3 List to 11 C...R. on dates shown.

D-60529	Tpr.	Pogson, L.J.	Gnr Opr "C"	29 Jul 44
M-27201	Tpr.	Wright, R.C.		6 Aug 44

(d) S.C.S. X-4 (5 Dn) to X-9 List
(Auth: WMS 935 d/3 Aug 44)

D-09006	Tpr.	Gallagher, J.	1 Aug 44

(e) S.C.S. X-3 List to 11 C...R.

D-74335	Tpr.	Turner, H...S.	Gnr Opr "C"	29 Jul 44

(f) S.C.S. X-4 ("A" Sqn-.DH) to 11 C...R.
(Auth: C.C/Depots/1 d/14 May 44)

D-64100	Tpr.	Gallagher, J.P.	LM(TK)"C"
K-40215	Tpr.	Golling, H.J.	

(g) S.C.S. X-3 List to 11 C...R. on dates shown.

K-46741	Tpr.	Deimosshor, P...	Opr C.C "C"	24 Jul 44
H-64157	Tpr.	Dubec, ...		24 Jul 44
D-105020	Cpl(A/Sgt)	Gardner, J.		25 Jul 44

(h) DELETED 29 Jul 44

(i) S.C.S. X-3 List to 11 C...R.
D-60010 Tpr. Little, S.M.

(j) S.C.S. X-4 (5 Dn) to HQ. (Sec"A") X-4 (6 Dn) 7 Aug 44
(Auth: CMCH/44/Trans Gen/10 (CMG) d/1 Aug 44)
A-3204 Tpr. Elkerton, L.G. Fitter "D"

(k) AMENDMENT: Part II Order No. 112 para. 15 (ak) 4/27Jul44 insofar as it re-fers to the w/n is cancled by deleting D-62605 Tpr.(A/Cpl) Dole, E.J.L. and Sub. "K-37237"

(W.H. Laughlin) Lieut.
for Officer i/c
Canadian Section GHQ. 2nd Echelon - A.A.I.

/WLP

Exhibit "B"

Last Order No. 119 10 Aug 44	"X" LIST CANADIAN ARMOURED CORPS (SEC "D") PART II ORDERS ISSUED BY CANADIAN SECTION G.H.Q. 2nd ECHELON - A.A.I.	This Order No. 120 12 Aug 44

"A" OFFICERS

1. STRENGTH INCREASE — X-4 List

(a) T.O.S. ("A" Sqn-1 DR) from 12 C.A.R. — 8 Jul 44
(Auth: Bde. Comdr. 1 Cdn. Bde.)
Capt. A.B. Whitelaw

(b) T.O.S. X-4 ("A" Sqn-1 DR) from 11 C.A.R (Trg Inc) — 29 Jul 44
(Auth: 2 MLO/PO/TI-94 d/20 Jul 44)
Lieut. B.J. Wintorton

2. HONOURS AND AWARDS

(a) Awarded 1939-43 Star. — 8 Aug 44
Capt. R.W. Stewart

3. STRENGTH DECREASE

(a) S.O.S. X-3 List to X-9 List — 7 Aug 44
(Auth: Pending Re-board)
Lieut. H.B. Williams

(b) S.O.S. X-4 (5 Bn) to HQ. 2 C.B.R.D. — 31 Jul 44
(Auth: CANCH/42/Post/1/9/A(MS) d/3 Aug 44)
Capt. R.W. Stewart

"B" OTHER RANKS

4. STRENGTH INCREASE

(a) T.O.S. X-3 List from 5 C.A.R. — 8 Aug 44
C-49216 Tpr. Banks, C.E. DM(TK)"C"
C-812 Tpr. Fitzpatrick, B.W. DM(TK)"C"
C-3581 Tpr. Luger, A.J. Shoemaker, "C"
C-109752 Tpr. Stewart, C.A. Gnr Opr "C"

(b) T.O.S. X-4 ("A" Sqn-1 DR) from 14 C.A.R. — 4 Aug 44
(Auth: 1 CANCH/TC 3595 d/29 Jul 44)
M-17343 L/Cpl Nevalin, G.A.
C-12023 Cpl. Sunstrum, G.A.I. Opr C.C "C"

(c) T.O.S. X-3 List from 12 C.A.R. — 3 Aug 44
D-51156 Cpl. Prieur, C.

(d) T.O.S. X-3 List from HQ 5 C.A.B — 5 Aug 44
B-17038 Tpr. Devoe, J.H.

(e) T.O.S. X-3 List from X-10 Gen List "B" — 7 Aug 44
M-16364 Tpr. Piche, A. DM(MV)"C"

(f) T.O.S. X-4 (C.C.U) from X-4 (R.L.O.T.D) C.C"C" — 8 Aug 44
(Auth: CANCH/43/Post C.C/1 (A7) d/29 May 44)
M-76311 Tpr. Crowe, E.J.
B-133078 Tpr. Elliott, J.A.
B-138897 Tpr. Rathbone, J.N.T.
B-139194 Tpr. Rolfe, F.W.

(g) T.O.S. X-3 List from HQ 5 C.A.B — 6 Aug 44
B-61424 Sgt. Pearson, A.J.

(h) T.O.S. X-4 (C.C.U) from X-4 (R.L.O.T.D) C.C "B" — 7 Aug 44
(Auth: CANCH/43/Post C.C/1 (A7) d/29 May 44)
M-107018 Tpr. Lefevre, E.
B-66212 Tpr. Swim, D.A.

"X" LIST CANADIAN ARMOURED CORPS (SEC "D")
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12 Aug 44

4. STRENGTH INCREASE (Cont'd)

(i) T.O.S. X-3 List from 9 C.A.R.
K-8 Tpr. Russell, J.H.
K-2443 Tpr. Thompson, E.
6 Aug 44

(j) T.O.S. X-4 ("A" Sqn-ADR) from 11 C.A.R.
(Auth: Evac. of AFVs)
B-50063 Tpr. Carter, K.J.
B-61180 Tpr. Gallagher, J.P. DM(TK)"C"
K-48215 Tpr. Golling, H.J.
D-122868 Tpr. Lafferty, W.P. Gnr Opr "C"
24 Jul 44

(k) T.O.S. X-4 ("A" Sqn-ADR) from 11 C.A.R.
(Auth: Evac of AFVs)
B-48599 Tpr. Barber, W.G.
A-55061 Tpr. Beecroft, G.
A-103923 Tpr. Cornell, C.E. Gnr Opr "C"
D-26691 Tpr. Fulford, E.B.
M-63753 Tpr. Hanson, L. DM(TK)"C"
B-110725 Tpr. Higginbotham, J.F.M. Gnr Opr "C"
30 Jul 44

(l) T.O.S. X-4 ("A" Sqn-ADR) from 11 C.A.R.
(Auth: 2 ELO/PO/C-42 d/31 Jul 44)
H-63521 Tpr. Rabie, G.W.
1 Aug 44

(m) T.O.S. X-3 List from HQ 5 CAD
K-99019 Tpr. Andrews, J. Clerk "C"
4 Aug 44

(n) T.O.S. X-4 ("A" Sqn-ADR) from 11 C.A.R.
(Auth: CECH/25/WE MEMO/1/(A3a) d/27 Jul 44)
B-134777 Tpr. Edgar, L. Gnr Opr "C"
K-73902 Tpr. Barron, C.P. DM(TK)"C"
G-340 Tpr. Bulmer, D.J. DM(TK)"C"
A-44206 Tpr. Bolt, K.R. Opr C.A.C "C"
B-53169 Tpr. Buchanan, K.
C-101571 Tpr. Drummond, E.L. Gnr Opr "C"
H-64157 Tpr. Dubec, A. Opr C.A.C "C"
B-137370 Tpr. Dunlop, K.L.
B-60798 Cpl. Emery, F.V. Gnr Opr "C"
A-42161 Tpr. Haylock, T.W. Dvr. Opr "C"
M-27077 Tpr. Johnson, B.P.
F-30088 Tpr. Josey, L.E.
C-38273 Tpr. Kerr, J.
M-102813 Tpr Kurluik, F.
B-62116 Tpr. Lajeunesse, L.A.
G-27728 Tpr. Leech, D.K. Gnr Opr "C"
B-110427 Tpr. Lozun, S.
B-61072 Tpr. Murray, E.H. DM(MV)"C"
K-45969 Tpr. Neale, J.F.
B-61062 Tpr. Nightingale, J.
B-137192 Tpr. Onifrichuk, N. DM(MV)"C"
G-281 Tpr. Owen, T.E. Opr C.A.C "C"
B-113379 Tpr. Pilling, E.H.L. Gnr Opr "C"
B-74630 Tpr. Prefasi, J.L.
B-60830 Tpr. Powell, V.D. Mtr Mech "B"
A-282 Tpr. Ranger, J.L. Dvr Opr "C"
C-120512 Tpr. Regensburg, F.A. Gnr Opr "C"
1 Aug 44

4. STRENGTH INCREASE (Cont'd)

(n)(cont'd)

A-56	Tpr.	Robson, T.R.		
M-66400	Tpr.	Schmidt, B.	Gnr Opr "G"	
B-71176	Tpr.	Towsley, F.W.	Gnr Opr "G"	
B-60516	Tpr.	Wostover, R...	Opr C.C "G"	
B-62292	Tpr.	Wither, W.G.		

(o) T.O.S. X-3 List from 14 C...R.

L-53799	Tpr.	Bannister, H.R.	Gnr Opr "G"	5 Aug 44

(f) T.O.S. X-3 List from 5 C...R. on dates shown.

M-50254	Tpr.	Stephenson, L.N.	EM(TK)"C"	5 Aug 44
G-30872	Tpr.	Forrest, L.	Gnr Opr "G"	7 Aug 44
G-450	Tpr.	Wright, C.M.	EM(TK)"C"	5 Aug 44

(g) T.O.S. X-3 List from 11 C.A.R. on dates shown.

B-60780	Tpr.	Blatchford, J.P.		25 Jul 44
K-5	Tpr.	Brooks, T.	EM(TK)"C"	15 Jul 44
B-74605	Tpr.	King, F.L.		1 Aug 44
L-36913	Tpr.	MacInnes, D.	Gnr Opr "G"	1 Aug 44

5. INTERNAL POSTINGS

(a) Posted from X-4 (R.O.T.D) to X-3 List 8 Aug 44

B-135432	Tpr.	Chapdelaine, L.W.	Gnr Opr "G"

(b) Posted from X-10 List to X-3 List 27 Jul 44 on reading to be att. to (275) "B" Sqn (Br)

B-135315	Tpr.	Knight, J.W.	

(c) Posted from X-3 List to X-4 (R.O.T.D) 8 Aug 44

B-134655	Tpr.	Loquyeno, G.J.B.	

(d) Posted from X-4 (5 Bn) to X-2 List 3 Aug 44 on commitment to 2 F.P. Camp. Awarded 1 yr. Detention by FGCM on 3 Aug 44.

D-41044	Tpr.	Graton, J.L.M.	

(e) Posted from X-3 List to X-4 (5 Bn) 24 Jun 44

D-41044	Tpr.	Graton, J.L.M.	

(f) Posted from X-3 List to X-4 (5 Bn) 8 Aug 44

G-7206	Tpr.	Bowland, S.M.	EM(TK)"C"

(g) Posted from X-4 (5 Bn) to X-3 List 8 Aug 44

G-32373	Tpr.	Smith, C.M.	Gnr Opr "C"

(h) Posted from X-4 (5 Bn) to X-5 List 6 Aug 44 on proceeding on 1 CBRC Cooking Course.

B-61529	Tpr.	Groom, J.J.	

(i) Posted from X-4 (5 Bn) to X-4 (R.O.T.D) 28 Jun 44
(Auth: C.O/124 d/1 Aug 44)

B-60534	Tpr.	Dovenish, W.F.	Fitter "B"

(j) Posted from X-4 (5 Bn) to X-3 List 5 Aug 44

B-320	Tpr.	Burton, D.M.	

(k) Posted from X-4 (CACTU) to X-3 List 21 Jul 44

M-26916	Tpr.	Blunel, ...G.	

5. INTERNAL POSTINGS (Cont'd)

(l) Posted from X-3 List to X-4 (5 Bn) 6 Aug 44
M-26916 Tpr. Blauel, A.G.
D-36640 Sgt. Robson, E.

(m) Posted from X-4 (5 Bn) to X-3 List 8 Aug 44
A-3135 Cpl. Picknell, E.G.

(n) Posted from X-3 List to X-4 (5 Bn) 8 Aug 44
A-104095 Tpr. Willer, H.O.

(o) Posted from X-4 (RACTD) to X-4 (CACTU) 8 Aug 44
(Auth: CAC/124)

F-87251 Tpr. Bennett, C.R.
A-102984 Tpr. Lee, J.E.
A-43039 Tpr. McGrattock, S.J.
A-102824 Tpr. Renaud, W.N.
K-75987 Tpr. Young, D.
L-9878 Tpr. Cheeseman, W.W.
B-74416 Tpr. Hughes, V.R.
F-65852 Tpr. McKenna, A.R.
A-102827 Tpr. Secord, W.C.
M-104719 Tpr. Baker, E.R.
B-38274 Tpr. Chenier, A.M.
K-72650 Tpr. Desrosier, F.
G-766 Tpr. Minor, C.A.
D-88023 Tpr. Teatero, O.C.
A-116162 Tpr. Airriess, H.E.
M-107010 Tpr. Corney, C.L.
G-52870 Tpr. Fitzgerald, A.
K-50233 Tpr. Ray, E.A.
B-60839 Tpr. Rushford, J.
B-58859 Tpr. Smart, D.R.
A-55628 Tpr. Wilhems, H.L.
G-37128 Tpr. Wrigley, W.L.
K-45274 Tpr. Watt, J.
B-142861 Tpr. Fairbarn, H.E.
A-104785 Tpr. Doan, S.T.
L-74848 Tpr. Forrester, P.L.
B-139133 Tpr. Shearo, G.E.
B-134788 Tpr. Speechley, L.E.
M-106500 Tpr. Viney, R.F.
C-52103 Tpr. Williams, H.R.

(p) Posted from X-4 ("A" Sqn-ADR) to X-4 (5 Bn) 7 Aug 44
(Auth: 2 ELO/HQ 1 CAB/PO/6-50 d/4 Aug 44)

B-20616 Tpr. Arnaud, E.
B-61098 Tpr. Beauregard, M.A.
M-4144 Tpr. Bennett, D.R.
F-5088 Tpr. Boudreau, V.
E-38125 Tpr. Brown, J.E. Tech Storeman "C"
B-62854 Cpl. Bush, K.L. Clerk "C"
K-45269 Tpr. Dunn, J.
M-102335 Tpr. Friemark, E.
D-36098 Tpr. Gagnon, P.
M-37409 Tpr. Gilbertson, G.A.
K-38096 Tpr. Green, A.H.
K-71574 Tpr. Havelock, F.G.
L-7790 Tpr. Haw, T.A.
F-65069 Tpr. Hill, F.M.
D-36116 Tpr. Lane, D.
C-58849 Tpr. Lane, G.A.
H-100902 Tpr. Linkwater, R.N.
B-24333 Tpr. McCarthy, J.F.
B-19018 Tpr. McAuley, E.A.
K-74282 Tpr. Olson, J.E.
B-137192 Tpr. Onifrichuk, N.
D-36170 Tpr. Precourt, P.
B-48933 Tpr. Reid, J.L. DM(MV)"C"
M-102353 Tpr. Slywka, N.
C-63021 Tpr. Vozina, J.O.A.

Exhibit C
Jkl

File

Last Order No. 134 6 Sep 44	"X" LIST CANADIAN ARMOURED CORPS (SEC "D") PART II ORDERS ISSUED BY CANADIAN SECTION G.H.Q. 2nd ECHELON - A.A.I.	This Order No. 135 7 Sep 44

"A" OFFICERS

1. INTERNAL POSTINGS

(a) Posted from X-4 (CACTU) to X-4 ("G" Sqn-ADR) 3 Sep 44
(Auth: TX/40 d/27 Aug 44)
Lieut. R.W.L. Ellerbeck
Lieut. J.C. McKinnon
Lieut. R.R. McLeod

(b) Posted from X-4 (CACTU) to X-4 ("A" Sqn-ADR) 3 Sep 44
(Auth: TX/43 d/29 Aug 44)
Lieut. J. Black
Lieut(A/Capt) J.W. Rainey
Lieut. J.A. Sheriff

(c) Posted from X-4 (CACTU) to X-4 ("A" Sqn-ADR) 3 Sep 44
(Auth: TX/45 d/2 Sep 44)
Lieut. W.R.R. Newberry

2. HONOURS AND AWARDS

(a) Awarded C.M.M.M. & Clasp. 4 Mar 44
Lieut. R.A. London

"B" OTHER RANKS

3. STRENGTH [illegible]

(a) T.O.S. X-3 List from No 1 CAB 5 Sep 44
B-[illegible] Cpl. Stillman, F.H.
C-[illegible] Tpr. Young, C.R.

(b) T.O.S. X-4 ("G" Sqn-ADR) from 9 C.A.R. 2 Sep 44
(Auth: C"p/56/8/Ranks/1/3 (Agl)
B-132444 Tpr(A/Cpl) Baldassarro, L.J. Gnr Opr "C"
K-[illegible] Tpr. Dragani, T.J. Gnr Opr "C"
K-1092 Tpr. Lewis, R.F. DM(TX)"C"

(c) T.O.S. X-4 (CACTU) from desertion 15 Aug 44 on surrendering himself to Military Police, Lagonegro, at 1000 hrs 15 Aug 44.
B-36738 Tpr. Dearness, J.H.

(d) T.O.S. X-3 List from 5 C.A.R. on dates shown.
C-365 Tpr. Hay, J. DM(TX)"C" 2 Sep 44
F-32076 Tpr. McLeod, R.H. 3 Sep 44
G-105 Tpr. McCratten, C.F. Gnr Opr "C" 2 Sep 44

(e) T.O.S. X-4 List (Missing) from 9 C.A.R. 1 Sep 44
(Auth: DCL Ser. 1[illegible] P-27 d/5 Sep 44)
K-[illegible] Tpr. Campbell, D.S. Gnr Opr "C"
C-[illegible] Tpr. Craig, A. Gnr Opr "C"
L-[illegible] Tpr(A/Cpl) Dalgarno, A.B.C. Gnr CAC "C"
F-[illegible] Tpr. Hynes, B.J. DM(TX)"C"
B-[illegible] Tpr. Waugh, P.S. DM(TX)"C"

(f) T.O.S. X-5 List from (PE) CACTU 30 Aug 44 proceeding on W/T Instr. Course at RACTD.
H-[illegible] Cpl. Freeman, A. Gnr Opr "C"

3. Temporary Duty (Contd)

(g) T.D.N. X-2 flt (from 14 Aug 44)
V-20072 Tpr. Phillips, P.H.

(h) T.D.N. X-3 flt from 2 Sep 44
V-94788 Tpr. Kirkhuff, [illegible]
V-20481 Tpr. Smith, W.J.T.

(i) T.D.N. X-2 flt (from 14 Aug 44)
V-88796 Tpr(1/Cpl) Putman, E.J. Gnr Opr "cm 7 Sep 44
(Auth: X-2 (CAVU) from 14 Aug 44)
V-20072 Tpr. Phillips, P.H. Gnr Opr "cm 23 Aug 44
V-20481 Tpr. Smith, W.J.T. Gnr Opr "cm 4 Sep 44
V-94788 Tpr/A 1/Cpl Kirkhuff, [illegible] Gnr Opr "cm 4 Sep 44

(k) T.D.N. X-2 flt (from 14 Aug 44)
(Auth: X-2 (CAVU) from 14 Aug 44)
V-20072 Tpr. Phillips, P.H. Gnr Opr "cm 23 Aug 44
V-20481 Tpr. Smith, W.J.T. Gnr Opr "cm 4 Sep 44
V-94788 Tpr/A 1/Cpl Kirkhuff, [illegible] Gnr Opr "cm 4 Sep 44
V-88796 Tpr(1/Cpl) Putman, E.J. Gnr Opr "cm 7 Sep 44

(l) T.D.N. X-2 flt (from 14 Aug 44)
(Auth: X-2 (CAVU) from 14 Aug 44)
V-20072 Tpr. Phillips, P.H. Gnr Opr "cm 23 Aug 44
V-20481 Tpr. Smith, W.J.T. Gnr Opr "cm 4 Sep 44
V-94788 Tpr/A 1/Cpl Kirkhuff, [illegible] Gnr Opr "cm 4 Sep 44
V-88796 Tpr(1/Cpl) Putman, E.J. Gnr Opr "cm 7 Sep 44
V-20003 Tpr. Brown, H.F. Gnr Opr "cm 3 Sep 44

(m) T.D.N. X-2 flt (from 14 Aug 44)
(Auth: X-2 (CAVU) from 14 Aug 44)
V-20072 Tpr. Phillips, P.H. Gnr Opr "cm 23 Aug 44
V-20481 Tpr. Smith, W.J.T. Gnr Opr "cm 4 Sep 44
V-94788 Tpr/A 1/Cpl Kirkhuff, [illegible] Gnr Opr "cm 4 Sep 44
V-88796 Tpr(1/Cpl) Putman, E.J. Gnr Opr "cm 7 Sep 44
V-20003 Tpr. Brown, H.F. Gnr Opr "cm 3 Sep 44
V-94819 Tpr. Hunsinger, [illegible] Gnr Opr "cm 1 Sep 44

(n) T.D.N. X-2 flt (from 14 Aug 44)
(Auth: X-2 (CAVU) from 14 Aug 44)
V-20072 Tpr. Phillips, P.H. Gnr Opr "cm 23 Aug 44
V-20481 Tpr. Smith, W.J.T. Gnr Opr "cm 4 Sep 44
V-94788 Tpr/A 1/Cpl Kirkhuff, [illegible] Gnr Opr "cm 4 Sep 44
V-88796 Tpr(1/Cpl) Putman, E.J. Gnr Opr "cm 7 Sep 44
V-20003 Tpr. Brown, H.F. Gnr Opr "cm 3 Sep 44
V-94819 Tpr. Hunsinger, [illegible] Gnr Opr "cm 1 Sep 44
V-94818 Tpr. Pedersen, [illegible] Gnr Opr "cm
V-76049 Tpr. Bowser, [illegible]
V-76048 Tpr. [illegible]
V-76013 Tpr. Crane, J.M.
V-74008 Tpr. Gowland, [illegible]
V-1009 Tpr. Hopkins, [illegible]
V-20007 Tpr. Lofton, [illegible]
V-19961 Tpr. Kirkham, [illegible]
V-94026 Tpr. Nelson, P.H.
V-94781 Tpr. Logan, W.J.
V-101099 Tpr. Bonnell, [illegible]
Grant, W.T.
Lamphon, [illegible]
Foley, W.J.P.

Gnr Opr "cm 3 Sep 44
Gnr Opr "cm
Gnr Opr "cm
Gnr Opr "cm

[illegible] X-4 (CAVU) to X-2 (CAVU)
[illegible] Tpr. Britton, L.H.

[illegible] X-4 (CAVU) to X-5 flt 29 Aug 44 on [illegible] 29 Aug 44
[illegible] Tpr. Norris, T.D.

[illegible] (CAVU) to X-5 flt 29 Aug 44 on [illegible]
[illegible] Tpr. Dunn, J.T.P.
[illegible] Tpr. Lindsay, G.F.

3. STRENGTH INCREASE (Cont'd)

(g) T.O.S. X-3 List from 14 C.A.R. 23 Aug 44
M-27072 Tpr. Phillips, W.H. DM(MV)"C"

(h) T.O.S. X-3 List from 2 C.A.R. 4 Sep 44
H-94510 Tpr. Karpinski, P. DM(TK)"C"
F-30363 Tpr. Smith, H.W. DM(TK)"C"

(i) T.O.S. X-3 List from X-9 List 7 Sep 44
A-55796 Tpr(A/Cpl) Putman, S.J. Gnr Opr "C"

(j) T.O.S. X-4 (CACTU) from (PE) CACTU on dates shown.
(Auth: CAC/Depots/1 d/14 May 44)
B-96027 Tpr. Brosee, R.J. Clerk "C" 4 Sep 44
K-69803 Tpr. Shaw, J.T. 3 Sep 44

(k) T.O.S. X-4 ("A" Sqn-ADR) from 14 C.A.R. 1 Sep 44
(Auth: Evac. of AFVs)
K-15219 Tpr. MacDonald, A.J. DM(TK)"C"
K-98508 Tpr. Newman, A.B.
M-29015 Tpr. Sokoloski, N.M. Gnr Opr "C"
M-26848 Tpr. Vestrum, O.C. Gnr Opr "C"

(l) T.O.S. X-4 (4 Bn) from (PE) RACTD 1 Sep 44
(Auth: Cdn/56/22 RACTD/1 (CIC) d/15 Aug 44)
C-5260 Tpr. Boyer, J.A.

(m) T.O.S. X-4 ("A" Sqn-ADR) from 14 C.A.R. 3 Sep 44
(Auth: Surplus to W.E.)
H-62698 Tpr. Craig, J.M. Gnr Opr "C"
M-44468 Tpr. Davies, G. Gnr Opr "C"
H-56243 Tpr. Macklen, R.H. Gnr Opr "C"
B-74008 Tpr. Lettau, W. Gnr Opr "C"
L-36053 Tpr. Kirkham, F.H. Opr CAC "C"
M-27007 Tpr. Nelson, N.L.
A-102767 Tpr. Logan, W.J.
L-58661 Tpr. Schnell, C.N.
H-64026 Tpr. Smart, W.J.
H-63921 Tpr. Lawrence, K.B.
H-101099 Tpr. Foley, W.J.

4. INTERNAL POSTINGS

(a) Posted from X-4 (CACTU) to X-4 (RACTD) 29 Aug 44
(Auth: CAC/Procedure/1 d/2 Jun 44)
B-62051 Tpr. Britton, L.H.

(b) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (W/740/A Sherman Gnr Opr W/T Course from 30 Aug 44 to 30 Sep 44)
B-61811 Tpr. Morris, I.D.

(c) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (W/710/D Wireless Upgrading Course from 30 Aug 44 to 30 Sep 44)
D-76940 Tpr. Dunn, J.W.D.
B-58270 Tpr. Lindsay, G.T.

4. INTERNAL POSTINGS (Cont'd)

(d) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (W/T Instructors Course from 30 Aug 44 to 30 Sep 44.
A-6089 Tpr. Pope, B.D.P.

(e) Posted from X-4 (CACTU) to X-5 List 29 Aug 44 on proceeding to RACTD (S/810/B Electrician Course from 30 Aug 44 to 11 Nov 44.
A-43039 Tpr. McGratten, S.J.

(f) Posted from X-4 (5 Bn) to X-4 (CACTU) 19 Jun 44
(Auth: CAC/65-4/17 Jun 44)
L-101069 Tpr. Woolsey, M.P.

(g) Posted from X-5 List to X-4 (5 Bn) 31 Aug 44
F-65069 Tpr. Hill, F.M.

(h) Posted from X-3 List to X-4 (RACTD) 5 Sep 44
C-55642 Tpr. Lafontaine, R.

(i) Posted from X-3 List to X-4 (5 Bn) 5 Sep 44
B-135432 Tpr. Chapdelaine, L.W. Gnr Opr "C"
H-229 Tpr. Minor, V.A.
L-101865 Tpr. Oakman, F.L.
K-69767 Tpr. Nobbs, A.P.

(j) Posted from X-3 List to X-4 (4 Bn) 2 Sep 44
L-54943 Tpr. Clarke, H.W. DM(TK)"C"
K-1187 Tpr. Range, L.C. Gnr Opr "C"
F-75783 Tpr. Rooney, J.O.

(k) Posted from X-3 List to X-4 (5 Bn) on dates shown.
H-63864 Tpr(A/Cpl) Haines, R.C. Gnr Opr "C" 2 Sep 44
H-47055 Tpr. LeGrow, W.A. DM(MV)"C" 2 Sep 44
B-145676 Tpr. Stonehouse, G.J. 4 Sep 44
B-61062 Tpr. Nightingale, J. 4 Sep 44
D-36508 Tpr. Meilhot, O. 4 Sep 44

(l) Posted from X-4 (CACTU) to X-3 List on dates shown.
B-133556 Tpr. Fleurie, G.E. 4 Sep 44
B-61523 Tpr. Timleck, L.J. 4 Sep 44

(m) Posted from X-4 (RACTD) to X-3 List 5 Sep 44
B-139352 Tpr. Terry, C.W. Gnr Opr "C"

(n) Posted from X-3 List to X-4 (5 Bn) 9 Aug 44
L-1277 Tpr. Solinger, R.

(o) Posted from X-4 (5 Bn) to X-2 List 1 Sep 44 on commitment to No. 2 Cdn. F.P. Camp (Awarded 28 days F.P. on 1 Sep 44)
F-65069 Tpr. Hill, F.M.

5. HONOURS AND AWARDS

(a) Awarded C.V.M.M. & Clasp on dates shown.
G-4602 Tpr(A/Cpl) Firlotte, W.J. 3 Aug 44

5. HONOURS AND AWARDS (Cont'd)

(a)(Cont'd)

M-102786	Tpr.	Coffey, E.A.	10 Jan 44
B-136032	Tpr.	Lawrence, M.M.	23 May 44
B-138447	Tpr.	Pollock, G.T.	5 Jul 44
A-104575	Tpr.	Snell, R.G.	22 Mar 44
K-49691	Tpr.	Vandergrift, C.E.	21 Jun 44
F-76569	Tpr.	Waddon, C.J.	28 Jun 44
A-44326	Tpr.	Williams, D.J.	10 Jan 44
H-101810	Tpr.	Foster, J.	10 Jan 44
A-102999	Tpr.	Emisch, F.	10 Apr 44
M-27062	Tpr.	Goldie, W.	10 Jan 44
G-50380	Tpr.	Mason, C.F.	10 Sep 44
D-135313	Tpr.	Knight, J.W.	10 Jan 44
L-109618	Tpr.	Ahlstrom, M.	17 Jun 44
A-116468	Tpr.	Bratt, H.T.	2 May 44
F-51745	Tpr.	Page, A.A.	5 Jul 44
L-103060	Tpr.	Frogner, H.	20 May 44
B-97864	Tpr(A/Cpl)	Keyes, E.J.	27 Mar 44
F-28446	Tpr.	Morehouse, W.W.	10 Jan 44
B-82041	Tpr.	Woolhead, J.H.	19 Apr 44
L-104477	Tpr.	Allen, T.A.	18 Jul 44
C-120447	Tpr.	Barcroft, W.	28 Jul 44
H-1274	Tpr.	Bryden, A.	11 Jul 44
G-4553	Tpr.	Feran, T.G.	5 Sep 44
M-104231	Tpr.	Humphrey, A.G.	16 Mar 44
L-104874	Tpr.	Kozma, J.	2 Aug 44
B-133504	Tpr.	Morris, G.B.	30 Mar 44
M-105269	Tpr.	Stokes, B.M.	7 Jul 44
M-49173	Tpr.	Wilson, C.L.	8 Jul 44
B-136173	Tpr.	Bagley, J.J.	3 Jul 44
M-76049	Tpr.	Boudreau, L.J.	13 Jun 44
C-120389	Tpr.	Brydges, J.A.	14 Jul 44
D-132334	Tpr.	Cummings, R.A.	15 May 44
B-48911	Tpr.	Finlayson, A.R.	10 Jan 44
M-105234	Tpr.	Kibblewhite, A.M.	3 Jul 44
B-136038	Tpr.	Judson, R.W.	23 May 44
F-30919	Tpr.	MacDonald, H.M.	10 Jan 44
F-30315	Tpr.	Rus ton, W.L.	10 Jan 44

6. ABSENT WITHOUT LEAVE

(a) AWL from 1700 hrs 13 Aug 44. Still absent 1700 hrs 4 Sep 44.
D-36457 Tpr. Barrer, H.B. (CACTU) (22nd day)

(b) AWL from 1430 hrs 25 Aug 44. Still absent 1430 hrs 2 Sep 44.
A-102086 Tpr. McDaniel, W.T.(RACTD) (8th day)

(c) AMENDMENT: Part II Order No. 131 para. 7 (a), (b) of 1 Sep 44 is cancelled.
L-1277 Tpr. Solinger, R. (X-3 List)

7. PUNISHMENTS

(a) On 1 Sep 44 awarded 28 days F.P. and a forf. of 28 days pay for an offence under A.A. Sec. 40. Forfs. 28 days pay under FR&I 149 (2).

F-65069 Tpr. Hill, F.M. (X-5)

7. PUNISHMENTS (Cont'd)

(b) On 4 Sep 44 awarded a forf. of 7 days pay for an offence under A.A. Sec. 15 (1) AWL from 1530 hrs 1 Sep 44 to 2100 hrs 1 Sep 44. (Absent 5 hrs 30 mins) Forfs. 7 days pay under FR&I 149(2) (CACTU)
H-16628 Tpr. Robie, S.F.

8. STRENGTH DECREASE 4 Sep 44

(a) S.O.S. X-3 List to X-9 List
(Auth: Pending Re-board)
A-55796 Tpr(A/Cpl) Putman, S.J. Gnr Opr "C"

(b) S.O.S. X-3 List to 11 C.A.R. on dates shown.
B-74516 Cpl. Hayes, C.H. Mtr Mech "B" 27 Aug 44
H-26582 Tpr. Henry, D.B. 28 Aug 44
C-58163 Tpr. Osborne, O.F. 26 Aug 44

(c) S.O.S. X-4 (CACTU) as a Deserter 25 Aug 44 having been declared illegally absent by a Court of Inquiry from 2200 hrs. 3 Aug 44. Deficiencies in Kit in the Amount of $69.31. (100% Vocab. Price)
D-36023 Tpr. Deslauriers, P.

(d) S.O.S. X-4 ("G" Sqn-ADR) to 9 C.A.R. 2 Sep 44
(Auth: CAC/Depots/1 d/14 May 44)
K-821 Tpr. Schubert, B.A.F. DM(TX)"C"
K-1185 Tpr. Green, W.R. Opr CAC "C"
K-49848 Tpr. Bloxom, A.C. Opr CAC "C"
L-58706 Cpl. Birtwistle, F.E.

(e) S.O.S. X-4 ("G" Sqn-ADR) to 9 C.A.R. 31 Aug 44
(Auth: CAC/Depots/1 d/14 May 44)
F-30470 Cpl. Kennickell, M.L.
A-103923 Tpr. Cornell, C.E.
B-42747 Tpr. Beaulieu, R.
C-120442 Tpr. Bell, R.R. Gnr Opr "C"

(f) S.O.S. X-4 ("G" Sqn-ADR) to 9 C.A.R. 1 Sep 44
(Auth: CAC/Depots/1 d/14 May 44)
A-104025 Tpr. Hook, L.W.

(g) S.O.S. X-4 (5Bn) to CAC"C" X-4 RACTD 3 Sep 44
(Auth: CAC/149.)
L-1277 Tpr. Solinger, R. DM(NW)"C"

W.H. Laughlin Lt
(W.H. Laughlin) Lieut.
for Officer i/c
Canadian Section G.H.Q. 2nd Echelon - A.A.I.

Ex. 6.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B36738	Tpr.	DEARNESS, J. H.	C.A.C. Trng Unit

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

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

The conduct sheet(s) mentioned should be produced at court with the attestation but not annexed to the proceedings.

† See para. 427, K.R., Inst.

* The summary should extend over the same period as the conduct sheet, and should state the number of times the accused has been in confinement, and the number of days he was in confinement during that period, and whether awards of pay were forfeited and remitted, and also any recognized good service entries, but no undistinguished conduct.

‡ In accordance with the clause in the charge-sheet dismissing the charges for disposal, these should be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For A.A. 16(1)	One times	One times.
For A.A. 11	One times	One times.
For	times	times.
For	times	times.
For	times	times.

[redacted]

or

[redacted]

2. The accused has not been previously convicted, or [redacted]

3. The accused is not under sentence at the present time, or [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for (35) thirty-five days [redacted] in military custody, making a total of (35) thirty-five days, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 21 years 32 days

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 16 Oct 42

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

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 341 days service

9. The accused is entitled to reckon 1 yr 341 days service for the purpose of determining his seniority, etc.

10. The accused [redacted], or entitled to, [redacted] C.V.S.M. and Clasp

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

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

[redacted]

Ref.

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

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

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

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

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

Signed this 18th day of September 1944.

[signature] Capt'n & Adj
Officer i/c Regt'l Records

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

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

N/A

In the rank of

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

Ex 4.

MFM 6
(AFB 122)
40/PAS/136 (3438)

No B36738 Name DEARNESS, J.H. Sqn, Battery, or Company Corps C.A.C. Date of enlistment 15 Oct 42 GC Badges Service or Proficiency Pay Character

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

	Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Dec	43	Tpr		A.A. Sec 15(1) AWL from 1200 hrs 20 Dec 43 until 0815 hrs 4 Jan 44 (Absent 14 days, 20 hrs, 15 mins)	Documentary Cpl F Whynot	28 days Detn	4 Jan 44	Lt Col H.M. Sharp	Ffts 28 days pay FR&I 149(1)(b)
Field	6 Apr	44	Tpr		A.A. Sec 11 Neglecting to obey Standing orders etc., was found on the streets of Avellino without a pass at approx 2300 hrs 6 Apr 44.	Documentary	Ffts 3 days pay	10 Apr 44	Lt Col J.G. Vining	Ffts 15 days pay FR&I 149(1)(a)

CERTIFIED TRUE COPY FROM REGTL RECORDS
IN MY CUSTODY

[signature] Capt & Adj

Offr i/c Records

(PTO)

RECEIPT FOR SUMMARY OF EVIDENCE

I,

B36738 Tpr Dearness, J.H.

hereby acknowledge receipt of a true copy of the Charge Sheet and Summary of Evidence in connection with the charges pending against me.

In the field

In Italy

13 Sep 44

.....
B36738 Tpr Dearness, J.H.

Witnessed by:

.....
(S.A. Nicol) Captain

LIST OF WITNESSES

Witnesses in the case of B36738 Tpr Dearness, J.H.

Canadian Armoured Corps Training Unit

Canadian Army C.M.P.

Capt S.A. Nicol

.....
(S.A. Nicol) Capt & Adjt
C.A.C. Training Unit

REQUEST FOR DEFENDING OFFICER

I,

B36738 Tpr Dearness, J.H.

request that in the event of a

Court Martial being held, that

..an Officer.....

be appointed to defend me.

In the Field

In Italy

9 Sep 44 ..J.H. Dearness.....
B36738 Tpr Dearness, J.H.

Witnessed by .....
(S.A. Nicol) Captain

I certify that ..Lieut. A.E. Armstrong

is available to act as Defending Officer

and has been appointed.

.....
(S.A. Nicol) Capt & Adjt
C.A.C. Training Unit

BB-84

GNR DEARNESS, W.A.

See 9L-32 for 12" Case

B-36737 Gnr Dearness, W.A.

BB-84

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-NINTH day of MARCH, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible]

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

* [illegible]

* [illegible]

* [illegible]

for the following reasons, namely:—]

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

*Omit if not applicable.

Proceedings Reviewed

for Reviewing Officer

14 Apr 43

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

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

President.

Rank.	Name.	Regiment.
LT-COL.	D.L. REDMAN, E.D.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
CAPTAIN	J.C. McDAIARMID, RCA	1 CARU
LIEUT.	D.G. McCORY, RCA	2 CARU
LIEUT.	E. SHOREY, RCA (Waiting Member)	1 CARU

*Signed [signature] Brigadier,

Commanding "C" Group, Cdn Rft Units.

Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-36737 Gnr Dearness, W.A. (RCA) 1 CARU	FIRST CHARGE A.A. Sec. 15(1)	Guilty	Guilty Sentence To undergo detention for a period of One Hundred and Twenty (120) days and to be put under stoppages of pay until he has made good £1-13-0 the expenses of his apprehension and return 1st April 1943 [signature]	Confirmed [signature]
	See Charge Sheet Attached			

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

(Signed) [signature] Brigadier, (Signed) [signature]

Commanding "C" Group, Cdn Rft Units. President.
Concerning Officer (e)

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

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

*Omit if not applicable.

Signed this 1st day of April 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 787 M.M.L. 1928.

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

Signed this ~~day of~~ 19

[signature]
President of the Court Martial.

D. Confirmation.

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

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

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

Signed this 2nd day of April 1943

[signature]
Confirming Officer.

Promulgated and extracts taken in the case of B 36737 Gnr Dearness W.A.

(a) (Dated) 3 April 43 (Signed) [signature] COL C.O. - 1 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

CHARGE SHEET.

The Accused, B-36737 Gunner Dearness, W.A., Royal Canadian Artillery, on the strength of "p" Training Wing, No. 1 Can. Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas is charged with

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

1st. Charge.

A.A. Sec. 15 (1)

at St. Lucia Barracks, Bordon, did absent himself without leave from 1400 hours 24 Jan 43 until surrendering himself to the Civilian Police at Parkstone Poole at 1630 hours 15 Mar 43 thereby incurring cost of apprehension and return of one pound, thirteen shillings.
(Absent 50 days 2 hours 30 minutes)

Dated 27th Mar 43,
Bordon, Hants.

(D.R. Corbett) Lieut-Col.,
A/Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit,
Canadian Army (Overseas).

To be tried by Field General Court Martial,

Brigadier,
Commanding 4th Group, Can Reinforcement Units.
(Convening Officer)

Bordon, Hants.
29 Mar 43.

MF3 246

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have, this morning, examined

No. B-36737 Gnr. Dearnell W.A.

of No.1 Cdn Arty Reinf Unit and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station... In the field

Date.... April 1st. 1943 ... J. Anderson Capt.
Medical Officer
No.1 Cdn Artillery Reinforcement Unit

B-36737 Gnr. Dearnell W.A

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT QUEBEC BARRACKS, BORDON, HANTS.
ON THE 1 DAY OF APRIL 1943

The accused B36737 BNR. DEARNESS, W.A. ..... Unit 1 C.A.R.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P.22&23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.
The following constitute the Court:-

President LT. COL. DEL. REDMAN, V.D. ..... Unit H.Q. C.A.R.U. .....

Members CAPT. GENE DARMID ..... Unit 1 C.A.R.U. .....

LT. E. SHOREY ..... Unit 1 C.A.R.U. .....

The officers under instruction are duly sworn:-

LT. MILLAR, J.L. ..... Unit 3 C.A.R.U. .....

LT. WHALLEY, B.J.P. ..... Unit 2 C.A.R.U. .....

Prosecutor MAJOR STHARVEY ..... Unit 1 C.A.R.U. .....

Defending officer CAPT. L.W. HARROUTT Unit "C" Group .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor ~~is sworn and~~ produces MFB 355 AFB 296 and MFM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED:-

(a) ~~makes a~~ statement in mitigation of punishment.
(b) ~~calls witnesses as to character.~~
(c) ~~calls witnesses in mitigation of punishment.~~
(d) addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE, and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation is attached
also statement by accused

Statement of Accused:

On 19 Jan. I came out of Detention Blks. I was granted a 48 hr. leave on 22 Jan to go and see my wife. When I got home I found my wife was sick with worry and was in great difficulty with regards to a cheque on account of my previous absence. Half of her cheque was cut off. The cheque was for £9-13-0 and it should have been for £15-0-0. Also, my mother-in-law and father-in-law found out that I had been in detention and tried to separate the wife and I and tried to take the child away from us.

We were married in Oct 1941.

President – Why did you go 30 days AWL in Nov.?

Well, on afternoon I wanted to see my wife and was put under open arrest. I wanted to see my wife so just stayed at home a little longer. No particular reason.

I stayed home till 28 Feb to see if I could get my wife out of the "hole" and get my family troubles straightened out. On 27 Feb – when the cheque came again – it was still cut short. I could have gone back on 28th, but my wife was so desperate. I asked by wire for a 48 hrs. extension; but received no answer.

Well, the reason I stayed home the 30 days was that the wife was so desperate for me to leave her to come back – also, my mother-in-law tried to take the child away from my wife and me. My wife and I get along well together.

We are expecting another child next August.

I gave myself up 15th March to come back here to see if I could get any help through the army, but couldn't get any help at all.

President – What did they tell you about the decrease?

They just told me that it was because I had gone absent.

I am 22 yrs. of age.

Dearness

Lived in Beckenham with Pt. 7d Regt. RCIA some 14 months. Since Nov 41 the Regt. has moved about. Cannot see his wife very often so starts going absent. Gets detention then 48 hrs leave followed by present absence. One child, his wife expecting another. His wife's family refused to have anything to do with him after the award of detention.

[illegible] [illegible]

Army Form O 1617.

APPENDIX "A".

I certify that the man whose personal description is given below surrendered himself to P.C. 225 Richard Shipton at Parkstone, Poole at (hour) 4.30 P.M. on the 15th day of March 1943 as being No. 36737 (Rank and Name) Gnr. William Alexander Dearness, an absentee without leave from No. 1 C.A.R.U., Bordon, Hants., and it appears to me from his confession that he is a deserter or absentee without leave.

Age 21 Height 6 feet 6 Inches Complexion Fresh Hair Brown Eyes Brown Marks Tatt.- Left forearm and Girl.
In uniform or plain clothes. In uniform.

Probable date and Place of Attestation. 8-1-40. Toronto
Probable Date of Desertion or beginning of absence, and from what place - 24-1-43. Bordon, No. 1 C.A.R.U.

Sgd. Frank Elmer.

Signature of Officer of Police in charge of Poole Central Station.

18-3-43. Date of Signature.

Certified True Copy
18 March 1943.

(A.F. Wrenshall) Capt. R.C.A.
No. 1 C.A.R.U.

APPENDIX "B".

Expense Voucher Re:- Ref: K.R. & O. (Can) 539

Reg No. B-36737 Rank Gnr. Name Dearness, W.A. Unit. No. 1 CARU

The following expenses were incurred in apprehension and returning the M/N Soldier to LONDON FROM POOLE.

Date	Particulars	Amount.
17 Mar 43.	Escorts return fare from LONDON to POOLE, DORSET.	17.6
	Prisoners single fare to LONDON from POOLE.	8.9
	Escorts & Prisoners expenses for Meals, Bus Fares.	6.9
	Total £	1.13.0

I certify that the above statement of Expenses is Correct and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483.

Certified True Copy.
18 March 1943.

(A.F. Wrenshall) Capt. R.C.A.
No. 1 C.A.R.U.

SUMMARY OF EVIDENCE in the case of B-36737 Gnr. Dearness, W.A., on the strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness. B-6409 Sjt. West, J.H., of No. 1 C.A.R.U., having been duly sworn states:

I am B-6409 Sjt. West, J.H., of "D" Battery, No. 1 C.A.R.U. As Barrack Block N.C.O., I called the 1400 hour parade, 24 Jan 43 of personnel who had been on pass and which expired at that time. B-36737 Gnr. Dearness, W.A. did not answer to his name and was missing from his room. I reported his absence to K-8103 Bdr. Serres, E.D., Orderly Sjt. for "D" Battery. Gnr. Dearness, W.A. has been absent from every Roll Call since that day until he was struck off strength No. 1 C.A.R.U. as an unapprehended deserter. I turned his kit into Quarter Stores, 48 hours after his absence.

The Accused declined to cross-examine the witness.

B-6409 Sjt. West, J.H.

Second Witness. K-8103 Bdr. Serres, E.D., of "D" Battery, No. 1 C.A.R.U., having been duly sworn states:

I am K-8103 Bdr. Serres, E.D., permanent Orderly Sjt. of "D" Battery, No. 1 C.A.R.U. B-36737 Gnr. Dearness, W.A. was reported as being absent at 1400 hrs, 24 Jan 43 by B-6409 Sjt. West, J.H. Gnr. Dearness, W.A. has been reported absent each night and morning since that date until he was struck off strength No. 1 C.A.R.U. as an unapprehended deserter. I have not seen him camp or vicinity between the above mentioned dates.

The Accused declined to cross-examine the witness.

K-8103 Bdr. Serres, E.D.

Third Witness. B-6001 B.Q.M.S. Harris, C.S., of No. 1 C.A.R.U., having been duly sworn states:

I am B-6001 B.Q.M.S. Harris, C.S., i/c Wing Stores, No. 1 C.A.R.U. On the 18th Mar 43, I checked the complete kit of B-36737 Gnr. Dearness, A.W., against the Normal Issue as laid down in CARO(C) 1956 and CARO(O) 2120 and found no deficiencies.

The Accused declined to cross-examine the witness.

B-6001 B.Q.M.S. Harris, C.S.

Fourth Witness. P-87814 Gnr. Nicholson, D.M., of No. 1 C.A.R.U., having been duly sworn states:

I am P-87814 Gnr. Nicholson, D.M., Orderly Room clerk, "D" Wing H.Q., No. 1 C.A.R.U., and as such, I produce from Orderly Room files the following documents. The first marked Appendix "A", being Army Form C-1617, a certificate of surrender to the Civil Police of a deserter or absentee without leave, stating that B-36737 Gnr. Dearness, W.A., surrendered himself to Civilian Police at Parkstone, Poole, at 1630 hrs. 18th March 1943.

Fourth Witness. (Cont'd)

The second marked Appendix "B" is C.M.H.Q. Form 1000:55, an Expense Voucher, showing that an expense was incurred in transporting B-36737 Gnr. Dearness, W.A. and escort from Poole to London, of £1-13-0.

The Accused declined to cross-examine the witness.

F-87814 Gnr. Nicholson, D.M.

The accused, having been duly cautioned in accordance with R.P. 4(e), declined to make a statement.

Certified that R.P. 4(c), (d), (f) and (g) have been complied with.

Certified that this SUMMARY OF EVIDENCE, consisting of two pages and two appendices marked "A" and "B", was taken down before me in the presence and hearing of the Accused.

Dated at Bordon, Hants,
18 March 1943.

(A.F. Wrenshall) Capt. R.C.A.
No. 1 C.A.R.U.

Army Form O 1617.

APPENDIX "A".

I certify that the man whose personal description is given below surrendered himself to P.C. 225 Richard Shipton at Parkstone, Poole at (hour) 4.30 P.M. on the 15th day of March 1943 as being No. 36737 (Rank and Name) Gnr. William Alexander Dearness, an absentee without leave from No. 1 C.A.R.U., Bordon, Hants., and it appears to me from his confession that he is a deserter or absentee without leave.

Age 21 Height 6 feet 6 Inches Complexion Fresh Hair Brown
Eyes Brown Marks Tatt.- Left forearm and Girl.
In uniform or plain clothes. In uniform.

Probable date and Place of Attestation. 8-1-40. Toronto
Probable Date of Desertion or beginning of absence, and from what place - 24-1-43. Bordon, No. 1 C.A.R.U.

Sgd. Frank Elmer.

Signature of Officer of Police in charge of Poole Central Station.

16-3-43. Date of Signature.

Certified True Copy
18 March 1943.

(A.F. Wrenshall) Capt. R.C.A.
No. 1 C.A.R.U.

APPENDIX "B".

Expense Voucher Ref:- Ref:- K.R. & O. (Can) 539

Reg No. B-36737 Rank Gnr. Name Dearness, W.A. Unit. No. 1 CARU

The follwwing expenses were incurred in apprehension and returning the M/M Soldier to LONDON FROM POOLE.

Date	Particulars	Amount.
17 Mar 43.	Escorts return fare from LONDON to POOLE, DORSET.	17.6
	Prisoners single fare to LONDON from POOLE.	8.9
	Escorts & Prisoners expenses for Meals, Bus Fares.	6.9
	Total	£ 1.13.0

I certify that the above statement of Expenses is Correct and that the amounts are fair and just.

_ ??????????? _Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.W.H.Q. 1000:55
40/P & S/483.

Certified True Copy.
18 March 1943.

(A.F. Wrenshall) Capt. R.C.A.
No. 1 C.A.R.U.

I CERTIFY that the man whose personal description is given below surrendered himself to* Pte. 225 Richard Shipton at Parkstone, Poole at (hour) 4.30 P.m. on the 15th day of March, 1943 as being No. 36737 (Rank and Name) Gnr. William Alexander Dearness a ~~deserter~~ absentee without leave) from No. 1 C.A.R.U. Borden, and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 21. Height 6' Feet 6' Inches
Complexion Fresh Hair Brown Eyes Brown
Marks Tatt:- Left forearm, a Girl.
In uniform or plain clothes In uniforms.

Probable Date and Place of Attestation: 8/1/40 Toronto.

Probable Date of Desertion or beginning of absence, and from what place: 24/1/43. Borden. (No. 1. C.A.R.U.)

Signature of Officer of Police in charge of: Frank Elmes. Police Station. Central
16/3/43. Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of

No. .....

who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at .....

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(8850) Wt.42172/2861 12,000 1/39 A.&E.W.Ltd. Gp.498 Forms/O.1617/11

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B36737 Rank Gnr. Name Dearness, W.A. Unit 1 C A R U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Poole

Date	Particulars	Amount		
17 Mar. 43	Escorts return fare from LONDON To Poole, Dorset		17	6
	Prisoners single fare to LONDON From Poole		8	9
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		6	9
	Total £	1	13	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/F & S/483

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-36737	Gunner	Dearness, W.A.	No. 1 Cdn Arty. Reinf. Unit.

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

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

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

† See para. 477, K.R., 1940.

* The numerical entries should correspond with the number on parade on the conduct sheet, any discrepancy being explained in the usual manner (absence in hospital, etc.) and never recognized agencies are to be entered, e.g., "in hospital."

Instructions.—In the charge-sheet/make-up the sufficiency of Gunnerness must be stated separately and dated.

	* Within last 12 months.		* Since Enlistment.	
For A.A. Sec 40.	2	times	2	times.
For A.A. Sec 15 (1)	4	times	6	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct.

[redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 79 of the Army Act, are set out in the schedule annexed to this statement.

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

4. The accused has been in confinement, awaiting trial on the present charge, for 2 days in civil custody, and [illegible] days in military custody, making a total of [illegible] days, of which 0 days were spent in hospital.

5. The present age of the accused according to his [redacted] is 21 2/12 yrs.

6. The date of his [redacted] specified in his [redacted] is 8th January 1941.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 2/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 2 2/12 yrs. service.

9. The accused is entitled to reckon 2 2/12 yrs. service for the purpose of determining his pension, etc.

[redacted]

(71)2250 W 13882/141 625,000 8/41 A.F.&E.W.Ltd. Gp.698

20/6

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

No. B-36737 Rank Gnr. Name Dearness, [illegible] of No. 1 C.A.R.U. Regiment (or as the case may be).

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 8 Dec 42	A.A. Sec 15 (1) A.A. Sec 27 (1)	60 days detention.	17 days

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

Signed this 1 day of June 43.

J.B. Killick Lieut

(J.B. Killick) Capt. & Records Officer,
No. 1 C.A.R.U.

M.F.M. 6

No. B36737 Name Dearness, W.A. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 8 Jan 41 — G.C. Badges — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature O.C. Company, etc. F.A. Sten Lieut — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed on completion 6 mos. service 8 Jul 41 F.A.S.					
Field	16 Jan 42	Gnr		WCAS AWL A.A. Sec 15 (1) in that he in the field absented himself without leave from 0600 hrs 16 Jan 42 until 2000 hrs 16 Jan 42 (Total absence 14 hrs)	BSM Parkinson	3 days C.B.	19 Jan 42	G.C. Savage Capt RCA	Forf. 1 days pay Fd 149 F.A.S.
Field	30 Jan 42			WCAS AWL A.A. Sec 15 (1) in that he in the field absented himself without leave from 1830 hrs 30 Jan 42 until 0015 hrs 31 Jan 42 (Total absence 5 hrs 45 mins)	L/Bdr Farquarson Bdr Nixon L/Sgt Simpson BSM Parkinson Sgt Risto L/Bdr Howe Sgt Jatton	14 days C.B.	4 Feb 42	J.E. Baird Maj. R.C.A.	F.A.S.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	23-8-42	Gnr		Sec 15 (1) A.A. WOAS AWL from 2300 hrs 23-8-42 until 1100 hrs 24-8-42 (Absent 12 hours)	Bdr. Graham, WH. Bdr. Burchill, OS.	10 days C.B. Forfeits 2 days pay 149 (2) F.R. &I.	25-8-42	(JNLane) Lt-Col., RCA.	Forfeits 1 days pay FR&I Total forfeitures of pay 3 days
Field	4-8-42	Gnr	1. Sec 40 A.A. WOAS Conduct to the prejudice &c. in that he on the 4-8-42 did drive a W.D. veh without authority contrary to M.T. Dvrs regulations (page 21 para 6) 2. Sec 40 A.A. WOAS Conduct to the prejudice &c. in that he on the 4-8-42 did drive a W.D. veh. in excess of the speed limit (8-cwt) laid down for drivers of 8-cwts in M.T. Dvrs regulations II CRO 336 d 2 Jul 42 III Republished in Dty Orders No. 132 d 5 Jul 42	Documentary L/Sgt Simpson Documentary L/Sgt Simpson	14 days F.P. 14 days Pay	28-8-42	(JNLane) Lt-Col, RCA	Total forfeitures of pay 14 days

M.F.M. 6
(A.F.B. 122)

No. B36737 Name Dearness, W.A. | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 8 Jan 41 | G.C. Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc. J.E. Baird, Major, R.C.A.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	14 Oct 1942	Gnr.	NIL	Sec. 15(1) A.A. AOAS Absent without leave from 2259 hours 14 Oct 42 until 0740 hours 15 Oct 42. (Absent 8 hours and 40 mins)	Sgt. H.M. Smith L/Bdr R.H. Bertrand	7 days C.B. Forfeits 1 days pay	15-Oct 42	(J.E. Baird) Major, RCA	Forfeits 1 days pay 149 (1) (a) FR&I
In The Field	1-11-42	Gnr	NIL	(1) Sec 15(1) A.A. AWL 10 hrs & 50 mins (2) Sec 15(1) A.A. AWL 30 days 18 hours and 15 mins	Tried by F.G.C.M.	60 days Det.	6 Dec 42	F.G.C.M.	Forfeits 31 days pay for absence 149(1) (a) FR&I

Released from Detention Barracks H. Down Jan 18 1943 Sentence having expired. Forfeits 6 days pay 149(1) (c)(ii) FR&I Forfeits 60 days
Remission earned under "Rules for Detention Barracks and Military Prisons" 17 days 149(1)(b) FR&I
Commandants Initials ?
Total forfeitures of pay 98 days

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified True Copy
25 March 1946

G.W. Pritchard

(G.W. Pritchard) Capt. & Adj.,
"P" Training Wing, No. 1 C.A.R.U.

OD-108 (case #3)
GNR DEARNESS W.A

See V-32 for 1st case
" BB-84 " 2nd "

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-36737 Gnr DEARNESS, William Alexander (RCA) 1 CARU	FIRST CHARGE A.A. Sec.15(1)	Guilty	Guilty	

See Charge Sheet attached

Find.

R.A.C.
A/Comd 'C' Group CAU

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

(Signed) [signature]

Commanding "C" Gp, Cdn Rft Units.
Confirming Officer (e)

(Signed) [signature]
President

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

3

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

I certify that the above Court assembled on the 31st day of August 1943, and duly tried the persons named in Certificate of the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

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

Signed this 31st day of August 1943.

[signature]
President of the Court Martial

*Omit if not applicable.

*See Instruction on Page 1 of M.M.I. 1920.

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

~~Signed this~~ ~~day of~~ ~~19~~

~~President of the Court Martial~~

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

~~*I direct that the soldier named in the margin be not sent to prison or detention barrack until further order.~~

Signed this 1 day of Sept 1943.

[signature]
Confirming Officer
of Commander C Group CAU

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

Promulgated and extracts taken in the case of
(a) (Dated) SEP 2 1943 (Signed) [signature]
Promulgated and extracts taken in the case of
(Dated) (Signed)
Promulgated and extracts taken in the case of
(Dated) (Sign
(a) When several cases are pro
need only sign

B.

C.

D.

Army Form A.3.

B-3673
Gnr DEARNESS, Wil.
Alexander
(RCA)
1 CARU

Gnr Dearness, W. A.
B-36713
1 CARU

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

3

B.

I certify that the above Court assembled on the 31st day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

Certificate of President as to proceedings.

*Omit if non-applicable.

I also certify that :—

1. The members of the Court
*2. ~~The witnesses~~
*3. ~~The Interpreter~~
*4. The officers under instruction)

were duly sworn.

Signed this 31st day of August 1943.

Alfred L. Lafrance Major
President of the Court Martial.

*See footnote (3) on page 702 M.M.L. 1929.

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

Signed this

day of

~~President of the Court Martial.~~

C.

Certificate, in case of death by officers (if)

See Charge Sheet attached

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

D.

Confirmation.

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

*I direct that the officer named in the margin be not ~~cashiered~~ but suspended from ~~his~~ rank and pay and be admitted to prison or detention barrack until further orders.)

Signed this 1 day of Sept 1943.

Confirming Officer.
4 Canadian Corps Group CAPO

Promulgated and extracts taken in the case of

(a) (Dated) SEP 2 1943 (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated together, the Confirming Officer need only sign [illegible]

Confirmed.

Col.
A/Comd 'C' Group CAU

Brigadier,
Commanding 2nd Gp. Can Rft Units.
Confirming Officer (a)

President.

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

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

Recommendation to mercy, if any, to be inserted in this column. Initials are sufficient.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient. But must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

B-36737 Gnr DEARNESS, W.A.
1 CARU

00-108

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTIETH day of AUGUST, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[illegible]~~

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

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

*Omit if not applicable.

Proceedings Reviewed 2 Oct 43
Gr Tidsdale Rep

Reviewing Officer

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

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

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	HQ CRU

Members.

Rank.	Name.	Regiment.
A CAPTAIN	from	1 CORU
a lieutenant	from	1 CORU

*Signed [signature] Brigadier
Commanding "C" Gp, Cdn Rft Units.
Convening Officer.
Arthur S. Pettapiece, Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-36737 Gnr DEARNESS, William Alexander (RCA) 1 CARU	FIRST CHARGE A.A. Sec.15(1) 18a	Guilty	Guilty Sentenced to undergo detention for a period of six (6) months. 31 Aug 43. AHP	Confirmed. [signature] Col. A/Comd 'C' Group CAU
	See Charge Sheet attached			

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

(Signed) [signature] Brigadier, (Signed) Arthur S. Pettapiece, Major

Commanding "C" Gp, Cdn Rft Units.
Convening Officer (e) President.

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 31st day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 31st day of August 1943.

Arthur S. Pettapiece, Major
President of the Court Martial.

C. Certificate in case of death sentences.

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

~~Signed this day of 19~~

~~President of the Court Martial.~~

*See footnote (b) on page 782 M.M.L. 1929.

D. Confirmation.

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

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

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

Signed this 1 day of Sept 1943.

[signature] Col
Confirming Officer.
A/Commander C Group CAU

Promulgated and extracts taken in the case of

(a) (Dated) ~~SEP 2 1943~~ (Signed) [signature] Col.
C.G.-1 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

[illegible]

CHARGE SHEET.

The Accused, B-36737 Gunner William Alexander DEARNESS, Royal Canadian Artillery, on the strength of "P" Training Wing, No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with WHEN ON ACTIVE SERVICE:

ABSENT WITHOUT LEAVE.

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

in that he, at Bordon, Hants., did absent himself without leave from 2300 hours 18 July 1943 until surrendering himself to the Guard Commander at St Lucia Guardroom, No 1 C.A.R.U. at 2130 hours 23 August 1943.

(Absent 35 days 22 hours 30 minutes)

Dated at Bordon, Hants., 27th day of August 1943.

(W.A. Townsley) Colonel,
Commanding Officer,
No 1 Canadian Artillery Reinforcement Unit

To be tried by Field General Court Martial.

Brigadier,
Commanding 4th Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
30 Aug 43.

Maj.
President

Medical Officer's Certificate

K.R. (Can) para 557

I certify that I have this morning examined B-36737 Gnr Dearness, W.A., of No 1 C.A.R.U., and found him fit to undergo trial by Court Martial.

No 1 C.A.R.U.
31 August 1943

C.W. Stephens Capt

(C.W. Stephens) Capt., R.C.A.M.C.,
Medical Officer, No 1 C.A.R.U.

Arthur S. Pettapiece, Major

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT St Lucia Barracks, Bordon, Hants
ON THE 31st DAY OF August 1943

The accused R36737 Gnr Dearman, V.A. Unit 1 C.A.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. [illegible] Hyde .....Unit 1 C.A.R.U.

Members Capt. [illegible] .....Unit 1 C.A.R.U.

Lt. [illegible] Moffat .....Unit 1 C.A.R.U.

The officers under instruction are duly sworn:-

Lt. M. J. [illegible] .....Unit 1 C.A.R.U.

Lt. [illegible] .....Unit 1 C.A.R.U.

Prosecutor Capt. F. [illegible] .....Unit 1 C.A.R.U.

Defending Officer Lt. [illegible] .....Unit 1 C.A.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge~~(s)~~ and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge~~(s)~~. R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
~~(b) Calls witnesses as to character.~~
~~(c) Calls witnesses in mitigation of punishment.~~
~~(d) Addresses the Court by his Defending Officer.~~

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, ~~CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER~~

---

attached hereto.

Arthur S. Hyde
Major

Statement of B 36737 Gnr W. H. Dearness.

On the morning of the 18th July, I phoned my Wife and she told me the baby was sick After Church Parade I went home for the afternoon, intending to come back Sunday nite, the 18th July. When I arrived home my brother, whom I had not seen for four years, arrived two hours after I did on a ten day landing leave. As you know from my Sergeant and RSM that I could not get on the draft to join my regiment to go to Sicily, Also I stayed with brother and wife who is pregnant and causing me some worry, as she has to undergo an operation. When I read about the boys in Sicily, I decided I should come back and sent a Telegram to that effect to Colonel Inch. I spent a few days making arrangements to get my wife sent off to Canada and she will be going as soon as passage is possible. I then returned on my own and gave myself up voluntarily to the Guard.

signed
W H Dearness

August 31st 1943

SUMMARY OF EVIDENCE in the case of B-36737 Gnr William Alexander DEARNESS, Royal Canadian Artillery, on the strength of "p" Training Wing, No 1 Canadian Artillery Reinforcement Unit, Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness. For the Prosecution

C-97 Bdr McFadden, W.L., of No 1 Canadian Artillery Reinforcement Unit, having been duly sworn, states:
I am C-97 Bdr McFadden, W.L., of "D" Battery, No 1 C.A.R.U. I called the Tattoo Roll Call at 2300 hours 18 July 1943, and B-36737 Gnr Dearness, W.A. did not answer to his name and was absent from his bed and room. I immediately reported his absence to A-32141 Sjt Best, H.E., Orderly Sergeant, "D" Battery. He has been absent from every Roll Call since that date until struck off strength of No 1 C.A.R.U. with effect from 10 August 1943.

The Accused declined to cross-examine this Witness.

W. L. McFadden
C-97 Bdr McFadden, W.L.

Second Witness For the Prosecution

A-32141 Sjt Best, H.E., of No 1 Canadian Artillery Reinforcement Unit, having been duly sworn, states:
I am A-32141 Sjt Best, H.E., Orderly Sergeant, "D" Battery, No 1 C.A.R.U. B-36737 Gnr Dearness, W.A. was reported to me by C-97 Bdr McFadden, W.L. as being absent from 2300 hours 18 July 1943. I placed his name on the absentee report, and I marked him so absent each night and morning from that date until he was struck off strength of No 1 C.A.R.U. with effect from 10 August 1943.

The Accused declined to cross-examine this Witness.

H E Best
A-32141 Sjt Best, H.E.

Third Witness For the Prosecution

A-33007 Sjt Fullerton, R., of No 1 Canadian Artillery Reinforcement Unit, having been duly sworn, states:
I am A-33007 Sjt Fullerton, R., of "A" Wing, No 1 C.A.R.U. I was N.C.O. i/c Main Gate Guard on the night of 23 August 1943. At 2130 hours 23 August 1943 B-36737 Gnr Dearness, W.A. surrendered to me as an absentee. He was sober and properly dressed. I placed him under close arrest, and made the usual report to his battery office and the duty Officer.
The Accused declined to cross-examine this Witness.

Robt Fullerton Sjt
A-33007 Sjt Fullerton, R.

Fourth Witness L-35085 Bdr Devine, J.I., of No 1 Canadian Artillery Reinforcement Unit, having been duly sworn, states:
I am L-35085 Bdr Devine, J.I., of the Regimental Police, No 1 C.A.R.U. On the 24th August 1943 I checked the complete kit of B-36737 Gnr Dearness, W.A. with his M.B.M. 1 Part 3 and found no deficiencies.

The Accused declined to cross examine this Witness.

J. I. Devine
L-35085 Bdr Devine, J.I.

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

The Accused declines to make a statement.

Certified that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Certified that this SUMMARY OF EVIDENCE, consisting of two (2) pages, was taken down before me in the presence and hearing of the Accused.

Bordon, Hants.,
25 August 1943.

P.H. Kelley
(P.H. Kelley) Capt., R.C.A.,
No 1 C.A.R.U.

Officer Detailed to take this Summary.

Arthur S. Bethune, Major

No. 2 D.D., C.A.(A)

No. B36737 Name Dearness W.A. Sqn., Battery, or Company R.C.A. (AES WING) Corps Date of enlistment Jan 8/41 R.C. Badges Service or Proficiency Pay N/A M.F.M. 6 (A.F.B. 122) 40/P & S/138 (2637)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. E.A.D---? Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
11 RTC Woodstock	30/1/41	Gnr		Absent without leave from 2359 hrs 30/1/41 to 2030 hrs. 2/2/41	Cpl Smith	Forfeits 2 days pay 4 days C.B.	3-2-41	H.Rr--? Major	
Field	16 Jan 42	Gnr		WOAS AWL AA SEC 15(1) in that he in the field absented himself without leave from 0600 hrs Jan 42 until 2000 hrs 16 Jan 42 (Total absence 14 hrs)	BSM Parkinson	3 days C.B.	19 Jan 42	(G.C. Savage) Capt RCA	Forf 1 days pay FR&I 149 FAI
Field	30 Jan 42	Gnr		WOAS AWL AA Sec 15(1) in that he in the field absented himself without leave from 1830 hrs 30 Jan 42 until 0015 hrs 31 Jan 42 (Total absence 5 hrs 45 mins)	Sgt Tatton L/Bdr Parguarson Bdr Nixon L/Sgt Simpson BSM Parkinson Sgt Rists L/Bdr Halve	14 days C.B.	4 Feb 42	(J.E.Baird) Major	FAI

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	23-8-42	Gnr		Sec 15 (1) WOAS AWL from 2300 hrs 23-8-42 until 1100 hrs 24-8-42 (Absent 12 hrs)	Bdr Graham, W.H. Bdr Burchill, O.S.	10 days C.B. Forfeits 2 days pay 149 (2)FR&I	25-8-42	(J.M.Lane) Lt.Col., RCA	Forfeits 1 dy pay FR&I Total forfeit of pay 3 days.

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. B36737 Name **Dearness, W.A.** Sqn., Battery, or Company | Corps **R.C.A.** | Date of enlistment **8 Jan 42** | Badges | Service or Proficiency Pay **N/A**

Date of last entry in Company Conduct Sheet **N/A** | No. and date of last drunk **N/A** | Period not reckoning towards freedom from extra fine **N/A** | Sheet No. **2.** | Signature O.C. Company, etc. **G.C. Savage Capt.** | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	4-8-42	Gnr.		1. Sec. 40 A.A. WOAS Conduct to the prejudice etc. in that he on the 4-8-42 did drive a W.D. Veh. without authority contrary to M.T. Dvrs regulations. (Page 21 para 6) 2. Sec. 40 A.A. WOAS Conduct to the prejudice etc. in that he on the 4-8-42 did drive a W.D. veh. in excess of the speed limit (8-cwt.) laid down for drivers of 8-cwts. in MT Dvrs regulations 11 CRO 336 d/2 Jul 42 111 Republished in Bty Orders No 132 d/5 Jul 42	Documentary L/Sgt Simpson	14 days F.P. 14 days Pay	28-8-42	(JWLane) Lt.Col RCA	Total forfeitures of pay 14 days

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	14 Oct 42	Gnr	Nil	Sec. 15(1) A.A. WOAS Absent without leave from 2259 hrs 14 Oct 42 until 0740 hrs 15 Oct 42. (Absent 8 hrs 40 mins.)	Sgt H.M. Smith L/Bdr R.H. Bertrand	7 days C.B. Forfeits 1 days pay	15 Oct 42	(J.E.Baird Major,RCA	Forfeits 1 days pay 149 (1) (a) FR&I
In The Field	1-11-42	Gnr	Nil	(1) Sec. 15(1) A.A. AWL 10 hrs 50 mins (2) Sec 15(1) A.A. AWL 30 days 12 hrs and 15 mins.	Tried by F.G.C.M.	60 days Det.	8 Dec 42	F.G.C.M.	Forfeits 31 days for absence 149(1) (a) FR&I Forfeits 6 days pay 149(1)(c)(ii) FR&I Forfeits 60 days pay 149(1)(b) FR&I Total forfeitures of pay 98 days pay.

RELEASED from DETENTION BARRACK..H.DQWN.on.JAN 18 1943 SENTENCE HAVING EXPIRED.
Remission earned under "Rules for Detention Barracks and Military Prisons"
17 days. COMMANDANTS Initials ?

M.F.M. 6
(A.F.B. 122)
40/P & S/130 (2637)

No. B36737 Name DEARNESS, W. A. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 8 Jan 41 — G.C. Badges — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 3 — Signature O.C. Company, etc. (J.E. Baird) Capt. RCA. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24 Jan 43	Gnr		WOAS AWL from 1400 hrs 24 Jan 43 until 1630 hrs 15 Mar 43. (Absent 50 days 2 hrs 30 mins) Cost of apprehension £1-13-0 A.A. SEC 15(1)	Documentary	120 days detention	1 Apr 43	F.G.C.M.	Total forfeit 187 days pay.

RELEASED from the DETENTIO BARRACK Field on JUN 19 1943 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 39 days COMMANDANTS Initials JAH

CERTIFIED TRUE COPY d/ 31 Aug 43

(H.A. Farthing) Major, No 1 CARU
(Officer having custody of the original document)

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-36737	Gunner	Dearness, W.A.	No 1 C.A.R.U.

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

	Within last 12 months		Since enlistment	
For	A.A. Sec 15 (1)	4 times	8	times
For	A.A. Sec 40.	2 times	8	times
For		times		times
For		times		times

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

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

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

4. The accused has been in confinement awaiting trial on the present charges, for — 0 — days in civil custody, and — 7 — days in military custody, making a total of — 7 — days in custody, of which — 0 — days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 8/12 yrs.

6. The date of his attestation specified in his attestation paper 8 Jan 41.

7. The service which the accused is allowed to reckon towards discharge is 2 7/12 yrs.

8. The accused is entitled to reckon 2 7/12 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [illegible] Decoration, or [illegible] reward (or [illegible] in possession of or entitled [illegible]

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

~~[illegible]~~ Sec

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

SCHEDULE

~~[illegible]~~ Sec

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B36737 Rank Gunner Name Dearness, William Alexander of No 1 C.A.R.U. Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 8 Dec 42	A.A. Sec 18 (1) A.A. Sec 18 (1)	60 days detention	17 days
F.G.C.M.	Field 1 Apr 42	A.A. Sec 18 (1)	120 days detention.	39 days.

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

Signed this 31st day of August 1943.

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

S. Whitaker Lewis
for K.J.C. Ridley) Capt. [illegible]
No. 1 Can Arty Reinf Unit

[illegible] Major

32 U.

Gun. Clearness, W.A.

32 U.

Correspondence to be PINNED here.

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FIFTH day of ~~November~~ DEC. 1942

Whereas it appears to me, the undersigned, an officer in Command of 1st Canadian Division, Royal Canadian Artillery, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

*~~[I am unable to appoint :—~~

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

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

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

* Omit if not applicable.

79

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

President.

Rank.	Name.	Regiment.
Major	G.W. Hanna	2 Cdn Fd Regt

Members.

Rank.	Name.	Regiment.
Capt	W.R. Vimeur	2 Cdn Lt AA Regt
Lieut	A.E. Bruce (waiting member)	2 Cdn Fd Regt
Lieut	W.F. Quinn	2 Cdn Lt AA Regt

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

*Signed (A.B.D. Tremain) Brigadier
Commanding R.C.A. 1st Canadian Division
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B36737 Gunner William Alexander DEARNESS 1 Cdn Fd Regt	1st Charge Sec 15(1) Army Act	Guilty	Guilty	Confirm The finding of the Court but mitigate the sentence to 60 days detention
	2nd Charge Sec 15(1) Army Act	Guilty	Guilty	
			90 days detention	
			8th Dec. 1942	
			G.W. Hanna, Maj	[illegible] Brigadier

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

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

(Signed) [illegible] (Signed) G.W. Hanna, Maj

Brigadier
Commanding R.C.A. 1 Cdn Div
Convening Officer (e)

President.

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

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

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

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

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

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

B. Certificate of President as to proceedings.

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

I also certify that:—

1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~) G.W.H.
*(~~4. The officers under instruction~~) G.W.H.

were duly sworn.

* Omit if not applicable.

Signed this 8th day of Dec. 1942.

G.W. Hanna, Maj
President of the Court Martial.

C. Certificate in case of death sentences.

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

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

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

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

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

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

Signed this 8 day of December 1942

[illegible]
Confirming Officer. Brigadier

Promulgated and extracts taken in the case of B 36737 Gnr Dearness W.A.

(a) (Dated) 10 Dec 42 (Signed) J. N. [illegible] LIEUT. COLONEL COMMANDING, 1st FIELD REGT. R.C.H.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

C H A R G E S H E E T

The Accused No. B-36737 Gunner William Alexander DEARNESS, of the 1st Field Regiment,R.C.H.A. a soldier of the Canadian Army (Overseas), is charged with, when on active service :-

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

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on the 31st day of October 1942 absented himself without leave from Glynde,Sussex at 2300 hours the 31st day October 1942 until reporting back to his unit at 0050 hours the 1st day of November 1942.
(Absent 10 hours and 50 mins.)

2nd Charge
Sec 15 (1)
A.A.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on the 1st day of November 1942 absented himself without leave from Glynde,Sussex at 1040 hours the 1st day of November 1942 until reporting back to his unit at 2255 hours the 1st day of December 1942.
(Absent 30 days - 12 hours & 15 mins.)

In The Field
3rd December 42

(J.N.Lane)
Lt-Col.,R.C.A.
Commanding 1st Field Regiment,R.C.H.A.,Canadian Army (O).

To be tried by Field General Court Martial

3rd Dec 42

Gnr. Dearness W.A. 1st Edn Fd Regt RCHA

In the
8 Dec 1942

Rachenkapp

Gw Hanna Maj

Proceedings of a Field General Court-Martial held at West Fort on the 8th day of December, 1942 by order of Brigadier W. D. Tremaine, commanding R.C.A. 1st Canadian Division, dated the 5th December 1942.

President

Major G. W. Hanna 2nd Cdn. Field Regt.

Members

Capt. W. R. Kinnear 2nd Cdn. L.A.A. Regt.

Lieut. A. E. Bruce 2nd Cdn. Field Regt.

Waiting Member

Lieut. H. W. Gunn 2nd Cdn. L.A.A. Regt.

Trial of: B36737 Gnr. William Alexander Dearness, 1 Cdn. Field Regt.

The accused is brought before the court.

Prosecutor: Capt. C. R. de Pencier, 1 Cdn. Field Regt.

Defending Officer: Capt. D. L. Matheson, 1 Cdn. Field Regt.

At 1015 hours the trial commences.

The order convening the court is read and is marked signed by the president and attached to the proceedings. Medical certificate was produced. The names of the president and members.

G.W.H.

of the court are read over in the hearing of the accused, and they severally answer to their names.

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

The President and members are duly sworn.
The charge sheet is signed by the President, marked and attached to the proceedings.
The accused is all signed.

Question:
Are you guilty or not guilty of the first charge against you which you have heard read?
Answer:
Guilty
Question:
Are you guilty or not guilty of the second charge against you which you have heard read?
Answer:
Guilty
R.P. 35 (3) complied with
The summary of evidence is read to the accused.

G.C.M.

3.

~~Record~~ A.F. B.115 is submitted by the prosecution as Exhibit A, and marked, and read in the presence of the accused.

Capt. G.P. Keeping, R.C.A. adjutant 1st Field Regt R.C.H.A. is duly sworn and states:

I am, Capt. G.P. Keeping, adjutant 1st Cdn. Field Regt. R.C.H.A. I produce a short statement as to particulars of service of the accused B36737, Gnr. Dearness W.A. I also produce certified true copy of the MFM6 of the accused, as exhibits B and C.

The accused is asked by the court.

Q. Do you wish to make any statement in mitigation of punishment?

A. I do. Last January, I was grounded for driving. From January till August, approx. seven months I did not do a days work. Nor was I allowed to drive. In August I was asked to drive a truck to wales in which I was arrested for exceeding the speed limit. I was grounded again. From August untill November, the time I went absent I did no work. The day I went absent I was detailed by the sergeant-major to clean a vehicle on Sunday for an inspection. I went absent that Saturday and came back the following Gwll.

4/ Sunday morning, and found I had been placed under arrest, and went absent again. I came back in thirty days time on my own initiative. In that eleven months time I asked if I could drive again and was told "No", as I was grounded and had no license. I asked if I could go on the guns and was told "No" as I was a fatigue man. I did not mind being a fatigue man but I was given no fatigues to do. For eleven months I just came and went as I pleased. I was disgusted with the way I was treated and gave up trying to get ahead.

I came to this Regiment in May 1941. I was made a driver Class A, three ton vehicles, in Battery H.C. where I have been ever since.

Q How long did you drive?

A I drove till I was grounded in January 1942

Question by the court:

What did you mean in saying you did nothing for eleven months?

Answer:

Scott

For eleven months after I had been grounded I was given no fatigues, no gun drill, no

5

courses. I did my parades and guards, took my leaves when they came. During the day I slept most of the time.

Question:

Did you come back from your first absence expecting not to be under arrest?

Answer:

No. I expected to be under arrest.

Question:

Where did you go for the thirty days you were absent?

Answer:

I was with my wife in Beckenham, Kent.

Statement by the defending officer.

The whole question in the case is what sentence should be imposed. I would like the court to consider KR 563 para 5. This is a peculiar case and the circumstances are rather extraordinary. The accused is only 22 years old. According to his own statement, he did nothing for eleven months, when he was grounded again. He asked if he could go on the guns, during that eleven months, and was ignored. I believe he became discontented, and lost interest. It is an obvious duty for officers and N.C.Os to see the men are employed, but this

GWH

... was also ignored. I ask that the absolute minimum sentence should be imposed. He gave himself up voluntarily.

Geo. H.

SUMMARY OF EVIDENCE in the case of No. B-36737 Gunner DEARNESS, W.A., of the 1st Field Regiment R.C.H.A., Canadian Army (Overseas).

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness

P-7447 L/Bdr. Cockburn, P.G., of "A" Bty. 1st Fd. Regt. RCHA., sworn states:-

On the 31st October 42 I was NCO of "A" Battery Guard. At 2300 hours Gnr. Dearness had not reported in. I reported him to the Orderly Sergeant, when he came in to check the 'In Book'. On the 1st November 42 at 0950 hrs Gnr. Dearness reported to the Guard Room, properly dressed. I told him to report to BSM Grain. About an hour later an absentee report came in that Gnr. Dearness had gone absent.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

2nd Witness

P-7190 BSM Grain, G.W. of "A" Battery 1st Field Regiment R.C.H.A., Canadian Army (Overseas) sworn states:-

On the 31st October 42 on S and Parade at 1330 hours I found Gnr. Dearness to be absent. I placed his name upon the absentee report and put it in the Guard Room. On the 1st November 42 at (I believe) shortly after 1000 hrs I saw Gnr. Dearness. I ordered him to get busy on his vehicle as it was needed for the following morning's inspection. Shortly afterwards on going on rounds with the R.Q. I found the vehicle that Gnr. Dearness had been detailed to work on had not been touched. I detailed a junior NCO to look for Gnr. Dearness. He could not be found so I placed an additional charge of absence from 1040 hours the 1st November 42 against him.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

3rd Witness

Captain G.F.Keeping, RCA, Adjutant 1st Field Regiment R.C.H.A., Canadian Army (Overseas), sworn states:-

I produce certified true copy of the 'Record of the Declaration of the Court of Inquiry' assembled on the 25th November 42 for the purpose of investigating and recording the absence without leave of No. B-36737 Gnr. Dearness, W.A.

4th Witness

C-1066 L/Bdr. Lambert, M. of "A" Bty. 1st Field Regt. RCHA., Canadian Army (Overseas), sworn states:-

On the 1st December 42 I was NCO of "A" Battery Guard. At 2130 hours Gnr. Dearness reported to me at the Guard Room. I reported this to Sgt. Banstead. He put Gnr. Dearness under arrest and left him in my charge.

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

The accused was cautioned as follows:- Do you wish to make any statement on oath. You are not obliged to do so unless you so desire, but whatever you say or whatever ~~XX~~ evidence you may give will be taken down in writing and may be given in evidence.

THE ACCUSED RESERVES HIS DEFENCE.

I Certify that the foregoing Summary of Evidence consisting of 2 (two) pages was taken down by me in the presence of the accused and that Rules of procedure 4 (C) (D) (E) and (F) have been complied with.

(H.A.R.Martin)
Lieut., R.C.A.
1st Field Regiment R.C.H.A., Canadian Army (O).

Exhibit A

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 25th day of NOVEMBER 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-36737 Gunner DEARNESS, W.A.

DECLARATION.

The Court declare No. B-36737 Gnr. DEARNESS, W.A. of the 1st Field Regiment R.C.H.A., Canadian Army (Overseas), illegally absented himself without leave in the field at 1040 hours the 1st day of November 1942 and that he is still so absent, and that on the 24th day of November 1942 he was deficient and that he is still deficient of the following articles to a value of £5-18-3½ :-

ARTICLE	NO.	VOCAB PRICE £	s	d	VALUE OF UNEXPIRED WEAR £	s	d
RCHAs, prs	2			7			5
Badges, shoulder, CANADA, prs	2			11			8
Flashes, distinguishing, prs	2			3			2
Battle Dress, Trousers	1	1	7	11	1	0	11
Blouses	1	1	7	8	1	0	6
Boots, ankle, prs	1	1	1	6		16	1½
Braces, prs	1		1	3½			11½
Greatcoat	1	3	17	0½	2	17	9
Dressings, 1st Field	1		1	1			9½
					£5	18	3½

Names of President and Members

CAPT. C.R. dePencier, PRESIDENT
LIEUT. G.A.MacKAY, MEMBER
LIEUT. A.St.V.Parker-Jervis, MEMBER

Signature of Commanding Officer (J.N.Lane)Lt-Col., RCA.
Commanding 1st Field Regiment R.C.H.A.

CERTIFIED TRUE COPY.

G. Kelpeng CAPTAIN
Signature of Officer having custody of the Original Record.

[illegible] Form B115/56

I request that Captain D. L. Mathieson be my Defending Officer
Wm Dickens

3 Dec 42.

Capt E. R. de Pencier will be available to prosecute if so desired

G. J. Keeping CAPTAIN
ADJUTANT, 1st FIELD REGT. R.C.M.P.

G.W.H.

1ST FIELD REGIMENT,R.C.H.A. FAO 7619
5 Dec 42

H.Q.,R.C.A.
1 Cdn Div.

5-4-1
5 DEC 1942

APPLICATION FOR FIELD GENERAL COURT MARTIAL
B.63737 Gunner Dearness,W.A.

1. Reference the above application, P.7190 B.S.M. Crain,C.W. will be called as a witness to give evidence that B.36737 Gnr Dearness,W.A. was absent from 1040 hrs 1 Nov 1942 until 2255 hrs 1 Dec 1942.

(J.N.Lane)
Lt-Col.,R.C.A.
Commanding 1st Field Regiment,R.C.H.A. Cdn Army (O)

No. B-36737 Name DEARNESS, William Alexander | Sqn., Battery, or Company | NO.2 D.D.,C.A.(A) H.C.A.(AES WING) Corps | Date of enlistment Jan 8/41 | G.C. Badges | Service or Proficiency Pay | M F M. 6 (A F B 132)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
S.O.S. on transfer to R.C.A. (F.C.) Woodstock, Ont, eff, 15-1-41 D.C.No.11 dated 14-1-41									
11 RTC Woodstock	30/1/41	Gnr		absent without leave from 2359 hrs. 30/1/41 to 2030 hrs. 2/2/41	Cpl Smith	Forfeits 2 days pay 4 days C.B.	3/2/41		
				No Entries 4-4-41					
Field	19-8-41	Gnr		Sec 40.A.A. WOAS 1.Conduct to the ets.e.i.he failed to comply with an order. 2.He made a false statement.	L/Sgt Black	Admonished	20-8-41	(H.S.Griffin) Major RCA	
Field	16-1-42	Gnr		A.W.L. from 0600 hrs 16-1-42 until 2000 hrs 16-1-42(Absent 14 hrs)	BSM Parkinson	3 days C.B. 1 days pay	19-1-42	(G.C.Savage) Capt.RCA A/Comd A Bty	

(P.T.O.)

Place	Date of offence	Rank	Corps of drunkard	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ield	30-1-42	Gnr		Sec 15 A.A. A.W.L. 1830 hrs 30 Jan 42 until 0015 hrs 31 Jan 42. (Absent 5 hrs,45 mins)	L/Bdr Farquharson Bdr Nixon L/Sgt Simpson BSM Parkinson Sgt Risto L/Bdr Hawe Sgt Tatton	14 days C.B.	4 Feb 42	(J.E.Baird) Major RCA	
n The Field	23-8-42	Gnr		Sec 15 (1) A.A. WOAB absent from 2300 hrs 23-8-42 until 1100 hrs 24-8-42 (absent 12 hours)	Bdr Graham,WH Bdr Burchill	10 days C.B. forteits 2 day pay under FR&I 149(2)	25-8-42	(J.N.Lane Lt-Col.RCA	Forteits 1 days pay under FR&I Total forteiture 3 day pay

Certified true copy

[signature] CAPTAIN

ADJUTANT 1st FIELD REGT. R.C.A.

No. B.36737 Name DEARNESS, W.A. Sqn., Battery, or Company ABty Corps 1st Field Regiment Date of enlistment 8 Jan 42 G.C. Badges NIL Service or Proficiency Pay

M F M 6 (A F B 122) 500M—8-39 (1793) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine RCHA | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In The Field	4-8-42	Gnr		1 Sec 40 A.A. WOAS. conduct to the pre. (etc) in that he on 4th day Aug 42 did drive a W.D. vehicle without authority contrary to M.T. Dvrs Regs. (Pg.21 para6)	Documentry L/Sgt Simpson				
				2. Sec 40 A.A. WOAS. Conduct to the prej. (etc) in that he on the 4th Aug 42 drove a WD Vehicle (8cwt) exceeding the speed limit laid down for 8 cwt in I MT Dvrs Regs. II CRO 336 d 2 Jul 42 III Republished in Bty orders dNo.32 15 Jul 42	Documentry L/Sgt Simpson	14 days Field Punishment 14 days pay	28-8-42	(J.N.Lane) Lt-Col.RCA	Total fort eiture of pay 14 days
In the field	14 Oct 42								

(P.T.O.)

Place	Date of offence	Rank	Crime of Nonsensitive	Offence	Name of Officer	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
the field	14 Oct 42	Gnr	NIL	Sec 15 A.A(91) WOAS AWL form 2259 hrs 14 Oct 42 until 0740 hrs 15 Oct 42 (Absent 8 hrs , 40 min)	Sgt Smith :/Bdr Bertrand	7 day C.B. Forteits 1 days Pay	15 Oct 42	(J.E.Baird) Major RCA	Forteits 1 days pay FR&I 129 (1) (a)

Certified true copy
G. F. Kleeper
ADJUTANT, 1st FIELD [illegible]

B.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF ACCUSED

(a) The accused has been in confinement awaiting trial on the present charges for NIL days in Civil Custody and 7 days in Military Custody, making a total of 7 days of which NIL were spent in hospital.

(b) The present age of the accused according to his attestation papers is 22 years.

(c) The date of his attestation specified in his attestation papers is 9th day of Janusry 1941.

(d) The accused is in possession of and entitled to no Military reward or decoration.

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

8 Dec 42

G.P. Keeping

(G.P.Keeping)
Capt., R.C.A.
Adjutant 1st Field Regiment, R.C.H.A., Cdn Army (C).

REVIEW SHEET

F.G.C.M. - Trial: B36737 Gnr. Dearness, W.A. 1 Cdn Fd Regt

Date of Trial: 8 Dec 42

President of Court: Major G.W. Hanna 2 Cdn Fd Regt

1. For the information of the officers asked to sign below, the following irregularities are noted:

(a) Declaration of Court of Inquiry having been produced as an exhibit at, became part of, the Summary of Evidence. It was therefore unnecessary that it be formally produced at the trial, a plea of "Guilty" having been entered.

(b) Accused should not have been questioned when making a statement not on oath.

(c) Exhibits should be signed, not initialled, by the President, MML 769(25).

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters.

C.C. 1 Cdn Fd Regt

Adjt: 1 Cdn Fd Regt

President

A.D.J.A. 1 Cdn Div

Staff Offr for Convening Offr

Staff Offr for Confirming Offr

G.M. Graham

(G.M. Graham) Capt
A.D.J.A.
for AA & QMG 1 Cdn Div

4D 25

SGMN- DE AUBIN F.C.

SCHEDULE.

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

Accused: G-32692 Sigmn Floyd Cecil DeAUBIN, 1st Cdn L of C Signals

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 11	Not Guilty	Not Guilty	
2nd	AA 40	Not Guilty	Guilty	
3rd	AA 40	Guilty	Guilty	
4th				
5th				
6th				

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

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

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

Time in confinement awaiting present trial—a total of 1½ days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court:

(Sgd) Judge-Advocate, if any. Date awarded. (Sgd) President. (RP 45, 50.)

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

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 122(F), MML p 760.)

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 4, 46(A), 51–56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 122(C). If confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 122(C). If confirmation and confirmed, accused may be tried upon: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered unless promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

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

(Sgd)

Date Commanding Confirming Officer.

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

Accused. Date. Signature of Offr.

G 32692 Sigmn DeAubin F C. 25 Oct 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 100 4D-25

CFA96 (To Ints of AFA31) 40/P M 8/1/1808 (40/01)

FIELD GENERAL COURT-MARTIAL 4/38B

RECEIVED 1944 AAG Branch CMHQ

Convened at OIC Cdn Sec GHQ dated 21 OCT 44

Convening Offr Brig A W Beament Comd 1 Ech, 21 A Gp

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G-32692	Sigmn	Floyd Cecil	DeAUBIN	1st Cdn L of C Signals

PROCEEDINGS REVIEWED 13 Dec 44 J.A. Cranch Lt-Col DEPUTY OPENING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 23 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see fmn for GCM in MML to 74; to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 94, 103, 119, 122.)

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

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [are] brought before the Court. At 1420 hours trial commences.

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

(1. KR Con 557. 2. AA 46(B), RP 90 fn 1. For effect see KR Con 342(b). Delete, if not applicable.)

A5. President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(1)

The Interpreter is sworn.(1) ~~Lance Corporal [illegible] is duly sworn as Interpreter.~~

~~The Court Shorthand Writer is sworn.~~(1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 54, RP 25, 71, 18, MML p 742.)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

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

President	Major	F A ROBERTSON	RCA, 12 CHR Bn
Member	[illegible]	[illegible]	[illegible]
Member	[illegible]	[illegible]	Cdn Sec GHQ 1 Ech, 21 A Gp
Judge-Advocate	Lt-col	G E TRITSCHLER	[illegible]
Prosecutor	[illegible]	[illegible]	[illegible]
Defending Offr	[illegible]	[illegible]	[illegible]

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See DI p 33.)

A8. The accused G-32692 Sigmn DeAUBIN F C. before arraignment make(s) (no) [illegible] plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court, (RP 34, 35(A), 112), or on bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or be one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP CONC. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 61; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 12, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is cleared and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C.P. 13 A.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s).(2) In case of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

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

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

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

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

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

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor ~~makes (an) (his) opening~~ address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 79(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is allowed, and on the ..... charge(s), and allowed on the ..... is dismissed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans .....

Do you intend to call witnesses on your behalf ? Ans .....(5) Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if he is his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) On the President announces that the accused is found Not Guilty on all charges and is to be released from (his) custody, and that the proceedings are accordingly terminated. Part 1 of the Schedule is dated and signed.(2)

(1. AA 140(1) (4), RP 45, 120(A). 2. AA 140(3), RP 45, 107. The interim announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)

(1. MFB 335 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 158. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused to call his witnesses to prove or such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

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

(1. AA 140(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 45 as appropriate, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 366-366. Overseas RO 809, 2323. As to sentences assigned for civil offences to the law of England see AA 41(3), MAML p 180. When accused MAML p 60, 757-759. As to sentences under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 366. As to release from arrest by Confirming Offr see KR Con 367. As to assembly and dispersal of record after trial see insets on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused G32692 Signalman Floyd Cecil DeAubin, 1st Cdn L of C Signals, a soldier of the Canadian Army placed on Active Service is charged with:-

First Charge
Sec 11
Army Act

WHEN ON ACTIVE SERVICE, NEGLECTING TO OBEY UNIT ORDERS

in that he

In the field, on 14th October 1944, did speculate in exchange of old Belgian currency for new Belgian currency for a civilian through Army pay channels in contravention of 1st Cdn L of C Signals Part 1 Order No 247 d/12 October 1944, Para 5 (6).

Second Charge
(Alternative charge)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, IS CHARGED WITH CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 14 October 1944, did improperly attempt to exchange old Belgian currency to the amount of 700 Francs for new Belgian currency for a civilian, attempting the same through Army pay channels.

Third Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, IS CHARGED WITH CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the field, on 14 October 1944, did hand over his Soldiers Service and Paybook, Parts 1 and 3 and his MFM 182 (Identification and Fingerprint Card) to a Belgian civilian without the necessary authority.

(J.B. Clement) Major,
Officer Commanding,
2 Coy, 1 Cdn L of C Signals.

20 October 1944
In the Field

To be tried by Field General [illegible]

(A.W. Beament) Brigadier
DDG
Cdn Sec GHQ 1 Echn - 21 A Gp

In the Field
21 Oct 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-32692	Sigmn		Floyd Cecil	DeAubin	1st Cdn L of C Signals

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.A. Robertson	12 Bn 2 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	W.E. Bowker	9 Bn 2 CBRD
Lieut	A.R. Truax	9 Bn 2 CBRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	H.H. Gromery	12 Bn 2 CBRD

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt.-Col	G.E. Tritschler	Gen List att Cdn Sec GHQ 1 Con 21 A Gp

On Active Service in the Fd

in Belgium (Country.)

Dat 21 Oct 44

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)
(A.W. Beament)
Commanding Cdn Sec GHQ 1 Con - 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A CFA 96 (In lieu of AFA 2) 60-7 A & E/Dft 16-43

Approved
Capt ADJA

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined G32692 (No.)

Sgmn DE AUBIN F.C. (Name) and in my opinion he is

(Rank)

fit to undergo trial by Court-Martial.
unfit

Station Field

Date. 28 Oct 44

M. Sacks Capt. Pa. Inc. (Sgd)
Medical Officer
(unit) 9 Bn 9 CBRG.

A2 2K.

Opening Address.

Sir;

The accused, Sigmn DeAubin, is accused under Section 11 of the Army Act, when on Active Service, neglecting to obey Unit orders in that he did speculate in exchange of old Belgian currency for new Belgian currency for a civilian through Army pay channels.

Evidence will be produced to support the following facts; That the accused did enter into an agreement with a civilian to exchange old Belgian currency for new currency through Army pay channels contrary to Unit orders; That said Unit orders were posted in accused's billet and that a portion of the currency was turned into his Section headquarters by the accused, for exchange by the Unit paymaster.

C.A. Cline Capt.

Prosecution

1st Witness - Capt DAS Lanskail 2 1/c 2 Coy 1 Cdn L of C Sup
duly sworn, states

On Sunday 15 Oct 44 at approx 1130 hrs
I was standing in Mess Hall of 5 Cdn Tele Op Sec
when a sgm informed me that there was a civilian
standing at the door who wanted something. I
approached the civilian (Identifies de Bruddel de
Baits a civilian) He told me he was looking for a
soldier and produced the following which I now
hand the court —

Ex A MFM 182 relating to the accused
I recognized it as property of accused. The civilian
was claiming that the accused owed him a sum of money
as a result of what the civilian said I had the
civilian - de Baits - taken into my office for
further questioning. At the same time I sent for
accused and an interpreter. As a result of
discussion which took place when the accused came to
the office the civilian de Baits produced

Ex B Soldiers Service & Pay Book Parts 1 & 2
which I recognized as property of accused.
The accused when asked if he had any currency
belonging to de Baits stated he had been given
3700 francs of the old Belgian currency by de Baits.
There was no caution but also no question at that time of any
charge against accused. The civilian was present
making a claim for money from accused and the
discussion flowed from this. No threats or promises
or inducements to accused. Accused volunteered
information

Def. Offr - does not object to admission of statements
made by accused to this witness

[illegible]

accused said it was his intention to change this sum of 3700 frs old Belgian Currency into New Belgian Currency but he had not actually completed the action. The accused produced 3000 fr old Belgian Currency of bills in denominations of larger than 100 frs and stated that remaining 100 frs had been turned over to an L/Sgt Herr. HCO of his sec. for changing by the paymaster, as a result of discussion Sgt Mercer W.C. sent for he came and produced 100 francs of old Belgian currency in bills of denominations of 100 frs & over and stated in presence of accused that this money had been received from the accused ~~by him from~~ at sec H.Q. for changing into new Belgian currency by the unit paymaster. De Baets stated in presence of accused through interpreter (Cpl Broadhurst) that the accused had been promised 1000 f for his service in changing the money

Xex

Accused stated he had received 3700 fr old Belgian currency from the civilian with the intention of changing it - had only turned over 100 frs to sec H.Q. to have changed. The balance 3000 frs he had with him and I understood him to say he intended to return this 3000 to the civilian - not to change it.

To court.

The 3000 frs which accused had plus 700 frs brought in by Sgt Mercer was all handed over to de Baets. It was all old currency of over 100 frs denomination except the 700 fr which was in 100 fr [illegible] Money checked by Major Clement in my presence and I know amount and description to be correct.

accused said he had given 700 of the 3700 of de Baets old Belg. francs to L/Sgt Kerr for the purpose of having it changed by the unit paymaster into new Belgian currency. He stated the civilian had given him the money — When interpreter said that de Baets had stated accused to get 1000 frs for his trouble accused did not say anything.

Civilian stated Exs A & B had been turned over to him by accused as security for the 3700 frs Accused did not challenge this statement

X ed. (further questions by D.O. with permission of court) Do not remember whether there were any snapshots in accused pay book.

R.P. 83 B complied with.

2nd Witness. B 31005 Sgt Mercer G.C. 2 Coy Lgt Sigs being duly sworn states —

I produce Part I order No 247 of 12 Oct 44 by 1 Can Lgt Sigs; these received just before noon hour of 13 Oct and posted by me between 1230 and 1300 hours in the mens mess room of used by 2 Coy H.Q. and 5 Can Tele Ops Sec 1 Can Lgt Sigs. Accused in 5 Can Tele Ops Sec. and would normally use the mess room. I only put up the one copy. Approx 46 men would be strength of men using the mens mess room. On morning 14 Oct I received instructions from Capt Hanstrail to collect any further old Belgian money to be exchanged in my sec which included 2 Coy H.Q. I detailed Sgt Kerr to carry out this order. In the afternoon Sgt Kerr turned over to me

The money he had collected in which was included
Too frs Belgian on a/c of accused. The pmr
had not put in an appearance up to 1600 hours
14 oct so I locked money in sec security box.
On morning of 15 oct I was called to 2 Coy
office. Two or three minutes before the accused
came to me and asked me if I was going to give
him the money which I held in his name. I said
no not until I find out why I am wanted
in company office. On going to Coy office major
Clement in presence of accused asked me.
If I had Too frs belonging to accused. I
said yes and he asked me to bring it down to
him. This I did in presence of accused.

Ned
The men eat in two adjacent rooms both leading
off same carridor. No set seating arrangment. Orders
are posted in one of rooms only, on the wall. This
is the room where all dish washing takes places for
men eating in both rooms. During time of washing
dishes it would be difficult for a man to read orders
on account of congestion. Orders nearly always
a day late. Sometimes 2 orders come together. I did
not ask accused where he got money. Dyt there
Collected it.

By Court
Place where orders placed customary and recognized
place.
R.P. 836 complied with

3 witness L 105332 L/Sgt Herr A Sedn Tele op Sec

duly sworn states -

On morning of 14 oct 44 I advised all personell of sec including accused that the pmr would be coming to sec that day and it would be their last opportunity to have currency changed. i.e. old Belgian and French currency for new Belgian. At dinner time that day accused brought 100 fr old Belgian currency to me which he wanted changed for new Belgian currency. I told him I thought it a fair amount of money and possibly the pmr might become curious about it. The accused told me he was quite prepared to answer any questions he was asked. I took the money from accused and gave it to my sec. sgt Sgt Mercer for the purpose of having it changed.

Xed later on, on day of 15 oct, I gave accused a kit inspection I do not remember if there were any snapshots in his pay book. I believe I did see accused drinking in a cafe on morning of 14 oct - I saw him in a cafe - there was a glass of beer near him.

To Court It was old Belgian francs I got from accused - I handed identical bills to Sgt Mercer. They were 100 fr denomination - 7 of them. I knew of order 247 of 12 oct EXC. I saw a copy in sec. office - I thought it strange that a sgm would have 100 frs at that time as pay day had been 3 oct in Brussels - we were in Ghent on 14 oct. I would not say accused drunk when he gave me 100 francs.

R.P. 83(b) complied with.

58/

Fourth Witness Monsieur De Ruddeler de Baits, Cafe Georgette Noordstraat No 5 duly sworn states.

On 14 Oct 44 - a saturday morning - the accused who I identify - came to my cafe and asked if I had any old Belgian money. I tried the accused I had 3700 francs. He said to me give me the money and I will change it. "For this favor you must give me 1000 francs" he said. He said I will give you my service book to prove that I will be here at 6 o'clock tonight with the new money. He told me that he was billetted at Rue St Michel front of Lambeth Walk cafe. He did not return that night and on sunday morning I went to the barracks and saw the captain. The capt took me upstairs and I showed him soldiers pass book. The capt found the accused and returned the 3700 francs to me

Xed

I was upstairs when girls ~~turned~~ called me down to the accused.

To Court

I do not speak much English. Part of what I said in my previous evidence I got from Madame and the girl who had spoken with accused before I came downstairs. The accused and madame and I were talking together. The accused used a little french and a little English. I ~~used~~ know a couple of English sentences; ~~madame~~ I used a few words I know to make soldier understand. Madame used French. I did not hear soldier say "I will give you my service book etc" Madame told me he said this. Soldier said to me "me change a la banque

for you come to back 6 oclock tonight"
Thats all he said to me. He had the talk
about the 1000 frs with madame when I was
not there. ~~[illegible]~~ I asked we gave
him the money because he was short and wanted
to make a little bit and because he left his book.
Madame handed the 3700 fr to accused. she is and
I live together but we are not married - she
is called Georgette de Balts.
I have seen Ex A + B before; in Ex B there were
some pictures. I saw them after accused had
gone. I knew madame had something before
I saw her give accused the money because she
told me she had his pass-port as security.
The 3700 francs ~~was~~ belonged to madame and I -
we work together. I did not know it was against law.
~~to do this~~
R.P. 836. complied with

Defence

1st witness: accused duly sworn states:
on morning 9th Oct after I left billetts I went
To Club Cafe and had a few drinks; then to Lambeth
walk cafe where I had several more drinks; then
of over to Cafe Georgette. I had only 10 francs
at the time. I asked the girl behind bar if she
had any export beer ie 5 fr beer she said no
only 15 fr beer. I said jokingly to her I had
very little money and a great thirst and could
not buy anything. This was said part in English

Yg

part French and part by illustration with my
hands. She said I have lots gold money and
cannot buy any drinks. I was feeling very much
the good fellow at the time so I said to the
girl behind the counter "maybe I could help you out"
she went to side door and called to some body
upstairs and came back to counter. I brought
out my pay book and started to show her some snaps
yourself. While I was showing these snapshots
Mrs De Rudder De Baets came from upstairs; I
think Mr De Baets came right away after her; I
thought he was there all the time. The girl indicated
to the madame that I wanted something so I said
I understands you have some old money you want
changed; The madame said yes and went out
and came back and put the money on the counter.
From what I could understand of French she said
would I change this for her and asked me
how much I wanted for doing it. Off hand I
suggested 1000 francs. I put the money in my
pocket and she pointed toward the pay book
which was on table; she spoke something in French
about security so I let them have the pay
book identity card and snaps. During dinner
hour I overheard some body say that you could
only turn 100 fr notes into Sgt Herr so after
dinner I gave Sgt Herr 7 x 100 franc old Belgian
notes and kept the 3000 intending to take all

the money back to the civilian. When I gave the
100 for to sgt Kerr. He said this was a lot
of money to be Tarning in at this time of the month
Could I explain where I got it. I told him
that if the pmr wanted to know I would tell
him. That night at 6 o'clock I was placed
on guard. I knew I was going on guard about
3 days previous. The next day a d/r came to
me and said Capt Lanshail wanted to see me
in Coy office. I asked him what for. He said
it would cost me a lot of money as some civilians
had come and claimed that I owed them a lot
of money. On way back to billets I asked D/R
to let me off at back door as I wanted to
see Sgt Mercer. I asked him for money but
he refused to give it to me so I went to Coy
office to see Capt Lanshail. Where I learnt
all about reason for civilians - being there. Up
to that time I was unaware I could not change
money for civilians. That is all I have to say.
I did not known it was illegal at civil or
mil law to change this money. My first
inkling it was against law was when I
was called into office. I thought when D/R
called for me civilians had got suspicious
I had stripped out with money. I did not
read E x C. I did not hear any rumours that
it was an offence. If the pmr had asked me by

9.

where I got the money I would have told him
the truth.

X ex

Reason I went to get Mercer to get the 700 fr
was because I thought people thought I had
stepped out with money. So I was going to get
the 700 fr and return full amount. I learned
2 or 3 days previously I would be on guard duty
that night. Knew it from duty roster

No court

I had not idea anything wrong with proposal. I
thought I could have given DMR 3700 fr and
told him how I got it and expected to get 3700 fr
new money for it. Reason I may turned in 700 fr
was because I overheard you could only turn
in 100 fr notes. The 3000 fr was in 2 x 1000
and 2 x 500. I only had 7 x 100 fr notes.

Did you see the 2 x £ on wall. No. I have
never seen it; never read it. Some body told
me on Friday B bet that the cashiers after that
day could not charge any more money as it was
worthless. But NOT when I made the arrangement
with the de Beers I again got impression money
was worthless to them - or that they could not charge it
at the time - That is way they gave it to me. It was after
I heard Sgt Kerr tell us about last time for
charging money that I went to the de Beers place
- and got the money. I had no intention of getting
any money from them when I went there. It was
the girl who brought it to me I spoke up.

I did on 14 Oct 44 hand over Ex A & B.
to a Belgian civilian. I did not think
it wrong. They had trusted me with money -
and I expected to be right back. I had forgot
about the guard duty - feeling pretty good.
With all good faith I thought I could do this.
Never thought improper to do for civilians through
army paymasters what I & so they could not do
for themselves. I did not know reason
for currency change. Thought it was allied
currency coming out. I did attempt to
exchange old Belgian currency to the amount
of 700 francs for new Belgian currency
for a civilian and attempted to do it through army
pay channels. I knew where orders were
posted in mess room and usually read
them. Sometimes same order is there for
2 or 3 days and you think it is the same one
again. I eat at 12 o'clock and on 13 Oct
at dinner time Ex C was not there. I must
have missed seeing it that night at supper time.
The DeBalts and girl did not speak English - not that
I could understand anyway. He (DeBalts) has got the story
partly mixed up. All 3 were talking at once. Gg
I thought these people had missed out on
changing their money and I could do them a favor:
I cannot see that taking 1000 fr for this service

is any indication that I had any suspicion about it; anyway I had no suspicion.

R.P. 83B complied with.

Closing address of Prosecutor.

Reviews evidence briefly. Submits case made out on First Charges.

Closing address of Def. Offr

Accused has stated was not aware it was an offence to exchange money. Did not see order. Posted in bad spot. Order readers would be discouraged by position of board and frequent stateness of orders. Leaving Ex A & B with the De Baets shows accused had no guilty mind - otherwise he would not have left his identity documents which could have been easily traced to him. Not a bright chap. He acted without knowledge of order. Submits findings of not guilty should be rendered on charges.

J.A. Summary

Function of J.A. Court sole judges of fact. Not to be influenced by J.A.s views thereon: onus of Proof and benefit of doubt explained. Evidence reviewed. No evidence of "speculation"

~~13~~ 12

emphasizes as favourable to accused accuseds explanation about noon reading of Ex C. and his frank demeanour as witness and insistence on lack of any guilty knowledge in whole transaction. explains alternative charge - adverse court that, as shown by their questions to be luddle, portion of his evidence was necessary. elements of "conduct to prejudice etc" charges. Finding that accused attempted to change currency not sufficient to warrant conviction on alt. charge. Court must be satisfied this was "improper" and also to prejudice of "good order and mil discipline" Must carefully weigh accused's insistence that he did not know anything wrong wit attempted exchange. Deals with ignorance of orders. for to AA 11. Difficulty of case. necessity to weigh evidence carefully and give accused benefit of doubt. Def Offr, Pros Offr and court have no further points on which they require JA to advise.

Plea in Mitigation

accused was unaware of wrongness of action. Had several drinks - was broke and these people showed him how he could make some money. He realizes he should not have handed over Ex A & B and pleaded guilty to that but in extenuation - it seemed reasonable to do it as they were trusting him - almost a stranger with a large sum of money.

Good record. No serious crimes. Whole life will be affected by this case and its sentence. Not seriously to blame for failing to see order.

GGT

Exhibits "A & B"

29 Oct 44

Exhibits
"A" Identification Card
"B" MBM 1 Pts I & III
removed and handed
back to accused.

[illegible] Capt

This is Exhibit "B" referred to in the Summary of Evidence in the case of 6832692 Sigmn Floyd Cecil DeAubin taken before me this 18th day of October 1944.

.....A/Capt.

Officer detailed to take Summary.

Exhibit C 24

I CANADIAN LINE OF COMMUNICATION SIGNALS

PART I ORDERS BY

LT COL W.D. WISHART, OFFICER COMMANDING

No. 247 Last Part I Order No. 246 d/11 Oct 44 12 Oct 44

1. ROUTINE Friday, 13 Oct 44

Reveille	0630 hrs	Dinner	1215-1245 hrs
Breakfast	0715-0745 hrs	Supper	1715-1745 hrs
Dental Parade	0830 hrs	Tattoo	2300 hrs

2. DUTY OFFICERS

12 Oct 44: Capt. D.H. Kelly	15 Oct 44: Major. H.C. Dunn
13 Oct 44: Lieut. W.A. Lenski	16 Oct 44: Lieut. M.C. Girard
14 Oct 44: Lieut. F.E. Sorensen	17 Oct 44: Major. A.L. Holman

3. STRENGTH DECREASE

SOS to X3 List, R.C. Sigs, on adm to 39 Br Gen Hosp wef 2 Oct 44.
M103498 Sigmn Ladouceur, G. DM "C" 17 W.

SOS to X3 List, R.C. Sigs, on adm to 39 (Br) Gen Hosp wef 6 Oct 44.
K98168 A/Sgt Wallace, C.G. D.R. "C" 9 D.R.

SOS to X3 List, R.C. Sigs, on adm to Br Military Hosp wef 7 Oct 44.
G49370 Sigmn Flieger, L.M. Dvr Mech "C" 16 W.

SOS to X3 List, RCEME, on adm to 39 (Br) Gen Hosp wef 10 Oct 44.
M101333 Cfn Hallmark, G. Fitter "B" 125 L.A.D.

SOS to X3 List, R.C. Sigs, on adm to 86 (Br) Gen Hosp wef dates as shown
L103131 Sigmn Hjorth, W.L. vr I/C 7 Cons 9 Oct 44.
M102727 Sigmn Medd, S.A. L/mn "C" 7 Cons 8 Oct 44.

4. NOTICE BOARD INFORMATION - GROs

Attention is called to Cdn R.Os. (21 A Gp) Nos. 416,419,424,425,432 and 438 published as NBI and issued as Appendix "A" to Pt I Orders of this date. Particular attention is called to No. 416 which is republished in the following.

CIVILIAN CORRESPONDENCE IN LIBERATED COUNTRIES

1. All ranks are reminded that they may NOT accept private correspondence from civilians in liberated areas for transmission through APO or other service channels.

2. Civil communications in liberated areas are strictly regulated by the appropriate national authorities, and the approved means of communication are made known to civilians through local post offices, newspapers, etc. Any attempt to assist a civilian to send a communication by any other means (whether to a member of the AEF or not) will be treated as a disciplinary offence. (Cdn RO No. 416)

5. BELGIAN CURRENCY - NEW ISSUE

1. A proclamation is being made by the Belgian Government whereby existing Belgian franc notes of denominations of 100 francs and upwards will be withdrawn from circulation and replaced by a new currency. Notes and coin of denominations less than 100 francs will remain in circulation.

2. The process of exchange of the old type notes for the new currency in respect of the civil population commences on the 9 Oct 44 and ends on the 14 Oct 44. Thereafter, old type notes value 100 francs and upwards will cease to be legal tender in Belgium for Service as well as Civilian personnel.

3. For the purpose of the Allied Expeditionary Force the sterling value of the old and new currency is identical, viz., 176.47 = £1, but all old type notes value 100 francs and over held by AEF personnel will be withdrawn immediately.

5. BELGIAN CURRENCY (CONT'D)
4. The exchange of old type notes value 100 francs and over will be effected through the medium of Army Cashiers. No accounting entries are required except that individual exchanges for Officers and Other Ranks will be handled as far as possible by Units and Headquarters as a bulk transaction with the Cashier, and therefore it will be necessary to prepare a nominal roll to ensure the correct distribution of the new notes.
5. Exchange of notes may NOT be made through local Banks.
6. All ranks are warned that they must on no account effect exchanges on behalf of the civil population. Speculation in exchange is a disciplinary offence and may be subject to trial by Court Martial.

6. APPOINTMENTS & PROMOTIONS
To be Cpl wef 1 Oct 44.
L100950 A/Cpl Prime, G.W. 7 Cons

7. REVERSION
Reverts to the rank of Signalman at his own request wef 10 Oct 44.
To draw tradesmens rates of pay of $1.75 per diem.
A102193 L/Cpl Laurin, L.J. Dvr Mech "C" 7 Cons

8. ATTACHMENTS
Attached to HQ 450 Coy No. 1 Tk TSPTR Col, RASC, wef 8 Oct 44. All 16 W.
H38727 L/Sgt Hamilton, R.O.B. D135948 Sigmn Griffith, C.W.
B38753 L/Cpl Harper, J.M. M101690 Sigmn Kushniruk, E.
A102743 Sigmn Fortin, L.J.

Attached to HQ 452 Coy No. 1 Tk TSPTR col, RASC wef 8 Oct 44. All 16 W.
B112309 L/Cpl Innes, J. B39055 Sigmn Smith, P.A.
K65996 Sigmn Halfnights, G. A4094 Sigmn Stone, O.H.
C30425 Sigmn Lecuyer, V.J.

9. PARCEL POST RATES

TO U.K. #
Up to 3 lbs 9d
3 lbs to 7 lbs.... 1s-6d
7 lbs to 11 lbs... 2s-0d
11 lbs to 22 lbs.. 3s-0d

TO U.S.A.
Up to 3 lbs 2s-0d
3 lbs to 7 lbs 3s-9d
7 lbs to 11 lbs 5s-9d
11 lbs to 22 lbs 9s-9d

TO CANADA
Up to 3 lbs 2s-3d
3 lbs to 7 lbs ... 4s-3d
7 lbs to 11 lbs .. 6s-0d
11 lbs to 22 lbs.. 9s-0d

NEWSPAPERS
2 oz ..... free
2 oz to 4 oz ..... -1d
each add. oz ..... ½d

Registered Parcels - Up to 4 lbs only.
3d plus postage at letter rates.

NOTE: - Gift parcels to U.K. require a Concession Label AFW 5192 and must not weigh over 5 lbs.

T.R. Keene Capt

(T.R. Keene) Capt.,
Adjutant.

NOTICE

7TH VICTORY LOAN

DROP A DIME - SAVE TIME

THE HIGHER THE FEWER

BUY A BOND

Exhibit D 2 R.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
G 32692	Sigmn	DeAubin F.G.	1 Can L of C Sigs

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereon stated should correspond with the number of the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Absence without leave ... 7 times.
For Making false statement to M.P. ... 1 times.
For Creating disturbance on barracks ... 1 times.
For Neglect to obey orders during duty ... 3 times.

Date of first entry in Field Conduct Sheet 18 Jan 41

Date of last entry in Field Conduct Sheet 5 Oct 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

Strike out if not applicable. ~~3. The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been awaiting trial on the present charges for n/a days in civil custody; and for 8 cc days in military custody, i.e., n/a days in open arrest, 8 cc days in close arrest; of which n/a days were spent in hospital.

5. The present age of the accused is 23 yrs 7 Mos

6. The date of his attestation ~~enlistment for military service~~ is 15 Jul 40

7. The service which the accused is allowed to reckon is 4 yrs 3 Mos

Strike out matters not to be proved by accused. 8. The accused is in possession of 1 Can Vol Service Medal and clasp.

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

		Date of Promotion
In the substantive rank of	n/a	n/a
In the war substantive rank of	n/a	n/a
In the acting rank of	n/a	n/a

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

(A1) (3479)(3847) 30,000 5/44 Sir.432 T.1,116 Forms/B.296/W(1)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		nil.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 18th day of October 44

C E Hudson Lieut. [illegible]

[illegible] Capt.
Officer Detailed to take [illegible]

Exhibit E

MFM 6
(AFB 122)
40/P&S/336 (3438)

No 6 32692 Name DeAubin F.C. | Sqn, Battery, or Company | Corps R.C.S.C. | Date of enlistment I5 Jul 40 | Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine N/A | Sheet No One | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed on completion 6 Mos. service last entry. Nil Re-written I5 Feb.43							Maj.	P rR Layand	P R L
	I8 Jan. 4I	Fus.		AA40 Conduct to prej disturbance in barrack room.	L/Cpl Smith.t Fus.O'Connor	I68hrs Detn.	20 Jan4I	Lt.Col.Holder.	P R L
Field	28 Nov42	Fus.		AA40 Act prej.Missing duty.	Sgt.Nielson	7dysC.B.	22Aug 4I	Maj.Clowson	P R L
Field	I8Jan43	Pte.		AAI5(I) AWL I000hrs 28 Nov 42 to I640 hrs. I Dec 42(3dys 6hrs 40min)	Cpl Ritchie Cpl Godston	Idy.pay.	3 Dec.42	Maj.Diehl	Forf.4dys pay. PRL
Field	I8 Jan 43	Pte		AAI5 (I) AWL I200 hrs I8 Jan 43 till apprehended 2245 I9 Jan 43 of apprehnsion 8s 7d(Idy IOhrs 45mins)	Documentary Cost	Forf. 3 dys pay I4 dy C'B. Stoppage 8/7	I2 Feb 43	Lt.Co Peffers.	Forf.4dys pay (PTO)
Field 43	7 Feb	pte		AAI5 WOAS AWL 2359hrs 7Feb 43 to 2I50hrs II Feb 43(3dys "I hrs. 5Imin	Documentary	7dys C.B			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-4-43	Sgm		(1) AA 11 WOAS Neg to obey stndg orders left hosp without pass (2) AA 40 WOAS Cond to Prej made false statement to MP	L/Sgt Hill J	Forf 10 Dys pay(1-2)	25-4-43	Col H G YOUNG	
Field	30-5-43	Sgm		AA 15 (1) WOAS AWL from 2359 hrs 30-5-43 till 0910 hrs 2-6-43 (absent 2 days nine hrs eleven mins)	Docum	Admonished	4-6-43	R G Burgess	Forf 3 dys pay
Field	7-8-43	Sgm		AA (1) WOAS AWL 1 days 8 Hrs	Docum	Admonished	9-8-43	Lt Col WO Peffers	Forf 2 dys pay
Field	12-9-43.	Sgm		AA 15 (1) WOAS AWL 19 hrs	H64839 A/L/Sgt Penske R T	7 Dys CB	6-9-43	Lt Col WD Wishart	
					Cpl Gagne R	3 dys pay 149 (2) 1 dsys pay 149 (1)8			
Field	20-9-43	Sgm		AA 40 WOAS neg etc. After being duly warned failed to have his haircut	H34008 A/Sgt Tyreman VJ	7 Dys CB	22-9-43	J B Clement	Maj

No. 32692 Name DeAubin F.C. Sqn. Battery or Company Corps R.C. Sign. Date of enlistment 15 Jul 40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine B/A Sheet No. Signature GC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Oct. 44.	Sigman.		AA Sec. 15 (1) AWL from 2300 hrs 5 Oct. 44 until 1020 hrs 6 Oct 44 (Absent 11 hours 20 mins)	D21140 Sgt.Gagne,R.P. D116371 L/Cpl.Beach J.	4 dys C.B.		DAS Lanskail Capt.	Poff. 1 day pay FRAL 149 (1) (a)

Certified true copy. C. E. Hudson Lt
Offr having custody of original [illegible]

(PTO)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of G32692 Sigmn DeAubin, Floyd Cecil, 2 Coy, 1st Cdn L of C Signals, Cdn Army Overseas, charged with:-

FIRST CHARGE — AA Sec 11: WOAS is charged with neglecting to obey Unit Part I orders, in that he did speculate in exchange of old Belgian currency for new Belgian currency for a civilian through Army pay channels in contravention of 1st Cdn L of C Signals Part I Order No 247 d/12 October 1944, Para 5 (6).

SECOND CHARGE (Alternative charge) — AA Sec 40: WOAS is charged with conduct to the prejudice of Good Order and Military Discipline, in that he did improperly attempt to exchange old Belgian currency to the amount of 700 francs for new Belgian currency for a civilian, attempting same through Army Pay channels.

THIRD CHARGE — AA Sec 40: WOAS is charged with conduct to the prejudice of Good order and Military discipline, in that he did hand over his Soldiers Service and Paybook, Parts 1 and 3 and his MPM 182 (Fingerprint and Identification Card) to a Belgian civilian without the necessary authority.

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

Capt. Lanskail, D.A.S., 2 i/c 2 Coy, 1 Cdn L of C Sigs, duly sworn, states:-

"I am Capt Lanskail, D.A.S. of 2 Coy, 1 Cdn L of C Signals. At approximately 1130 hours on Sunday, 15 Oct 44 I was standing in the mess hall of 5 Cdn Tele Op Section when a Sigmn informed me that there was a civilian at the door who apparently wanted something. I proceeded to the door and saw there a man and woman both dressed in civilian clothes. I attempted to question them in French as to the purpose of their visit. They gave me an Identification and Fingerprint Card (AFM 182) and Soldiers Service and Paybook Parts 1 and 3, belonging to Sigmn DeAubin, which I now produce.

The man, Mr DeBoudder De Baets of the Cafe Georgette, Noordstraat No.5, Ghent said that the owner of the Identification Card and Paybook owed him some money.

The civilian then said he had given Sigmn DeAubin the sum of 3700 Belgian francs to have changed into new Belgian currency.

Acting on information received, I then asked Sgt. Mercer, Section Sgt of 5 Cdn Tele Op Section if he was holding any old Belgian currency to exchange for Sigmn DeAubin. Sgt Mercer said that he was holding 700 francs for Sigmn DeAubin.

On questioning Sigmn DeAubin as to the whereabouts of the money concerned, Sigmn DeAubin produced 3000 francs in bills of over 100 francs denomination and stated that the remainder had been handed over to Sgt. Kerr. Sgt Mercer thereupon produced the remainder , 700 francs in bills of 100 francs or over. The money was counted by Major Clement in my presence and I certify the amount as correct.

The civilian stated that he had promised Sigmn DeAubin the sum of 1000 francs for his services."

The accused declines to cross examine the witness.

The Identification and Fingerprint card (AFM 182) and Soldiers Service and Paybook Parts I and III referred to in the evidence of the above witness are attached hereto as Exhibit "A".

Second Witness

B31005 Sgt Mercer, G.C., duly sworn, states:-

" I am Sgt Mercer, G.C. of 5 Cdn Tele Op Section. Part I Orders for the unit for the 12 of October was delivered to me on the 13th of October and posted by me between 1230 and 1300 hours in the men's mess room.

Second Witness
(continued)

On the morning of 14 October, Capt Lanskail instructed me to have collected from the section any further monies to be converted into new currency. I detailed L/Sgt Kerr to carry out these instructions. In the afternoon L/Sgt Kerr turned over to me the monies he had collected with a slip showing 700 Belgian francs against Sigmn DeAubin's name and 200, French francs against Sigmn Ryder's. The Paymaster had not put in an appearance up to 1600 hrs so I locked the money in the section Security box. On the morning of the 15th Oct. I was called down to Coy office; before going down Sigmn DeAubin came in to the Section office and asked me if I was going to keep his 700 francs. I told him, yes, until I had found out what I was wanted for in Coy office.

In Coy office Major Clement asked me if I was holding 700 francs of Sigmn DeAubin's money. I told him I was, and I was instructed to bring it to Major Clement. On giving it to Major Clement he placed the 700 francs on the desk with other Belgian currency. I then left the office to complete other work."

Cross examined by accused

Q1- Why did you not give me the money when I asked for it?

A1- Because I had heard from someone in the office that you had been sent for and wondered if it might be in connection with the money as it seemed a large sum.

Q2- What is the sum of money you had in my name?

A2- The sum of money I had in your name was 700 Belgian francs.

J.C. Mercer

A copy of 1 Cdn L of C Signals Part I Orders No.247 d/12 Oct 44 referred to in the evidence of the above witness is attached hereto as Exhibit "B"

Third Witness L105332 L/Sgt Kerr, A., duly sworn, states:-

"I am L/Sgt Kerr, A of 5 Cdn Tele Op Section. On the morning of the 14th October Sgt Mercer came to me and said the Paymaster would be coming that day. He asked me to notify the personnel in the section that this would be the last opportunity to have any money changed. Later on in the morning Sigmn DeAubin came to me with 700 francs which he said he wanted changed, and he was quite prepared to give any explanation to the Paymaster if he was asked for one. With that I accepted the money and turned it over to Sgt. Mercer."

Cross examined by accused

Q1 - At the time I handed over the money, would Sgt. Kerr state whether I had been drinking?

A1 - At the time I had no reason to suspect that Sigmn DeAubin had been drinking.

Q2 - Did you not see me in a Cafe that morning, drinking?

A2 - Approximately two hours before I received the money from Sigmn DeAubin, I believe he was drinking a glass of beer in a cafe.

A. Kerr

Fourth Witness Monsieur DeBoudder de Baets, a civilian of Cafe Georgette, Noordstraat, No.5, Ghent, duly sworn, states:-

"Le 14 Octobre 1944, J'ai donne a Sigmn DeAubin, F.C. G32692 La Summe de 3,700 Francs, pour changer en nouvelle argent Belgique. Pour ces services le Monsieur m'avait demande la summe de 1000 francs en nouvelle argent. Comme securite j'ai recu son livre "Soldiers Service and Paybook" et Carte d'identite.

"The 14 Oct 1944 I gave Sigmn DeAubin, F.C., G32692 the sum of 3700 francs to change for new Belgian currency. For this service the man asked the sum of 1000 francs in new currency. For security I received his "Soldiers Service and Paybook" and Identification Card."

Cross examined by accused.

Q1- Did you realize that I was under the influence of liquor at the time I made this arrangement?

A1- No. He did not appear to be under the influence of liquor. He was served one glass of beer.

Q2- When and where was the agreement made?

A2- In the Cafe Georgette at 1000 hrs, 14 Oct 44.

Fourth Witness
(continued)

Q3 - Are you sure it was 1000 hours and not later?

A3 - It was not before 10 O'Clock but between 10 O'Clock and 1030 O'Clock as far as I can remember.

The accused was cautioned as follows:-

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

A - I want to make a statement.

Q - On oath or not on oath?

A - On oath.

The accused, duly sworn, states:-

"On the morning of 14th October from nine until 12 O'Clock I had been in several cafes drinking freely, during the latterpart of the morning, around 1115 hrs, I arrived at the Tavern Georgette, and this transaction took place.
Myself being under the influence of liquor at the time and not responsible for what had taken place. Part of the money, 700 francs, I turned over about 1230 hrs to Sgt. Kerr, still under the influence of liquor.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence, consisting of 5 pages was taken down by me in the presence of the accused and that R P 4 (c) (d) (e) and (f) were complied with.

D136001 Cpl Broadhurst, J.W. was duly sworn as an interpretor according to R P app II 3 (D).

(C.D. Clive)A/Capt.,
2 Coy, 1 Cdn L of C Signals.
Cdn Army Overseas.

Officer detailed to take the summary of evidence.

LIST OF EXHIBITS

Exhibit "A" - MFM 182(Identification & Fingerprint Card) and Soldiers Service and Paybook, Parts 1 & 3.

Exhibit "B" - Part I Order, 1 Cdn L of C Signals, No.247, dated 12 Oct 44.

Witnesses for Prosecution

Capt. Lanskail, D.A.S.)
B 31005 Sgt Mercer, G.C.) All of
L105332 L/Sgt Kerr, A) 1 Cdn L of C Signals.

Mr. DeBoudder de Baets, of Cafe Georgette, Noordstraat No.5, Ghent.

529/FGCM/1(ADJA)

31 Oct 44

To Whom It May Concern.

FGCM - 23 Oct 44
C-32692 Sigmn DeAUBIN, FC.
1 Cdn L of C Signals

1. Authority is hereby given for the release to C-32692 Sigmn DeAubin, F.C., the accused in the m/n FGCM, of MFM 182 (Identification Card) and MBM 1 Parts 1 and 111, being exhibits "A" and "B" in the m/n FGCM, both of the said exhibits being documents belonging to the accused.

(B.W. Howard) Capt
ADJA
Cdn Sec GHQ 1 Ech - 21 A Gp.

SCHEDULE.

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

Accused: 3-32692 Sjgm Floyd Cecil DeAUBIN 1st Cdn I. of C Signals.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Charge AA 11 Alternative	Not Guilty	NotGuilty	
2nd	AA 40	Not Guilty	Guilty	
3rd	AA 40	Guilty	Guilty.	
4th				
5th				
6th				

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

(Sgd) J. G. Fletcher Lt-Col Judge-Advocate, if any. Date awarded. (Sgd) H. D. G. Crerar Lt-Gen President. (RP 43, 50.)

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

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

Time in confinement awaiting present trial—a total of 23 days, of which NIL days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo detention for ten months.

beginning on (date)(1)

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

Date (Sgd) Commanding

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

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

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

Confirmed.

I direct that the accused be [illegible] further order.(1)
(1. AA 57A. Delete if not used.)

(Sgd) H. D. G. Crerar Lt-Gen

Date 28 Oct 44. Commanding 1st Cdn Inf Div and Cdn Sec GHQ AFHQ Confirming Officer.

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

Accused.	Date.	Signature of Offr.
3-32692 Sjgm DeAUBIN F.O.	28 Oct 44.	J. B. Clement Maj OC 2 Coy 1 of C Sigs.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No liabilities of irregularities such as [illegible]

4D-25

CPA06 (to ieu of AFA21) 40/P & S/1098 (4D)

4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier A Deamand Comd 12 Army Tp dated [illegible]

ACCUSED.

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

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
3-32692	Sjgm	Floyd Cecil	DeAUBIN	1st Cdn I. of C Signals.

CERTIFIED TRUE COPY

A J B[illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) [illegible] on (date(s)) [illegible]

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. As to general CF 885, for oaths and instrs or how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

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

(1. KR Can 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to [illegible] as interpreter? Ans No.

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans No.

The shorthand writer is sworn.(1)

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

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

Ans No.(1)

(1. RP 110. 2. If no objection, waiting member recites. RP 68(B). If objection, see procedure AA 31, RP 43, 71, 78, MML p 742.)

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

President	Major F A Robertson	2CA 12 Cdn Bn
Member	Capt J S Dewar	9 Cdn Bn
Member	Lieut A H Turner	9 Cdn Bn
Judge-Advocate	Lt-Col J G Fletcher	Cdn Sec GHQ AFHQ attd 21 A Gp
Prosecutor	Capt O S Clive	1 Cdn I. of C Sigs.
Defending Offr	Capt J B Gillett	1 Cdn I. of C Sigs.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 31.)

A8. The accused 3-32692 Sjgm DeAUBIN F.O. before arraignment make(s) (no) (a) plea(s).(1)

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans. Nothing further.(5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No.(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor ~~makes (has) (has not)~~ made opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. ~~The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I am making a statement. Do you intend to call witnesses on your behalf ? Ans. No. Are they witnesses as to character only ? Ans. N/A

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(b).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(E).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

~~Or, The President announces that the accused is found Not Guilty on all charges and as to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~

(1. AA 54(3) (4), RP 43, 120(A). 2. AA 54(3), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D and Ex. E respectively.(3)

(1. MFB 253 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. I am through my Defending Officer

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

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

(1. AA 54(4), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and 70, proving, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 326, 563-566, Overseas RO 309, 1122, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

JJR

CHARGE SHEET

The accused C32692 Signn Floyd Cecil DeAubin, 1st Cdn L of C Signals, a soldier of the Canadian Army placed on Active Service is charged with:-

First Charge
Sec 11 Army Act

WHEN ON ACTIVE SERVICE, NEGLECTING TO OBEY UNIT ORDERS

in that he

In the field, on 14th October 1944, did speculate in exchange of old Belgian currency for new Belgian currency for a civilian through Army pay channelsin contravention of 1st Cdn L of C Signals Part I Order No 247 d/12 October 1944, Para 5 (6).

Second Charge
(Alternative charge)
Sec 40 Army Act

WHEN ON ACTIVE SERVICE, IS CHARGED WITH CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 14 October 1944, did improperly attempt to exchange old Belgian currency to the amount of 700 Francs for new Belgian currency for a civilian, attempting the same through Army pay channels.

Third Charge
Sec 40 Army Act

WHEN ON ACTIVE SERVICE, IS CHARGED WITH CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the field, on 14 October 1944, did hand over his Soldiers Service and Paybook, Parts 1 and 3 and his MFM 182 (Identification and Fingerprint Card) to a Belgian civilian without the necessary authority.

(Sgd) J.B. Clement, Major,
Officer Commanding,
2 Coy, 1 Cdn L of C Signals.

20 October 1944
In the field.

To be tried by Field General Court Martial

(Sgd) A.W. Beament, Brigadier,
OIC
Cdn Sec GHQ 1 Ech - 21 A Gp

In the field
21 Oct 44

Copy/jw

JOR

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-32602	Sigmn		Floyd Cecil	DeAubin	1st Cdn L of C Signals

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 21 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.A. Robertson	12 Bn 2 CBRG

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	W.B. Bowker	9 Bn 2 CBRG
Lieut	A.R. Truax	9 Bn 2 CBRG

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	H.H. Gromery	12 Bn 2 CBRG

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Lt - Col	G.H. Tritschler	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp

On Active Service in the Fd

in Belgium (Country.) (Sgd) A.W. Beament (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 21 Oct 44 Commanding Cdn Sec GHQ 1 Ech - 21 A Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A CFA 95 (In lieu of AFA 3) 40/P & S/1697 (C143)

Copy/jw

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 175)

I certify that I have this day examined C-32692 Sgmn DeAubin, F.C. and in my opinion he is fit to undergo trial by Court-Martial.

Station Field

Date 23 Oct 44

(Sgd) ???????????
Medical Officer, RCAMC
9 Bn 2 CBHG

Opening Address

Sir;

The accused, Sigmn DeAubin, is accused under Section 11 of the Army Act, when on Active Service, neglecting to obey Unit Orders in that he did speculate in exchange of old Belgian currency for new Belgian currency for a civilian through Army pay channels.

Evidence will be produced to support the following facts; That the accused did enter into an agreement with a civilian to exchange old Belgian currency for new currency through Army pay channels contrary to Unit Orders; That said Unit Orders were posted in accused's billet and that a portion of the currency was turned into hisSection headquarters by the accused, for exchange by the Unit Paymaster.

(Sgd) C.D. Cline, Capt.

Copy/jw

PROSECUTION

1st Witness

Capt D.A.S. LansKail 2 i/c 2 Coy 1 Cdn L of C Sigs duly sworn states:

On Sunday 15 Oct 44 at approximately 1130 hrs I was standing in Mess Hall of 5 Cdn Tele Op Sec when a sgmn informed me that there was a civilian standing at the door who wanted something. I approached the civilian (Identifies De Ruddel de Baits a civilian). He told me he was looking for a soldier and produced the following which I now hand the court:-

Ex A

MFM 182 relating to the accused. I recognized it as property of accused. The civilian was claiming that the accused owed him a sum of money as a result of what the civilian said I had the civilian de Baets - taken into my office for further questioning. At the same time I sent for accused and an interpreter. As a result of discussion which took place when the accused came to the office the civilian de Baets produced.

Ex B

Soldiers Service and Pay Book Parts 1 and 2 which I recogni,ed as property of accused. The accused when asked if he had any currency belonging to de Baets stated he had been given 3700 francs of the old Belgian currency by de Baets. There was no caution but also no question at that time of any charge against accused. The civilian was present making a claim for money from accused and the discussion flowed from this. No threats or promises or inducements to accused. Accused volunteered information.

Def Offr - does not object to admission of statements made by accused to thiswitness.

Accused said it was his intention to change thissum of 3700 frs old Belgian Currency into New Belgian Currency but he had not actually completed the action. The accused produced 3000 frs old Belgian Currency of bills in denominations of larger than 100 frs and stated that remaining 700 frs had been turned over to an L/Sgt Kerr NCO of hissec for changing by the paymaster, as a result of discussion. Sgt Mercer G.C. sent for he came and produced 700 frs of old Belgian currency in bills of denominations of 100 frs and over and stated in presence of accused that this money had been received from the accused at sec H.Q. for changing into new Belgian currency by the unit paymaster. De Baets stated in presence of accused through interpreter (Cpl Broadhurst) that the accused had been promised 1000 frs for hisservice in changing the money.

X ex

Accused stated he had received 3700 frs old Belgian currency from the civilian with the intention of changing it - had only turned over 700 frs to sec HQ. to have changed. The balance 3000 frs he had with him and I understood him to say he intended to return this 3000 to the civilian - not to change it.

To court

The 3000 frs which accused had plus 700 frs brought in by Sgt Mercer was all handed over to de Baets. It was all old currency of over 100 frs denomination except the 700 frs which was in 100 fr notes. Money checked by Major Clement in my presence and I know amount and description to be correct. Accused said he had given 700 of the 3700 of de Baets old Belgian francs to L/Sgt Kerr for the purpose of having it changed by the unit paymaster into new Belgian currency. He stated the civilian had given him the money - when interpreter said that De Baets had stated accused to to get 1000 frs for histroubles accused did not say anything.

SGT

PROSECUTION (2)

Civilian stated Exs A and B had been turned over to him by accused as security for the 3700 frs. Accused did not challenge this statement.

X ex

(Further questions by DO with permission of Court)

Do not remember whether there were any snapshots in accused's paybook.

R.P. 83 B complied with.

2nd Witness

B-31005 Sgt Mercer, G.E., 2 Coy L of C Sigs being duly sworn states:-

I produce Part I Order No 247 of 12 Oct 44 by 1 Cdn L of C Sigs; these received just before noon hour of 13 Oct and posted by me between 1230 and 1300 hours in the mens mess room used by 2 Coy HQ and 5 Cdn Tels Ops Sec 1 Cdn L of C Sigs. Accused in 5 Cdn Tels Ops Sec and would normally use the mess room. I only put up the one copy. Approximately 46 men would be strength ~~XXX~~ of men using the mens mess room. On morning 14 Oct I received instructions from Capt LansKail to collect any further old Belgian money to be exchanged in my sec which included 2 Coy HQ. I detailed Sgt Keer to carry out this order. In the afternoon Sgt Kerr turned over to me the money he had collected in which was included 700 frs Belgian on a/c of accused. The par had not put in an appearance up to 1600 hours 14 Oct so I locked money in sec security box. On morning of 15 Oct I was called to 2 Coy Office. Two or three minutes before the accused came to me and asked me if I was going to give him the money which I held in his name. I said no not until I find out why I am wanted in company office. On going to coy office Major Clement in presence of accused asked me if I had 700 frs belonging to accused. I said Yes and he asked me to bring it down to him. This I did in presence of accused.

X ex

The men eat in two adjacent rooms both leading off same corridor. No set seating arrangement. Orders are posted in one of rooms only, on the wall. This is the room where all dish washing takes place for men eating in both rooms. During time of washing dishes it would be difficult for a man to read orders on account of congestion. Orders nearly always a day late. Sometimes 2 orders come together. I did not ask accused where he got money - Sgt Kerr collected it.

By Court

Place where orders placed customary and recognised place.

R.P. 83 b complied with

3rd Witness

L-105332 L/Sgt Kerr, A., 5 Cdn Tels Op Sec duly sworn states:-

On morning of 14 Oct 44 I advised all personnel of sec including accused that the pay would be coming to sec that day and it would be their last opportunity to have currency changed. i.e. old Belgian and French currency for new Belgian. At dinner time that day accused brought 700 fr old Belgian currency to me, which he wanted changed for new Belgian currency. I told him I thought it a fair amount of money and possibly the par might become curious about it.

SGT

The accused told me he was quite prepared to answer any questions he was asked. I took the money from accused and gave it to my sec Sgt - Sgt Mercer for the purpose of having it changed.

X ex

Later on, on day of 15 Oct, I gave accused a kit inspection. I do not remember if there were any snapshots in his pay book. I believe I did see accused drinking in a cafe on morning of 14 Oct - I saw him in a cafe - there was a glass of beer near him.

To Court

It was old Belgian francs I got from accused - I handed identical bills to Sgt Mercer. They were 100 frs denomination - 7 of them. I knew of order 247 of 12 Oct. EX C - I saw a copy in sec office. I thought it strange that a sgmn would have 700 frs at that time as payday had been 3 Oct in Brussels. We were in Ghent on 14 Oct. I would not say accused drunk when he gave me 700 francs.

R.P. 83 (b) complied with

Fourth Witness

Monsieur de Ruddel de Baets, Cafe George the Noordstraat No 5 duly sworn states:-

On 14 Oct 44 - a saturday morning - the accused who identify - came to my cafe and asked if I had any old Belgian money. I told the accused I had 3700 francs. He said to me, give me the money and I will change it. For this favour you must give me 1000 francs he said. He said I will give you my service book to prove that I will be here at 6 oclock tonight with the new money. He told me that he was billeted at Rue St Michel front of Lambeth Walk cafe. He did not return that night and on Sunday morning I went to the barracks and saw the captain. The captain took me upstairs and I showed him soldiers pass book. The captain found the accused and returned the 3700 francs to me.

X ex

I was upstairs when girl called me down to the accused.

To Court

I do not speak much English. Part of what I said in my previous evidence I got from Madame and the girl who had spoken with accused before I came downstairs. The accused and Madame and I were talking together. The accused used a little french and a little English. I know a couple of English sentences; I used a few words I know to make soldier understand. Madame used French. I did not hear soldier say I will give you my service book etc. Madame told me he said this. Soldier said to me - me change a la banque for you come to bank 6 oclock tonight. That's all he said to me. He had the talk about the 1000 frs with madame when I was not there. We gave him the money because he was short and wanted to make a little bit and because he left his book. Madame handed the 3700 frs to accused - she and I live together but we are not married - she is called Gengette de Baits.

I have seen Ex A and B before; in Ex B there were some pictures. I saw them after accused had gone. I knew madame had something before I saw her give accused the money because she told me she had his pass-port as security. The 3700 francs belonged to madame and I - we work together. I did not know it was against the law to do this.

R.P. 83 (b) complied with

DST

DEFENCE

1st Witness

Accused duly sworn states:-

On morning of 14 Oct after I left billets I went to Club Cafe and had a few drinks; then to Lambeth Walk Cafe where I had several more drinks; then over to Cafe Georgette. I had only 10 francs at the time. I asked the girl behind the bar if she had any export beer - no 5 fr beer she said only 15 fr beer. I said jokingly to her I had very little money and a great thirst and could not buy anything. This was said part in English part French and part by illustration with my hands. She said I have lots of old money and cannot buy any drinks. I was feeling very much the good fellow at the time so I said to the girl behind the counter - maybe I could help you out. She went to side door and called to somebody, upstairs and came back to counter. I brought out my pay book and started to show her some snaps of myself. While I was showing these snapshots Mrs De Buddel de Baets came from upstairs; I think Mr de Baets came right away after her; I thought he was there all the time. The girl indicated to the madame that I wanted something so I said I understand you have some old money you want changed. The madame said yes and went out and came back and put the money on the counter. From what I could understand of French she said - would I change this for her and asked me how much I wanted for doing it. Off hand I suggested 1000 frs. I put the money in my pocket and she pointed toward the paybook which was on the table; she spoke something in French about security so I let them have the paybook, identity card and snaps. During dinner hour I overheard somebody say that you could only turn 100 frs notes in to Sgt Kerr so after dinner I gave Sgt Kerr 7 - 100 franc old Belgian notes and kept the 3000 intending to take all the money back to the civilian. When I gave the 700 frs to Sgt Kerr he said - this was a lot of money to be turning in at this time of the month - could I explain where I got it. I told him that if the pay wanted to know I would tell him. That night at 6 oclock I was placed on guard. I knew I was going on guard about 3 days previous. The next day a DR came to me and said Capt Lanskail wanted to see me in Coy Office. I asked him what for. He said it would cost me a lot of money as some civilians had come and claimed that I owed them a lot of money. On way back to billets I asked DR to let me off at back door as I wanted to see Sgt Mercer. I asked him for money but he refused to give it to me so went to Coy office to see Capt Lanskail. Up to that time I was unaware I could not change money for civilians. That is all I have to say. I did not know it was illegal at civil or mil law to change this money. My first inkling it was against law was when I was called into office. I thought when DR called for me civilians had got suspicious I had skipped out with money. I did not read Ex C. I did not hear any rumours that it was an offence. If the pay asked me where I got the money I would have told him the truth.

X ex

Reason I went to Sgt Mercer to get the 700 fr was because I thought people thought I had skipped out with money. So I was going to get the 700 fr and return full amount. I learned 2 or 3 days previously I would be on guard duty that night. Knew from duty roster.

To Court

I had no idea anything wrong with proposal. I thought I could have given par 3700 fr and told him how I got it and would have expected to get 3700 fr new money for it. Reason I only turned in 700 fr was because I overheard you could only turn in 100 fr notes. The 3000 frs was in 2 x 1000 and 2 x 500. I only had 7 x 100 fr notes. Did you see this Ex C on wall. No. I have never seen it; never read it. Somebody told me on Friday 13 Oct that the civilians after that day could not change any more money as it was worthless.

SC

DEFENCE (2)

On 14 Oct when I made the arrangement with the De Baets I again got impression money was worthless to them - or that they could not change it at the time - that's why they gave it to me. It was after I heard Sgt Kerr tell us about last time for changing money that I went to the De Baets place and got the money. I had no intention of getting any money fr m them when I went there. It was the girl who brought the subject up. I did on 14 Oct 44 hand over EX A and B to a Belgian civilian. I did not think it wrong. They had trusted me with money and I expected to be right back. I had forgot about the guard duty - feeling pretty good. With all good faith I thought I could do this. Never thought improper to do for civilians through army paymaster what they could not do for themselves. I did not know reason for currency change. Thought it was allied currency coming out. I did attempt to exchange old Belgian currency to the amount of 700 frs for new Belgian currency for a civilian and attempted to do it through Army pay channels. I knew where orders were posted in Mess Room and usually read them. Sometimes some order is there for 2 or 3 days and you think it is the same one again. I eat at 12 oclock and on 13 Oct at dinner time EX C was not there. I must have missed seeing it that night at supper time. The De Baets and girl did not speak English - not that I could understand anyway. He (De Baets) has got the story partly mixed up. All 3 were talking at once. I thought these people had missed out on changing their money and I could do them a favour. I cannot see that taking 1000 fr for this service is any indication that I had any suspicion about it; anyway I had no suspicion.

R.P. 83 (b) complied with

Closing address of Prosecutor

Reviews evidence briefly. Submits case made out on First Charges.

Closing address of Def Offr

Accused has stated was not aware it was an offence to exchange money. Did not see order. Posted in bad spot. Order readers would be discouraged by position of board and frequent staleness of orders. Leaving EX A and B with the De Baets shows accused had no guilty mind - otherwise he would not have left hisidentity documents which could have been easily traced to him. Not a bright chap. He acted without knowledge of order. Submits findings of not guilty should be rendered on charges.

J.A. Summary

Function of J.A. Court sole judges of fact. Not to be influenced by J.As. views thereon; onus of proof and benefit of doubt explained. Evidence reviewed. No evidence of speculation.. Emphasized as favourable to accused accused's explanation about non reading of EX C and his frank demeanour as witness and insistence on lack of any guilty knowledge in whole transaction. Explains alternative charge - advises court that, as shown by their questions to De Ruddel, portion of his evidence was hearsay. Elements of conduct to prejudice etc charges. Finding that accused attempted to change currency not sufficient to warrant conviction on alternative charges. Court must be satisfied the was Improper and also to prejudice of Good Order and Mil Discipline must carefully weigh accused's insistence that he did not know anything wrong with attempted exchange. Deals with ignorance of orders fn to AA 11. Difficulty of case. Necessity to weigh evidence carefully and give accused benefit of doubt. Def Offr, Pros Offr and Court have no further points on which they require J.A. to advise.

Plea in Mitigation

Accused was unaware of wrongness of action. Had several drinks -

Plea in Mitigation (2)

was broke and these people showed him how he could make some money. He realizes he should not have handed over EX A and B and pleaded guilty to that but in extenuation - it seemed reasonable to do it as they were trusting him - almost a stranger with a large sum of money.

Good record. No serious crimes. Whole life will be affected by this case and its sentence. Not seriously to blame for failing to see order.

LIST OF EXHIBITS

Exhibit "A" - MFM 182 (Identification & Fingerprint Card) and Soldiers Service and Paybook, Parts 1 and 3).

Exhibit "B" - Part I Order, 1 Cdn L of C Signals, No 247, dated 12 Oct 44.

Witnesses for Prosecution

Capt Lanskail, D.A.S.
B 31005 Sgt Mercer, G.C.
L 105332 L/Sgt Kerr, A.

All of 1 Cdn L of C Signals.

Mr DeBoudder de Baets, of Cafe Georgette, Noordstraat No 5 Ghent.

Exhibits "A" Identification Card
"B" MFM 1 Pts I & II removed and handed back to accused.

(Sgd) Capt Lanskail.

Copy of Extract from Part I Orders, No 247, para 5, 1 Cdn L of C Sigs, dated 12 Oct 44

This is Exhibit "B" referred to in the Summary of Evidence in the case of C32692 Signn Floyd Cecil DeAubin taken before me this 18th day of October 1944. (Sgd) C.D. Cline, A/Capt.
Officer detailed to take Summary.

5. BELGIAN CURRENCY - NEW ISSUE

1. A proclamation is being made by the Belgian Government whereby existing Belgian franc notes of denominations of 100 francs and upwards will be withdrawn from circulation and replaced by a new currency. Notes and coin of denominations less than 100 francs will remain in circulation.

2. The process of exchange of the old type notes for the new currency in respect of the civil population commences on the 9 Oct 44 and ends on the 14 Oct 44. Thereafter, old type notes value 100 francs and upwards will cease to be legal tender in Belgium for Services as well as Civilian personnel.

3. For the purpose of the Allied Expeditionary Force the sterling value of the old and new currency is identical, viz, 176.47 - £1, but all old type notes value 100 francs and over held by AEF personnel will be withdrawn immediately.

4. The exchange of old type notes value 100 francs and over will be effected through the medium of Army Cashiers. No accounting entries

567

are required except that individual exchanges for Officers and Other Ranks will be handled as far as possible by Units and Headquarters as a bulk transaction with the Cashier, and therefore it will be necessary to prepare a nominal roll to ensure the correct distribution of the new notes.

5. Exchange of notes may NOT be made through local Banks.

6. All ranks are warned that they must on no account effect exchanges on behalf of the civil population. Speculation in exchange is a disciplinary offence and may be subject to trial by Court Martial.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C32692 Sigmn DeAubin, Floyd Cecil, 2 Coy, 1st Cdn L of C Signals, Cdn Army Overseas, Charged with:-

FIRST CHARGE — AA Sec 11: WOAS is charged with neglecting to obey Unit Part I orders, in that he did speculate in exchange of old Belgian currency for new Belgian currency for a civilian through Army pay channels in contravention of 1st Cdn L of C Signals Part I Order No 247 d/12October 1944, Para 5 (6).

SECOND CHARGE (Alternative charge) — AA Sec 40: WOAS is charged with conduct to theprejudice of Good Order and Military Discipline, in that he did improperly attempt to exchange old Belgian currency to the amount of 700 francs for new Belgian currency for a civilian, attempting same through Army Pay channels.

THIRD CHARGE — AA Sec 40: WOAS is charged with conduct to the prejudice of good order and Military discipline, in that he did hand over his Soldiers Service and Paybook, Parts 1 and 3 and hisMTM 182 (Fingerprint and Identification Card) to a Belgian civilian without the necessary authority.

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

Capt Lanskail, D.A.S., 2 i/c 2 Coy, 1 Cdn L of C Sigs, duly sworn states:-

I am Capt Lanskail, D.A.S. of 2 Coy, 1 Cdn L of C Signals. At approximately 1130 hours on Sunday, 15 Oct 44 I was standing in the mess hall of 8 Cdn Tele Op Section when a Sigmn informed me that there was a civilian at the door who apparently wanted something. I proceeded to the door and saw there a man and woman both dressed in civilian clothes. I attempted to question them in French as to the purpose of their visit. They gave me an Identification and Fingerprint Card (MTM 182) and Soldiers Service and Paybook Parts 1 and 3, belonging to Sigmn DeAubin, which I now produce.

The man, Mr DeBoudder De Baets of the Cafe Georgette, Noordstraat No.5, Ghent said that the owner of the Identification Card and Paybook owed him some money.

First Witness (Continued)

The civilian then said he had given Sigmn DeAubin the sum of 3700 Belgian francs to have changed into new Belgian currency.

Acting on information received, I then asked Sgt Mercer, Section Sgt of 5 Cdn Tele Op Section if he was holding any old Belgian currency to exchange for Sigmn DeAubin. Sgt Mercer said that he was holding 700 francs for Sigmn DeAubin.

On questioning Sigmn DeAubin as to the whereabouts of the money concerned, Sigmn DeAubin produced 3000 francs in bills of over 100 francs denomination and stated that the remainder had been handed over to Sgt Kerr. Sgt Mercer thereupon produced the remainder, 700 francs in bills of 100 francs or over. The money was counted by Major Clement in my presence and I certify the amount as correct.

The civilian stated that he had promised Sigmn DeAubin the sum of 1000 francs for XX his services.

The accused declines to cross examine the witness.

(Sgd) D.A.S. Lanskail, Capt.

The Identification and Fingerprint card (MFM 102) and Soldiers Service and Paybook Parts I and III referred to in the evidence of the above witness are attached hereto as Exhibit "A".

Second Witness

B31005 Sgt Mercer, G.C., duly sworn, states:-

I am Sgt Mercer, G.C. of 5 Cdn Tele Op Section. Part I orders for the unit for the 12 of October was delivered to me on the 13th of October and posted by me between 1330 and 1500 hours in the men's mess room.

On the morning of 14 October, Capt Lanskail instructed me to have collected from the section any further monies to be converted into new currency. I detailed L/Sgt Kerr to carry out these instructions. In the afternoon L/Sgt Kerr turned over to me the monies he had collected with a slip showing 700 Belgian francs against Sigmn DeAubin's name and 200 French francs against Sigmn Ryder's.

The Paymaster had not put in an appearance up to 1600 hrs so I locked the money in the Section Security box. On the morning of the 15th Oct I was called down to Coy office; before going down Sigmn DeAubin came in to the Section office and asked me if I was going to keep his 700 francs. I told him, yes, until I had found out what I was wanted for in Coy office.

In Coy office Major Clement asked me if I was holding 700 francs of Sigmn DeAubin's money. I told him I was, and I was instructed to bring it to Major Clement. On giving it to Major Clement he placed the 700 francs on the desk with other Belgian currency. I then left the office to complete other work.

Cross examined by accused.

Q1 Why did you not give me the money when I asked for it?

A1 Because I had heard from someone in the office that you had been sent for and wondered it if might be in connection with the money as it seemed a large sum.

Q2 What is the sum of money you had in my name?

A2 The sum of money I had in your name was 700 Belgian francs.

(Sgd) G.C. Mercer.

Second Witness (Continued)

A copy of 1 Cdn L of C Signals Part I Orders No 247 d/12 Oct 44 referred to in the evidence of the above witness is a tached hereto as Exhibit "B"

Third Witness

L105332 L/Sgt Kerr, A, duly sworn, states:-

I am L/Sgt Kerr, A, of 5 Cdn Tele Op Section. On the morning of the 14th October Sgt Mercer came to me and said the Paymaster would be coming that day. He asked me to notify the personnel in the section that this would be the last opportunity to have any money changed. Later on in the morning Signn DeAubin came to me with 700 francs which he said he wanted changed, and he was quite prepared to give any explanation to The Paymaster if he was asked for one. With that I accepted the money and turned it over to Sgt Mercer.

Cross examined by accused

Q1 At the time I handed over the money, would Sgt Kerr state whether I had been drinking?

A1 At the time I had no reason to suspect that Signn DeAubin had been drinking.

Q2 Did you not see me in a Cafe that morning, drinking?

A2 Approximately two hours before I received the money from Signn DeAubin, I believe he was drinking a glass of beer in acafe. (Sgd) A.Kerr

Fourth Witness

Monsieur DeBoudder De Baets, a civilian of Cafe Georgette, Noordstraat, No.5, duly sworn, states:-

Le 14 Octobre 1944, J'ai donne a Signn DeAubin, F.C. 032692 La Summe de 3,700 Francs, pour changer en nouvelle argent Belgique. Pour ces services le Monsieur n'avait demande la summe de 1000 francs en nouvelle argent. Comme securite j'ai recu son livre "Soldiers Service and Paybook" et Carte d'identite.

The 14 Oct 1944 I gave Signn DeAubin, F.C. 032692 The sum of 3700 francs to change for new Belgian currency. For thisservice the man asked the sum of 1000 francs in new currency. For security I received his "Soldiers Service and Paybook" and Identification Card.

XXXX Cross examined by accused.

Q1 Did you realize that I was under the influence of liquor at the time I made this arrangement?

A1 No. He did not appear to be under the influence of liquor. He was served one glass of beer.

Q2 When and where was the agreement made?

A2 In the Cafe Georgette at 1000 hrs, 14 Oct 44.

Q3 Are you sure it was 1000 hours and not later?

Fourth Witness (Continued)

A3 It was not before 10 oclock but between 10 oclock and 1030 oclock as far as I can remember.

(Sgd) E.J. Bouder ?????

The accused was cautioned as follows:-

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

A I want to make a statement.

Q On oath or not on oath?

A On oath.

The accused, duly sworn, states:-

On the morning of 14th October from nine until 12 oclock I had been in several cafes drinking freely, during the latter part of the morning, around 1115 hrs, I arrived at the Tavern Georgette, and this transaction took place.

Myself being under the influence of liquor at the time and not responsible for what had taken place. Part of the money, 700 francs, I turned over about 1230 hrs to Sgt Kerr, still under the influence of liquor.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence, consisting of 5 pages was taken down by me in the presence of the accused and that R P 4 (c) (d) (e) and (f) were complied with.

D136001 Cpl Broadhurst, J.W. was duly sworn as an interpretor according to R P app II 3 (D).

(Sgd) C.D. Climo, A/Capt,
2 Coy, 1 Cdn L of C Signals.
Cdn Army Overseas.

Officer detailed to take the summary of evidence.

Fourth Witness (Continued)

A5 It was not before 10 oclock but between 10 oclock and 1030 oclock as far as I can remember.

(Sgd) E.J. Bouder ?????

The accused was cautioned as follows:-

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

A I want to make a statement.

Q On oath or not on oath?

A On oath.

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D136001 Cpl Broadhurst, J.W. was duly sworn as an interpreter according to R P app II 3 (D).

(Sgd) C.D. Clime, A/Capt,
2 Coy, 1 Cdn L of C Signals.
Cdn Army Overseas.

Officer detailed to take the summary of evidence.

Copy/Jw

Exhibit "D"

Exhibit D.

DAR

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
C 32692	Sigmn	DeAubin, F.C.	1 Cdn L of C Sigs

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be entered to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry if the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Absence without leave 7 times.

For Making false statement to NP 1 times.

For Creating disturbance in barracks 1 times.

For Neglect to obey orders and missing duty 3 times.

Date of first entry in Field Conduct Sheet 18 Jan 41

Date of last entry in Field Conduct Sheet 5 Oct 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of October 44

C.H. Hudson, Lieut
C.D. Clive
officer detailed to take Summary

Exhibit B

M.F.M. 6
(A.F. B.122)
40/P & /B138 (2065)

No. G32692 Name Dobibon F.G. Sqn., Battery, or Company Corps R.C.C.S Date of enlistment 15 Jul 40 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. one Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed on completion 6 mos service last entry. Bil Re-written 15 Feb 43.								Maj F R Layand	PRL
	18 Jan 41		Fus	AA 40 Conduct to prej disturbance in barrack room	L/Cpl Smith Fus O'Connor	168 hrs Detn	20 Jan41	Lt Col Holder	PRL
Field	28 Nov 42		Fus	AA 40 Act prejudice. Missing duty	Mgt Nielson	7 days CB	22 Aug 41	Major Clowson	PRL
Field	18 Jan 43		Fus	AA15(1) AWL 1000 hrs 28 Nov 42 to 1 Dec 42 (3 days 6 hrs 40min)	Cpl Ritchie Cpl Godston	1 days pay	3 Dec 42	Major Diehl	Forf 4 days pay PRL
Field	18 Jan 43		Pte	AA15(1) AWL 1200 hrs 18 Jan 43 till apprehended 2245 hrs 19 Jan 43 (Cost of apprehension 8/7d) 1 day 10 hrs 45 mins absent	Documentary	Forf 3 days pay - 14 days CB. Stoppages 8/7d			
Field	7 Feb 43		Pte	AA15 WOAS AWL 2359 hrs 7 Feb 43 to 2150 hrs 11 Feb 43 (3 days 21 hrs 51 mins)	Documentary	12 7 days CB	12 Feb 43	Lt-col Peffers	Forf 4 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded *	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-4-43	Sigmn		(1) AA 11 WOAS Neg to obey stndg orders left hosp without pass (2) AA 40 WOAS Cond to Prej made false statement to MP	L/Sgt Hill	Forf 10 days pay (1-2)	23-4-43	Col HG Young	
Field	30-5-43	Sigmn		AA 15 (1) WOAS AWL from 2359 hrs 30-5-43 till 0910 hrs 2-6-43 (absent 2 days 9 hrs 11 mins)	Docum	Admonished	4-6-43	HG Burgess	Forf 3 days pay
Field	7-8-43	Sigmn		AA(1) WOAS AWL 1 day 8 hrs	Docum	Admonished			
Field	12-9-43	Sigmn		AA 15(1) WOAS AWL 19 hrs	R64839 A/L/Sgt Fwaske, RT Cpl Gagne, R	7 days CB 3 days pay 149 (2) 1 days pay 149 (1) a	9-8-43 6-9-43	Lt-col WO Peffers Lt Col WD Wishart	Forf 2 days pay
Field	20-9-43	Sigmn		AA 40 WOAS Neg etc. After being duly warned failed to have his hair cut	R 34008 A/Sgt Tyreman VJ	7 dys CB	22-9-43	J B Clement Maj	

M.F.M. 6
(A.F. B.123)
40/P&A/8136 (2965)

No. G32692 Name DeAubin, F.C. Sqn., Battery, or Company | Corps R.C. Sigs. | Date of enlistment 15 Jul 40 | Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine NA | Sheet No. Two | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Oct 44	Sigma		AA Sec 15 (I) AWL from 2300 hrs 5 Oct 44 until 1020 hrs 6 Oct 44 (Absent II hours 20 mins)	D21140 Sgt Gagne, R.F. DII16371 L/Cpl Beech, J.	4 days CB		DAS Lanskail Capt	Forf 1 day pay FM&I 149(I) (a)

Certified true copy (Sgd) C.E. Hudson, Lt

P.T.O.

529/FGCM/1(ADJA)

31 Oct 44

To Whom It May Concern.

FGCM - 23 Oct 44
G-32692 Sigmn DeAubin, F.C.
1 Cdn L of C Signals

1. Authority is hereby given for the release to G-32692 Sigmn DeAubin, F.C., the accused in the m/n FGCM, of MFM 182 (Identification Card) and MBM 1 Parts 1 and 111, being exhibits "A" and "B" in the m/n FGCM, both of the said exhibits being documents belonging to the accused.

(S gd) B.W. Howard, Capt,
ADJA
Cdn S ec GHQ 1 Ech - 21 A Gp.

Copy/jw

LEGAL
RECEIVED
7 NOV 1944
21 ARMY GP

TT-84

PTE DEBAIE H.J.

SCHEDULE.

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

Accused: F-51518 Pte De BAIE, Howard, Joseph - North N.S.R. - 7 C.I.R.U.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.Sec.18(4)	Not guilty	Not guilty	
2nd A.A.Sec.40 (Alternative)	Not guilty	Not guilty.	
3rd			
4th			
5th			J. D. Lweedie Lt Col President
6th			

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

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

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

Time in confinement awaiting present trial: a total of ~~days, of which~~ ~~days were spent in hospital~~ (1).

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

~~Sentence Awarded by the Court:~~

1 Nov 43.
Date awarded.

(Sgd) J. D Lweedie Lt Col
President. (RP 45, 50.)

(Sgd) Judge-Advocate, if any.

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

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

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

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

(Sgd)

Date Commanding Confirming Officer

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

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

TT-84

FIELD GENERAL COURT-MARTIAL

CPA86 (To item of AFA3) A.F.P.M.S. 1606 (2/44)

Convened by Order of Colonel J.A. McIntosh A/Comd "D" Gp, C.R.U. dated 28 Oct 43.

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-51518	Pte	Howard Joseph	De BAIE	7 C.I.R.U. North N.S.R.

Ehrc can't find sign of it

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all references from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for points and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

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

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

A3. The Court is opened. The accused is (~~are~~) brought before the Court. As 1@10.0 hours trial commences.

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

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

A5. President to accused: Do you object to ~~the interpreter~~ as interpreter? Ans (Z.D.T.)

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

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

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

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

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

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

President	Lt. Col.	J. D Lweedie	HQ. C.R.U.
Member	Capt.	J. D Cowie	3 C.I.R.U.
Member	Lieut.	J. F Fidler	3 C.I.R.U.
Judge-Advocate		~~A. G. Wilby~~ D.J.T.	
Prosecutor	Lt.	A. G. Wilby	7 C.I.R.U.
Defending Offr	Capt.	D. R. Gilchrist	7 C.I.R.U.

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 26 (3) and fn 2 were not followed. See D1 p 3.)

A8. The accused ~~are~~ before arraignment make(s) (no) ~~the~~ plea. (1) Ans

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

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

(1. RP 26, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A94 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

B2. President to accused: Do you wish to make a statement? Ans.....(1)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

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

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

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

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) FOO.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g), (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 255 or AFB 256.* 2. *MJM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court consider the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 75(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its annexes, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas KO 209, 2323, MJSR p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. F 51518 Private Howard Joseph De BAIE, West Nova Scotia Regiment on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service, is charged with:-

FIRST CHARGE
SEC 18(4)
ARMY ACT

When on Active Service, stealing property belonging to a person subject to military law,

in that he,

at Haig Lines, Crookham, Hants on 19 Oct 43, stole one (1) pair of barber clippers, two (2) pairs of shears, two (2) combs and a razor, the property of F 88240 Pte. Greene, E.C., Cape Breton Highlanders, on the strength of 7 Cdn Inf Rft Unit, a person subject to military law.

SECOND CHARGE
(ALTERNATIVE)
SEC 40
ARMY ACT

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he,

at Haig Lines, Crookham Hants on 19 Oct 43, was improperly in possession of one (1) pair of barber clippers, two (2) pairs of shears, two (2) combs and a razor the property of F 88240 Pte Greene, E.C. Cape Breton Highlanders, on the strength of 7 Cdn Inf Rft Unit.

J. R. Calkin Col.
(J.R. Calkin) Colonel
Commander
7 Cdn Inf Rft Unit.

In the Field
25 Oct 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

J. A. McIntosh
(J.A. McIntosh) Colonel.
A/Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
28 OCT 1943

F. D. Tweedie Lt Col
1 Nov 43

Medical Officers' Certificate
K.R. (Can) para 552

I certify that I have this morning examined No. F 51718 Pte (Rank)
DeBaie, W.J. (Name)
of West NSR - 7 CIRU and in my opinion he is fit to undergo
trial by Court Martial.

Station: In the Field

Date: 1 Nov 43

Sgd. . . . . (Medical Officer) 7 Cdn. Inf. Rft. Unit.

CFA90 (In lieu of AFA2)
40/PAN/1097 (2862)

FIELD GENERAL COURT-MARTIAL

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-51518	Pte.		Howard Joseph	De BAIE	7 C.I.R.U. North N.S.R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 Oct 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

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

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

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

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

PRESIDENT.

Lt.-col. (Rank.)	F. D. Tweedie (Must be named. RP 106.)	Carlt & York R. (Unit.)

MEMBERS.

A Captain	to be detailed by C.O.	3 C.I.R.U.
A Lieutenant (Rank.)	to be detailed by C.O. (Named or detailed. RP 106.)	3 C.I.R.U. (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England (Country)

Date 28 OCT 43

J. A. McIntosh (Signed personally. RP 105 fn 2.) Colonel. (Rank.)

Commanding "D" Group, Cdn Rft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

F D Tweedie Lt Col
1 Nov 43

The Defending Officer states that he has had verbal notice that the prosecutor is an officer having legal qualifications and that he waives notice under R.P 89 B.

T. D. T.
1 Jan 43

D

First Witness for the Prosecution.

F 40739 A/Cpl. Reddick E.A. 7 C1RU
sworn, states:

On 19 Oct 43 at about nine o'clock I was in Guildford in the Little White Lion pub on North Street. I met a soldier who told me his name was Pte De Baie. He had some barber tools and he told me they were no use to him as he was going away. I asked him if they were his own & he told me they were. I asked him what he wanted for them and he said 15/. He showed me the tools — a pair of clippers, two combs, a razor and two pair of shears, which I now produce. Articles produced & marked "A" for identification. I borrowed 15/ from the bar tender, gave it to Pte De Baie, & took the tools from De Baie and left them with the bar tender for security. The next morning I met Pte Green, a barber, and asked him if he wanted to buy this stuff. He said Yes he would like to get it as he had lost all his. I asked him what his stuff was like and he told me & he asked me who I bought it from & where it was and I told him. I told him I would get it that night & call at B Coy orderly room.

Cross Exam: I thought the articles were De Baies. I told Green I had some tools.

F.D.

By the Court: The accused is the Pte De Baie I bought the articles from. I got the tools from the bartender the next night.

The evidence is read over to the accused

Second Witness for Prosecution.

F-88240 Pte Greene E.C. 7 CIRU sworn states:

I am a barber at 7 CIRU. On Tuesday 19 Oct 43 I was cutting hair in B Coy Trunk Room. I went to my supper. I left my barber tools on the bench. I came back at about quarter to six and they were all gone. I reported to the C.O.M.S. The tools I left were 2 pr. shears. a pair of clippers, two combs, a razor. Witness is shown articles marked 'A' for Identification. The shears are mine. I identify them by the name "Dubl Duck" and Henry Boler. The clippers are mine. ~~I identify~~ F.D.T. F.D.T. ~~the by the name~~ The razor is mine. I identify it by the name King Cutter and by the blade. The combs are mine. I identify them by the shape. The next day I met Apl Reddick and had a conversation with him. As a result I reported to the C.S.M. 2 Pr. Shears, 1 razor & two combs offered & received in evidence and marked "A" "B" & C. Respectively

F.D.T.

Cross Exam:- The articles were my own private property. I identify the articles by the name. Other

people could have the same kind of comb, razor & shears. I have no other way of identifying them.

By the Court:-
Shown razor marked 'A'. I can swear that is my razor. Shown shears marked 'A' I can swear they are my shears.
The evidence is read over to the witness.
Clippers marked 'A' for identification offered in evidence, but not received as there is no evidence that they are the property of Greene E. C.

—

First witness for Defence.
The accused, sworn, states;
I am F 51518 Pte De Baie. H J. No 7 C/RU. On evening of 18 Oct 43 a fellow by the name of Goyetche, R. J. W.N.S.R. and I left our hut for supper. We ate together. I was through before him & I left for the NAAFI to buy a chocolate bar. When I went into the NAAFI there was a soldier sitting down by a table. He called me over & asked me if I wanted to buy a barbers outfit. I asked him how much did he want for it. He said 15/ I told him no - I didn't want to buy it. I started to walk away towards the door. He called me back and told me if I would buy it he would sell it for 10/

J.D.T.

That he was broke. So I gave him 10/ for it. He took the outfit from under his blouse and I put it in my blouse. He told me I could get £1-10-0 for it easy. I left and went down to my hut. I took the barber gear out of my blouse & wrapped it up in paper. The clippers, scissors and comb I put in the paper. The razor I put it into an envelope. I washed up and took the stuff with me and went to Guilford. I met Cpl. Reddiet, who gave evidence here, at the bottle & bale from Pub. I asked him if he wanted to buy some barber gear. He asked me how much I wanted for it. I told him 15/. I gave him the stuff & he gave me the 15/.

I lived in F Coy huts in a spider. There are 2 huts of B Coy I know of. Green E.G. never lived in the same spider as me. I was on draft the night of the 19th Oct.

Cross Exam:

I know what spider Green lives in. I pass between his spider and mine to go to meals. I knew Green and that he was a barber. He has worked on me. I went to supper at about quarter to five on the 19 Oct. Supper is usually at half past five. We always went early. I was not suspicious of the soldier. I left for Guilford [illegible] round ten to seven or seven. It

was on a Tuesday. I had a late pass. I talked to Reddick a drank with him a half hour befor I talked about the gear.

By the Court:- The soldier took the gear from his blouse. opened it up & laid it on the table, as I saw it and I examined ~~it~~ the clippers before I got the barbers stuff. When I went away to put the stuff back in his trunk.

Closing Address by Prosecutor:
Reasons evidence.
Accused's story is very pat.
Accused is guilty.

Closing Address by Defending Officer.
Explanation by accused is reasonable and his action legal.
There is a reasonable doubt. The charges should be dismissed.

F.D.

SUMMARY OF EVIDENCE

In the case of F 51518 Private Howard Joseph DeBAIE, West Nova Scotia Regiment on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas

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

FIRST WITNESS FOR THE PROSECUTION

F 40739 A/Cpl Reddick, E.A., West N.S.R. on the strength of 7 Cdn Inf Rft Unit, having been sworn states:

I am F 40739 A/Cpl Reddick, E.A., West N.S.R., on the strength of 7 Cdn Inf Rft Unit. On 19 Oct 43 at about 2100 hrs I was in the Little White Lion, Pub, North Street, Guildford, Surrey. I was in there quite a while but it was about that time I met Pte DeBaie, whom I now recognize, this was the first time I had met him. We had a few beers and he started telling me he was on draft or words to that effect, and he had some stuff to sell that was no good to him as it was only surplus. He showed me a pair of clippers, herewith produced as exhibit "A", two (2) pairs of shears, herewith produced as exhibit "B", two (2) combs, herewith produced as exhibit "C", and a razor, herewith produced as exhibit "D", and I asked him if they were his property and he said "Yes", then I asked him how much he wanted for it, and he said, "fifteen (15) shillings", I did not have the money but I borrowed it from the bartender and I gave it to Pte. DeBaie and he gave me the stuff. I left the stuff with the bartender in Guildford until I could get back to camp and get some money. The next morning I went up to see Pte Green who I know was a camp barber and I asked if he wanted to buy some barbers kit, he said, "he did" and he started telling me what the stuff was like that I had and he said, "that is my stuff, it was stolen from me." He asked me who I got it from and I told him I bought it from a soldier by the name of Pte. DeBaie. I did not even show the stuff to him but he gave me an exact description of it all and he hasn't even seen any of the stuff yet. Shortly after this I was called over to the Company Orderly Room and C.S.M. Lynch told me he was going to find Pte. DeBaie. I did not see Pte DeBaie from that night in the Pub until I saw him this morning on Orderly Room Parade.

E.A. Reddick A/Cpl

(The accused declines to cross examine this witness)

SECOND WITNESS FOR THE PROSECUTION

F 88240 Pte Greene, E.C., C.B. Highrs, on the strength of 7 Cdn Inf Rft Unit, having been sworn states:

I am F 88240 Pte Greene, E.C., C.B. Highrs, on the strength of 7 Cdn Inf Rft Unit, and am employed as "F" Coy Barber. On Tuesday 19 Oct 43, I went to my supper and left my tools on the shelf and when I came back they were gone. I reported this to the C.Q.M.S. The next morning, I met A/Cpl Reddick and he asked me if I wanted to buy some barber tools. I said I did, I just lost my stuff last night and I started telling him what my stuff was like and he said "I was right", and I said that is my stuff. I asked him where he got it and he told me he had bought the stuff from a soldier by the name of Pte DeBaie in a Pub in Guildford and I asked him where the stuff was and he told me he had left it with the bartender in Guildford and that he would go and get some money and get it. I went and told the C.S.M the story and DeBaie had found my gear and he said he would send for Pte. DeBaie. I saw Pte DeBaie on Orders this morning. I am quartered in the same hut as Pte DeBaie.

E.C. Greene Pte

(The accused declines to cross examine this witness)

SUMMARY OF EVIDENCE

In the case of F 51518 Private Howard Joseph DeBAIE, West Nova Scotia Regiment on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

The accused was cautioned as follows:-

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

After the above caution the accused states as follows:-

On the 19 Oct 43, a soldier by the name of Pte Goyetche, R.J. West N.S.R. and myself left for our supper. We ate together him and I. I was through supper before him so I left and went over to the N.A.A.F.I. to buy a bar and when I went in the N.A.A.F.I. there was a soldier sitting down by a table and he called me over and asked me if I wanted to buy some barbers gear. I told him at first no and then he said to me you better buy it I'M broke. I asked him how much he wanted for it and he said, "fifteen (15) shillings", and I told him no, I wouldnt give him fifteen (15) shillings for it and then I walked away from him and when I started to go out the door he called me back again and told me if I'd take it he would sell it for Ten (10) shillings, so I gave him Ten (10) shillings for it. It wasn't wrapped and I took it from inside his tunic and put it under mine. I went down to my hut and wrapped it up. I wrapped the 2 combs, 2 pairs of scissors and 1 pair of clippers separately and the razor I put it into an envelope. I washed up and then left for Guildford and took the stuff with me. When I got the stuff from that fellow he told me I could easily get a pound ten for it. Then I went to Guildford I met the Corporal here and I had told the other fellow the first soldier I saw who would give me fifteen (15) shillings for the stuff I would sell it. So I asked the Corporal if he wanted to buy the stuff and he said he did, So I sold the stuff to him, for fifteen (15) shillings. I do not know the soldier I bought the stuff from

H.J. DeBaie ----------Pte
(H.J. DeBaie)

I certify that the foregoing Summary of Evidence consisting of TWO pages was taken down by me in the presence and hearing of the accused and Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

[illegible] ----------Lt.
(Officer taking Summary)

In the Field
22 Oct 43.

List of Exhibits in the case F 51518 Pte DeBaie, H.J.

Exhibit "A" - One (1) pair of barber clippers.

Exhibit "B" - Two (2) pairs of shears

Exhibit "C" - Two (2) combs.

Exhibit "D" - One (1) razor.

HK109.

Plé. De Baie H. J.

TT-84 for 125 cars.

SCHEDULE.

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

Accused: F 51518 Pte Howard Joseph DEBAIE WNSR

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)(a)	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to Findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ "LFT" ~~[illegible]~~ (1)

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

Time in confinement awaiting present trial—a total of 21 days, of which NO days were spent in hospital.(1)

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

Sentence Awarded by the Court:

TO BE IMPRISONED WITH HARD LABOUR FOR A PERIOD OF TWO (2) YEARS

23 NOV 44 (Sgd) "L.F. THUDEAU" Major
Date awarded. President. (RP 45, 50.)

~~"LFT" Judge Advocate~~ "LFT"
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

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

Confirmed

I ~~direct that the accused be not required to undergo (any or specified) further sentence.~~ "FES" (1. AA 57A. Delete if not used.)

(Sgd) "P.E. Bernatchez" Brig

Date 7 DEC 44 Commanding 3 Cdn Inf Bde, Confirming Officer.

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

Accused.	Date.	Signature of Offr.
F51518 Pte DeBaie HJ WEST NSR	11 DEC 44	"S.A. Beaton" Capt WEST NSR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

RECORDED AT CMHQ IN AB 160 4K-109

CRAIG (Lieut. R.C.A.F.)
40/P & R/1698 (D.M.O.&P.)

4/388

FIELD GENERAL COURT-MARTIAL

(D.M.O.&P.) CAPT
Cdn Sec GHQ 2 ECH AAI BPTE.
Convened by Order of J.P.E. Bernatchez "DSO" Cdn Inf Bde dated 22 Nov 44
2 JAN 45

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F51518	Pte	Howard Joseph	DeBAIE	WNSR

PROCEEDINGS REVIEWED
W.A. Taylor
Major
JA Cdn Sec GHQ 2 Ech AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (~~country~~) ITALY on (date) 23 NOV 44 "LFT"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Deputy Judge Advocate and Officer under instruction~~ "LFT", assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OF CT. The Schedule referred to throughout is on p 4. Columns do NOT include all relevant Fms RDs. For guidance as to procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A93. For notes and notes on how to record addresses, ranks, etc, which users are hereafter asked to "note". As to general provisions for conducting the trial see AA 32, RP 36, 62-70, 72, 74, 94, 102, 119, 120.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto(2) and is satisfied that it is properly convened and constituted(3), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 48, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1245 hours trial commences. "LFT"

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor submits that the Court does not proceed further in the case.~~ "LFT" ~~and hands in the same.~~ "LFT"

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

A5. President to accused: Do you object to ~~XXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 105 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *ascertng and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Enter Loose Sheets of Record.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~ no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114. *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the First charge(s), ~~and that with the~~ ~~charge(s) and that accordingly the trial will proceed on the former, and the accused is not found Not Guilty on the latter charge(s)~~.(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*). 114, 115.)

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I wish to make a statement Do you intend to call witnesses on your behalf ? Ans No Sir ~~As the only witness is to character only - the~~

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF. AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 80(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42. (2)(*b*).)

D7. The Court is closed to consider the finding.(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s) is (are) subject to confirmation, with the promulgation later.(1) The President announces to the accused in open Court that he is found Not Guilty on all charges and that he is released forthwith, and that the proceedings are accordingly terminated.(2) Part I of the Schedule is dated and signed.(3)

(1. *AA* 54(2) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This extensive announcement is not applicable when more are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4. 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded (per Notes.)*)

E2. The Prosecutor produces Statement(1) as to Character and Particulars of Service(2), and certified true copy (~~extract~~) of Conduct Sheet(3) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 160(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(4)

(1. *MFB* 233 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 158. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(1) and Conduct Sheet(2), and in mitigation of punishment ?(3) Ans Yes in mitigation of punishment

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

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

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the members of the Court~~.(2)

(1. *When several accused tried separately see RP* 71 (2). *The sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 64. 128. 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 306, 330, 563-566. *Oversea RO* 309, 1323, *MML p* 90, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 4(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*E*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Appendix "B" [illegible]

FORM OF CONDUCT REPORT.

No. 55 Military Prison and/ or Detention

Barracks C.M.F. Date 8th.February 1945.

REPORT UPON CONDUCT OF No. F-51518.

Rank Pte. Name DeBAIE H.J. Unit

Serving a sentence of 2 yrs.I.H.L. awarded on the

(date) 23/11/44. Date of admission to Military Prison/

Detention Barracks 2/1/45. 1st.2nd.etc review 1st.

Earliest date for release, with remission 24th.March 1946.

Marks forfeited to date for offences against Military Prison &

Detention Barrack rules Nil.

Placed in Class " C " on the (date) 22nd.January 1945.

Conduct whilst in M.P./D.B. "Satisfactory"

Whether recommended for suspension of sentence NOT YET.

Commandant's Personal Report: Recommend fourth review 8th May 1945

A P Downey

Signed. Major, R.A.
Commandant,
Military Prison and Detention Barrack.

HSF

The Accused,
F51518 Pte Howard Joseph DeBAIE, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, CMF, when on Active Service, is charged with,

FIRST CHARGE: When ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE,
Sec 12(1)(a) Army Act

in that he,

in the Field, in Italy, on the 22 Oct 44 at approximately 1645 hrs, when he had been warned that he would proceed to a forward area and rejoin his company, with intent to avoid so proceeding absented himself without leave from 0800 hrs 23 Oct 44 and remained absent until being apprehended by the Military Police at PESCHIETTO at approximately 1800 hrs 2 Nov 44 (Total time absent 10 days 10 hrs)

In the Field
20 Nov 44

"A.L. Saunders"
(A.L. Saunders) Lt col.
Comd West NSR

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
NOV 22 1944

"P.E. BERNATCHEZ" Brig.
.....
Commanding 3 Can Inf Bde.

"LFT"/Pres.

"????"

FIELD GENERAL COURT-MARTIAL

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

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

ACCUSED.

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt	Full Christian Names	Surname	Unit
F51518	Pte	Howard Joseph	DeBAIE	WNSR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~now~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 NOV 44 endorsed by me, (~~or by an offr of my staff~~ for me), "To be tried by Field General Court-Martial". "PEB"

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	L F Trudeau	R 22 R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W C ~~X~~ KO t	CYR
Lieut	P J F Sherwood	WNSR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	M C O'Neil	R22R.

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Italy (Country.)

Date 22 Nov 44

LFT/bp

"PE. Bernatchez" Brigadier (Rank.)
(Signed personally. RP 105 fn 2.)

Commanding 3 Can Inf Bde. Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

4/38A (CFAAS (To take the place of AFAS 40/V & D/1807 (4001))

MEDICAL OFFICERS CERTIFICATE (7)
KR (CAN) PARA 557

I certify that I have this morning examined,

No. F51518 Pte DeBAIE H J of the West Nova Scotia Regiment,

and in my opinion is fit to undergo trial by Court Martial.

Stationed Field

Date 23 NOV 44 "LFT"/Pres. "J.R. Ferndal" Capt
Medical Officer.

---

(8)

THE CASE OF F51518 PTE DeBAIE, H.J.

1ST WITNESS :

MAJOR F.E. HILTZ having been duly sworn states:-

I am 21/c of West Nova Scotia Reg't.
On the 22 of Oct 1944 I returned from B Ech to X Area to hold staff parade. I dealt with the accused whom I now recognize at approximately 1630 hrs. I warned him that he was to go forward to the front that night and join his Unit.

Defense declines to cross-examine the witness.

R.P. 83 (B) Complied with.

2ND WITNESS:

F43551 CSM WYNOT, R.A. Having been duly sworn states:-

I am CSM of HQ Coy, and on the 22nd Oct. 1944 I was acting RSM at a staff parade which Major Hiltz was holding at X Area.
"LFT" // Pres.

---

(9)

It approximately 1630 hrs 22 Oct 1944 I heard Major Hiltz warn the accused Pte DeBaie whom I now recognize that he would be going to the front to join the Unit that night 22 Oct 1944.

The defence declines to cross-examine the witness.

R.P . 83(B) Complied with.

3RD WITNESS:

D.I.
Capt [redacted] RICE:West Nova Scotia Reg't.

Having been duly swornstates:

I am Capt D.I. RICE Coy Commander A Coy WNSR.
On the 22nd of October 1944 I accompanied.
Major F.E. HILTZ FROM B Ech. to X Area to attend Staff Parade. At approximately 1630 hrs I heard Major Hiltz tell the accused Pte [redacted] DeBAIE whom I now recognize that he would go to the front that night to rejoin his Unit.

Cross examined by the defence.

QAl. On the 22nd of Oct. 1944 I was not the coy Commander of the accused. "LFT" //Pres.

QA.2 At the time of staff parade I was 2i/c of B Coy.

R.P. 83(B) complied with.

4TH WITNESS: CAPT A J W DYER, WNSR having been duly sworn states:

I am Capt A J W DYER Adjutant of the West Nova Scotia Reg't. On the night of Oct 22/44 a party of men was sent forward to join their Coys by Major Miltz. Pte DeSAIE is one whom I now recognize at approximately 2300 hrs they arrived at MAIN BN HQ as it was quite late I gave orders for them to bed down there for the night. The next morning we got orders to move to "CESENA" By 0730 hrs on checking personnel Main Bn HQ to see that they were all there ~~xxxxxxxxxxxxxxxx~~ to move I found Pte DeSaie missing, we then moved off and I marked him absent as of 0800 hrs 23 Oct 1944 I herewith produce the certificate of apprehension relating to the arrest of the accused under Army Act Sec 163 (1)(jj). Certificate of apprehension known to the court as Exhibit A

~~R.P. 83 (B) complied with.~~

"LFT"/Pres.

(continued on page)

SUBMISSION BY THE DEFENCE

The defence submit that a charge of desertion has not been established.

Major Miltz stated that he warned the accused that he would proceed forward that Night Oct 22 to rejoin his Unit WYNOT. This evidence is supported by Capt Rice and CSM

Capt Dyer states that the accused did report to an HQ. Therefore he did rejoin his unit in a forward area.

The intent to avoid further forward movement has not been established. The defence submit, that desertion has not been established merely one of simple absence without leave.

"A.C. McKenzie" Lt.

"LFT"/Pres

(EVIDENCE OF 4th WITNESS FOR PROS. CONT'D)

QA.1 The Unit was in a forward position. holding aline in contact with the enemy.

The defence declines to cross - examine this witness.

R.P. 83(s) Complied with.

SUBMISSION OF "NO CASE" BY DEF OFFR (See page 11)

The submission is disallowed on the grounds that the ~~xxxx~~ fourth witness has definitely established the proper meaning of the word Unit used by the first three witnesses.

DEFENCE: STATEMENT BY THE ACCUSED

I am F51518 Pte Howard Joseph DeSaie WNSR.

Sir on 22nd of October 1944 I was warned by Major Miltz that I would be going forward that night. I got ready that night and went to a forward area. The adjutant at forward area said that I would bed down there for the night. The next morning I got up approximately 0700 hrs. I went to a house a quarter "LFT"/Pres.

of a mile up over the hill to get some vino. I found some vino there and drank there till approximately 1100 hrs. that day, I then came back to forward area and them were all gone. I stayed around that area till approximately 1630 hrs that evening. There was no one around there at the time when I returned back from this private house I was partially intoxicated at the time. I then went back and got some more and left the house around 1830 hrs and from then on Sir I didn't know much about anything I was intoxicated.

"H.J. DeBAIE"

Closing address by prosecution and defence attached herewith.

"LFT"/pres.

(14)

CLOSING ADDRESS BY THE PROSECUTION

Sir, the accused pte DeBaie is charged with desertion in that he after having been warned to proceed to the forward area and rejoin his company absented himself without leave. By the evidence brought out by the witnesses all points of the charge have been substantiated and the prosecution rests with the court to bring a charge of "Guilty".

"PETER WEBSTER" Lt.

LFT/pres

(15)

CLOSING ADDRESS BY THE DEFENCE

The evidence of Major Hilts, Capt Rice and CSM Wynot is immaterial as they only establish the fact that the accused was warned to proceed forward.

The evidence of Capt Dyer establishes the fact of Absence.

The accused states he drank wine for approximately four hours and then returned to an HQ and found them gone.

He could have little idea where his company would be and after waiting to see if some one would come to this area went and drank more wine.

The defence contends that this case is one of simple absence without leave caused by over indulgence in alcoholic stimulants and a movement by his unit unknown to him - and not a case of desertion.

"A.C. McKenzie"

"LFT"/Pres.

(16)

ADDRESS TO COURT IN MITIGATION OF PUNISHMENT.

The accused has served for a period of two years and to this country and joined his unit in the field at Ortona, he served through until wounded on 23 May in the Hitler Line. He returned to his unit in July and served through the Gothic Line and subsequently action. His record shows that he is not a habitual offender. And asks that his record be considered.

"A.C. McKenzie" Lt.

"LFT"/Pres.

Ex "A"

(17)

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163 (1) (JJ)

I certify that No. F51518 Pte De Baie H.J., of "A" Coy, 4th Battn, West Nova Scotia Regt, was arrested at FERENTINO at 1800 hrs on 2 Nov 44.

Signature of Provost Marshal, A.P.M. or other Officer into whose custody the above-named soldier was taken on arrest.

"????????" Capt,
Cmdg 75 Coy CMP (TC)

"LT"/Pres.

EX B (18) ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F51518	Pte	Howard Joseph DeBaie	West Nova Scotia Regiment

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

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number so entered in the conduct sheets, and the number being given to the most serious offence in each entry, and to any recognised specific acts of valour, or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for* drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1)	two times	times.
For Sec 24(2)	one times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or* NIL

~~The accused was convicted at the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 46 of the Army Act are as set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused is (his present case is under sentence of~~ ~~beginning on the ..... day of .....~~

4. The accused has been in confinement, awaiting trial on the present charges, for 21 days in civil custody, and ..... days in military custody, making a total of 21 days, of which ..... days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 29

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 23 Nov 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award *(or* N/A ~~[mention any which he is entitled to wear, and any military decoration or award]~~ *).*

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of N/A

12. *(In the case of an officer.)* The accused holds in the army the rank of N/A dated N/A and in his regiment (*or* corps *or* department) the rank of N/A dated N/A

(72264) W.4/2700/1077 20,000 pads 8/41 A.E.F.W.Ltd. Gp.4/56
(*34181) W.1/2027/482 20,000 pads 8/41

NLAC/RG25.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F5198 Rank Pte Name Dehale HJ of West Nova Scotia Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

"A J W DYER" Capt
Adjt.

Signed this 16 day of NOV

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of		
In the rank of	N/A	
In the rank of		

(Instruction—Any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such courses as are available and the paragraph concerned amended accordingly.)

No F51518 Name DeBAIS HJ | Sqn. Battery or Company | EX C | Corps | Date of enlistment | 23 NOV 42 | OC Badges | Service or Proficiency Pay | (20) | MFM 6 (AFH 122) 40/P&S/130 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 25 Oct 43 last entry 5 May 43 no cases of drunkenness					
Field	20DEC43	P		Sec 15(1) AA AWL 11 hrs 25 mins	Sgt. Quinlan Opl. Kink	admonished	22DEC43	LtCol JN Medhurst	Forf 1 days pay
Field	9AUG44			Sec 24(2) AA losing by neglect	CQMS Evans	5 days pay	9AUG44	Lt Col McKenna	
Field	30OCT44			Sec 15(1) AA AWL 9 days	Doc	admonished	22 Oct 44	Major PE Hiltz	Forf 10 days pay

"LPT"/Pres

Certified true copy from the regimental book in my custody 16 NOV44

"A.J.W. DYER" Capt.
Officer i/c Regtl records West NSR.

(PTO)



237 D.

40472 Pte De Baie Co. J.

See also
384 A
354 B

F-40472 Pte. De Baie, W.J.
No.2 C.I.H.U.

237 D.

Correspondence to be PINNED here.

WNSP

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 6th day of November, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* [illegible]

*(1. [illegible])

*(2. [illegible])

*(3. [illegible])

[illegible])

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	D.A. Petrie	No.3 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	A.J. Green	No.1 Armoured Corps H.U.
Lieutenant	E.G. Woolsey	No.1 Cdn Eng Hldg Unit
Lieutenant	R.H. Robillard	No.2 Cdn Inf Hldg Unit

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-40472 PTE. De BAIE, W.J. No.2 Cdn Inf Hldg Unit.	First Charge A.A. sec 15(1) Second Charge A.A. sec 9 (2) Third Charge A.A. sec 8(1) See charge sheet attached.	Guilty Guilty Guilty	Guilty 2 yrs Imprisonment with hard labour	Findings and sentence confirmed but sentence remitted to eighteen months imprisonment with hard labour J.H. Whelan Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) J.H. Whelan Brigadier (Signed) D. Ketree Maj.
Commanding Cdn Base Units, Cdn Army. Edmn R.
Convening Officer (e) President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twelfth day of November 41, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this Twelfth day of November 1941.

D. Ketree Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with

* See footnote (b) on page 782 M.M.I. 1929.

Signed this day of 19

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 15th day of November 1941.

J.H. Whelan Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of F 41472 Pte. De Baie W.J.

(a) (Dated) 20 Nov 41 (Signed) [signature] Lieut. Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit.
C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

G

Dukeson

CHARGE SHEET

The accused, F40472, Private De Baie, W.J., West Nowa Scotia Regiment, Reinforcement, #2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with :-

First Charge
Section 15(c)
Army Act.

When on active service, absenting himself without leave, in that he,

at Liphook, Hants, at about 1100 hours on the 25 October 1941, absented himself without leave until apprehended by the Military Police in London at about 2330 hours on the 27th Oct. 1941.

Second Charge
Section 9(3)
Army Act

Disobeying a lawful command, given by his superior officer,

in that he,

at Liphook, Hants, on the 25th Oct. 1941 when ordered by Cpl. Covey to return to work, did not do so.

Third Charge
Section 9(3)
Army Act

Striking his superior in the execution of his office,

in that he,

at London, on the 27th October 1941, when asked for his particulars by L/C Over of the Corps of Military Police, did strike the said L/C Over.

(Y.S. MATHESON) Lieut.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit.

Laurentide Camp
Witley, Surrey
31 October 1941

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Can Base Units.

Farnborough, Hants
This 6th day of Nov 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Laurentide Camp ON THE 12th DAY OF Nov 41.

TRIAL OF:- No. P40472 Pte. DeBaie, W. J. (WNSR Reinf., No 2 CIHU)

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut. J. E. Fox (Unit) No 2 CIHU

Defending Officer:- (Name) Lt. G. G. Taylor (Unit) No 2 CIHU

At 1430 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1.- No

The President, members and judge-advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to M15888 Pte. Gottselig, P. acting as shorthand writer?

A2.- No

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.- No

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- I think the crime sheet speaks for itself.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

N I L.

Prosecutor, sworn, produced AF B-296 and copy of NFH-6.

H
Fakebrin

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. E 40472 Pte. Delaire, W.J. .....

of West Nova Scotia Rgmt. and in my opinion he

is fit to undergo Trial by Court Martial.

Station Laurentide Camp.

Date 12-11-41

Lucien Ostyng
Medical Officer

K Dukeshire

SUMMARY OF EVIDENCE
in the case of

F40472 Private De Baie, W.J., West Nova Scotia Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness Prosecution: F54624 Sgt. Newsher, J. West Nova Scotia Regiment, Reinforcement, No. 2 Cdn. Inf. Holding Unit, having been duly sworn, states:

"On 25th October 1941 I was in charge of a working party at Liphook Station. About 0900 hours I had to go around and check the men. I found two men absent. The accused was one of them. They came back about 1100 hours, but only stayed about five minutes. The officer in charge saw them go and sent a Corporal after them. They did not come back. I didn't see them again till they were apprehended by the Military Police.

Sgt J. Newsher Sgt.
J. Newsher

Accused declines to cross-examine this witness.

Second Witness Prosecution: F40602 Cpl. Covey, H.W. West Nova Scotia Regiment, Reinforcement, No. 2 Cdn. Inf. Holding Unit, having been duly sworn, states:

"On 25th October 1941 I was with a working party at Liphook. At about 1100 hours accused and another man were seen leaving the coal-yard, and officer in charge sent me to bring them back. They refused to come. I reported to the officer.

H W Covey Cpl
H.W. COVEY

Accused declines to cross-examine this witness.

Third Witness Prosecution: L/Cpl. R. Over, C.M. Police, states:

"Statement of evidence in the case of No. F40472 Pte. W.J. De Baie, No. 2 Infantry Holding Unit, West Nova Scotia Regt. Whitley Camp, Surrey.
Sir: At London on the 27th October 1941 at 2330 hours I was on duty at PICCADILLY UNDERGROUND STATION in Company with L/Cpl F. Hicks, C.M.P., where I saw the above named soldier, who was improperly dressed, i.e. not wearing headdress.
I asked him for his pass, and he said, "I am absent."
Whilst I was taking his particulars, he struck out at me, I closed with him, when a civilian grasped me from behind, and the above named soldier hit me in the face and body.
The civilian, who then realized that I was a Military Policeman, assisted me to arrest the above soldier, who was conducted to the CANADIAN MILITARY POLICE HEADQUARTERS, Henrietta Street, where he was detained.
LONDON
27.10.41 Sgd L/Cpl R. Over, C.M. Police

Accused does not question the evidence of this witness, and does not require his presence for cross-examination.

SUMMARY OF EVIDENCE
in the case of

F40472 Private De Baie, W.J., West Nova Scotia Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) - CONTINUED

4th Witness Prosecution: L/Cpl F. Hicks, C.M. Police, states:

Sir, I have read over and corroborate the above statement.
(Referring to evidence of L/Cpl R. Over)

LONDON
27.10.41

Sgd. F. Hicks L/C C.M. Police

The accused does not question the evidence of this witness and does not require his presence for cross-examination.

5th Witness Prosecution: Lieut. J.E. Fox, #2 Canadian Infantry Holding Unit, states:

"I am officer detailed by O.C. #2 C.I.H.U. to investigate charges against the accused. I produce herewith:

a) A.F.B. 252 dated 27-10-41
b) Certificate under Section 163 (1) (JJ) Army Act. dated 27-10-41

J.E. Fox Lieut.

Accused declines to cross-examine this witness.

Accused having been duly warned under R.P. 4 (e) reserves his defence.

Certified that owing to the exigencies of the service, having due regard to the expenses involved, and loss of time, the attendance of the witnesses, giving documentary evidence, could not readily be procured.

Certified that Rules of Procedure 4(c) (d) (e) (f) and (g) have been duly complied with.

Taken down by me in the presence and hearing of the accused this 31st day of October 1941 at Laurentide Camp, Witley, Surrey.

Lieut.
Officer detailed by O.C. No. 2 C.I.H.U. to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
31 October 1941

CERTIFICATE OF ARREST UNDER SECTION 168 (1) (jj) ARMY ACT.

I certify that No F 40472 RANK PRIVATE

NAME [illegible] J. De BAIN UNIT [illegible] NOVA SCOTIA [illegible]

was arrested at [illegible] CIRCUS STATION [illegible] hours on [illegible]

[illegible], LONDON.

and that at the time of his arrest he was wearing military uniform.

Central London Recruiting Depot,
Great Scotland Yard,
Whitehall, S.W.1.

[illegible] / [illegible] / [illegible]

CAPT.
[illegible] Assistant Provost Marshal
[illegible] District.

CHARGE

Army Form B 252
(See King's Regulations)

WEST NOVA SCOTIA REGIMENT — Regiment

No. 2. INFANTRY HOLDING UNIT — Battery / Squadron / Troop or Company

CHARGE against No. F 40472 Rank PRIVATE

Name E. J. DeBAIE

Place ..... Date of Offence

OFFENCE W.O.A.S. 1. ABSENT from 0900 hrs 25-10-41 Apprehended by the MILITARY POLICE at 2330 hrs at PICCADILLY CIRCUS UNDERGROUND STATION on the 27.10.41. 2. STRIKING an N.C.O. of the MILITARY POLICE at the same time and place; 3. UNDERGROUND UNDERGROUND i.e. not wearing headgress at the same time and place.

Total Absence Lieut
A.A.Sec. 15-1 Dys.14 Hrs.
30 Min

Names of Witnesses: O. i/c Detention Quarters
L/CPL. R. OVER C.M.POLICE
No. 8 Provost Company
L/CPL. F. HICKS. C.M.POLICE

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

P.T.O.

STATEMENT OF **EVIDENCE** IN THE CASE OF
No. F 40472 PRIVATE W. J. De BAIE,
No. 2. INFANTRY HOLDING UNIT,
WEST NOVA SCOTIA REGIMENT,
WHITLEY CAMP, SURREY.

Sir,

At LONDON on the 27th. OCTOBER 1941, at 2330 hrs. hours, I was on duty at PICCADILLY UNDERGROUND STATION, in company with L/CPL. F. HICKS, C.M.P. where I saw the above named soldier, who was improperly dressed i.e. not wearing headdress.

I asked him for his pass, and he said, "I am absent."

Whilst I was taking his particulars, he struck out at me, I closed with him, when a civilian grasped me from behind, and the above named soldier hit me in the face, and body.

The civilian, who then realised that I was a Military policeman, assisted me to arrest the above soldier, who was conducted to the CANADIAN MILITARY POLICE HEADQUARTERS, HERMISTON STREET, where he was detained.

LONDON,
27.10.41.

A. Ever. L/CPL.
C.M.POLICE

Sir,

I have read over and corroborate the above statement.

LONDON,
27.10.41.

F.E. Hicks L/CPL.
C.M.POLICE

REMARKS

Re accused has no Complaints

M.F.M. 6
(A.F.B. 122)

No. F40472 Name De Baie, W.J. Sqn., Battery, or Company C Corps West N.R.Regt Date of enlistment 14-5-40 G.C. Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. (Two) | Signature O.C. Company, etc. (Signed) G.F.Johnston, Lieut. | Service or Proficiency Pay | Character Poor.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Adlshot.	18-5-40	Pte		Sec 15 (1) A.A. A.W.L.from 2300 hrs 16-5-40 until 2200 hrs 24-5-40	Cpl.Apt.	14 days C.B.	25-5-40	R.S.Brown. Major.	6 days pay.
do	31-5-40	Pte		Sec 19 A.A Drunkenness.	Sgt Jones	Admonished	3-6-40	R.S.Brown. Major.	1 day's pay.
do	4-6-40	Pte		Drunk on dut as camp fire piquet. Mjr. Morrison. Sec 15(1)A.A. A.W.L. from 2300 hrs 4-6-40 until 2350 hrs 11-6-40	LCol Apt	120 hrs Detn.	12-6-40	Murdock. Lt.Col.	
do	16-7-40	Pte		Sec 15(1)A.A. A.W.L. from 0600 hrs 6-7-40 until 2230 hrs 24-7-40	Sgt McDonald.	28 days Dent.	30-7-40	J.Jeffery. Lt.Col.	

On 14 Nov 40 this Soldier Completed six months Service and in accordance with R.C. 71 C.A.S.F. 10/8) the above entries were transferred from previous sheet, which then destroyed 15 Nov 40.

(Signed) G.F.Johnston, Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ald.N.S.	25-7-40	Pte		Sec 15(1)A.A. A.W.L. from 1200 hrs 25-7-40 until 0600 hrs 29-7-40 (2) Breaking Barracks while under arrest.	Cpl Nicker- son.	28 days detention.	30-7-40	J.Jefferys Lt.Col.	
FIELD.	6-1-41	Pte		Sec. 15(2) A.A. Failing to appear at place of parade appointed by his Commanding Officer. P.T. @ 0800 hrs	Sgt. Cun- ningham.	5 days C.B.	6-1-41	C.Johnston,Lieut.	
Do.	31-1-41	Pte		W.O.A.S. Absent from guard mount after being warned.	Sgt.Cunning- ham.	14 days F.P.	4-2-41	A.A.Ernst,Major.	
Do.	1-3-41	Pte		W.O.A.S Neglect to the prejudice of good order and military discipline;failing to fulfill his duties while on kitchen fatigue.	Cpl.Berry. L.J.	7 Days C.B. 1 Day's pay.	10-3-41	W.M.Samuel,Major.	
No.2 CIW	2-6-41	Pte		Absenting himself without Leave from 0600 hours 2-6-41 until 1900 hours 2-6-41 (13 hrs) (A.A.Sec 15)	L/C.Hunter Sgt.Keddy. Cpl.Wagner.	Forfeits one day's Pay 10 ds F.P.	2-6-41	J.Coles. Capt.	

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M F M 6 (A F B 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	13-6-41	Pte		W.O.A.S. absenting himself without leave from 1400 hrs 13-6-41 until apprehn. 1000hrs 23-6-41					
				(2) Failing to appear at place of parade		150 days Det.	16-7-41	F.G.C.M.	
				(3) When in lawful custody attempting to escape	Documentary.				
Field	16-8-41	Pte,		W.A.O.S. A.W.L. from 1600 hrs 15-3-41 until 2230 hrs 15-3-41 Sec. 15 (1) A.A.	Cpl McLeod Sgt Cunningham P.S.M. Penney	28 days F.P. 28 days pay 1 days pay	18-3-41	Name illegible Lt. Col.	
				(2) Conduct to etc. in that he consumed a portion of his emergency rations contrary to orders		Stoppage of pay 3.90			

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19-3-41	Pte		W.A.O.S. When in lawful custody escaping Sec. 22 A.A.	L.Cpl Ernst L.Cpl. Whynot	56 days Detn.	21-4-41	F.G.C.M.	
Do.	12-4-41	Pte		When in confinment escaping Sec. 22 A.A.	Pte Warren				

Certified True Copy
J.B. Fox Lieut

Description of Court by which tried, or station of Officer disposing of the charge or dispensing with Trial	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of

Adjutant.
No. 2 Canadian Infantry Holding Unit.
C.A.(O)

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

F40472 Pte. De Dale, E.J. of the West Nova Scotia Regiment Reinforcements, No. 2 Can. Inf. Holding Unit

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A. 15 (1)	3	times	3	times.
For A.A. 19	nil	times	1	times.
For A.A. 40	2	times	2	times.
For Others	5	times	6	times.

Number of instances of gallantry or distinguished conduct, nil

or,

~~There are no entries in the Conduct sheets of the accused.~~

~~2. The accused has not been previously convicted.~~

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for / / /

354 Ba Pte. De. Baie, W. J.

also

389 A.

237 D.

354 B

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 12 th day of July, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 3rd Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~ } Neg

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

* ~~[illegible]~~ —

* ~~[illegible]~~

~~[illegible]~~

* ~~[illegible]~~ } Neg

for the following reasons, namely :—]

President.

Rank.	Name.	Regiment.
Major	L.P.D. Payan	R 22e R

Members.

Rank.	Name.	Regiment.
Capt	~~J.A.G. Vallee~~ ~~[illegible]~~ ~~P. DROUIN~~	R 22e R
~~xxxx~~ Lieut	~~J.D. Jalbert~~ J.D. JALBERT	R 22e R
(~~Waiting~~) Capt	G.A. Tourcot	R 22e R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding 3rd Cdn Inf Bde Op

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-40472 Pte DeBaie, W.J. WEST N.S.R.	1st Charge:- Sec 15(1) A.A.	Guilty	Guilty	Confirmed [signature] Brig
	2nd Charge:- Sec 15 (2) A.A.	Guilty	Guilty	
	3rd Charge:- Sec 22 A.A.	Guilty	Guilty	
	See Charge Sheet Attached.		To undergo 150 days detention	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [signature] Brigadier Commanding 3rd Cdn Inf Bde Gp (Signed) [signature] Dayan Major President, Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of July, and duly tried the person named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 16th day of July 1941.

(b) [signature] Dayan Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 262 M.M.L. 1940.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 21 day of July 1941.

[signature] Brigadier, Commanding 3rd Cdn Inf Bde Gp
Confirming Officer.

Promulgated and extracts taken in the case of F40427 Pte. De Baie, W.J.

(a) (Dated) 24 July 41 (Signed) [signature]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

[redacted] F.40472 Pte DeBaie, W.J. of the West Nova Scotia Regiment

1st Charge Sec 15(1) Army Act — When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE, in that he,

at Woldingham, Surrey, did absent himself without leave from 1400 hrs, 13 Jun 41, until apprehended by the Military Police at Chelsam, Surrey, at about 1000 hrs on 23 Jun 41.

2nd Charge Sec 15(2) Army Act — When on Active Service, FAILING TO APPEAR AT THE PLACE OF PARADE APPOINTED BY HIS COMMANDING OFFICER, in that he,

at Woldingham, Surrey, on 13 Jun 41, at 1400 hrs, failed to appear for Guard Duty when ordered to do so by his commanding officer.

5th Charge Sec Army Act — When on Active Service, WHEN IN LAWFUL CUSTODY, ATTEMPTING [illegible], in that he,

at Woldingham, Surrey, while under close arrest in Unit Detention, did try to escape by breaking out bricks from the wall and ceilling of his cell.

A.A. Ernst LtCol
(A.A. Ernst), Lt.-Col.
Commanding West NSR

2 Jul 41

A.E. Gower
Brigadier.
Commanding 3rd Infantry Brigade.

FHOH72 Pte Debaie W.J.
W.M.S.R.

Lieut. D. McG. Archibald

Lieut. I.H. MacIntosh

---

ono

ithee

H Tayan Major

X

Date of enlistment } 14-5-40 Sheet No. 2

No. F-6472 Name De Baie W. J. Squ., Batty., or Company } 2 Corps West N S R

Date of last entry in Company Conduct Sheet } No. and date of last drunk } G.C. Badges } Long Service and G.C. Pay } Signature O.C. Company, etc. }

Army Form B.122

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	18-5-40	Pte		Sec 15(1) Ad - AWL from 2300 hrs 18-5-40 until 2200 hrs 24-5-40	Cpl Apt	14 days CB	25-5-40	R.J. Brown	Pay 6 days pay
Aldershot	31-5-40	Pte	1	Sec 19 Ad - Drunkenness Drunk on duty to camp tire [illegible]	Sgt Tobias Mg Morrissey	Admonished	3-6-40	R.J. Brown Maj	6 days pay
Aldershot	4-6-40	Pte		Sec 15(1) Ad - AWL from 2300 hrs 4-6-40 until 2300 hrs 11-6-40	Sgt Blackmay Cpl Apt	120 hrs Detn	12-6-40	Murdock	
Aldershot	16-7-40	Pte		Sec 15(1) Ad - AWL from 0600 hrs 16-7-40 until 22-2 hrs 24-7-40	Sgt Marbaneck	28 days Detn	30-7-40	J.G. Jeffery	

On 14 Nov 40 this soldier completed 6 months service and in accordance with RO 71 CMF [illegible] the above [illegible] was transferred from previous sheet which was then delivered to Nov 40

Aldershot	25-7-40	Pte		Sec 15(1) Ad - AWL from 1200 hrs 25-7-40 until 1600 hrs 29-7-40 Breaking Parrocht while under arrest	Cpl Nicholson	28 days Detn	30-7-40	Jeffery	

[illegible] Major

Wt. 15031/1883 1,000,000 H.P.Ltd. 51-7048 Forms/B122/4

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-1-41	Pte		WOAS - Sec 15 (2) Failing to appear at place of parade appointed by his C.O.	Sgt Cunningham	5 days CB	6-1-41	Lt Johnston	Trust
Field	1-1-41	Pte		WOAS absent from guard mounted after being warned	Sgt Cunningham	14 days F.P.	4-2-41	[illegible]	[illegible]
Field	1-3-41	Pte		WOAS neglect to the prejudice of failing to fulfil his duties while on [illegible] fatigue	Sgt Cunningham / Cpl Perry / L/J	7 days CB - 1 days pay	10-3-41		
Field	1 Mar 41	Pte		WOAS (1) Ask from [illegible] 15 Mar 41 until 22.30 hrs 15 Mar 41 Sec 15 (1) Ld (2) Conduct to [illegible] in that he [illegible] a portion of his emergency rations [illegible] & [illegible]	Sgt Cunningham / Cpl McLean	28 days F.P. / 28 day [illegible] / [illegible] days pay / [illegible] pay / [illegible]	8 Mar 41	Lt Lowther	Lt Col

Army Form B.122

No. F 40472 Name De Baie W.J. Squ., Batty., or Company } C. Corps West N.S.R. Date of enlistment } 14-5-40 Sheet No. 3.

Date of last entry in Company Conduct Sheet } No. and date of last drunk } G.C. Badges } Long Service and G.C. Pay } Signature O.C. Company, etc. }

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Mar 41	Pte		WOAS 11 when in lawful custody escaping Sec 22 Ad.	L/Cpl Ernst L/Cpl Why not Pte Warren	56 days Detn	21 Apr 41	F G C M	
	12 Apr	Pte		21 when in confinement escaping Sec 22 Ad					
Fountain Camp	2/6/41	Pte		WOAS 11 absenting himself without leave from 0610 23 2-6-41 to 1900 23 2-6-41 15 hrs Sec 15 Ad	L/Cpl Hunter L/Cpl Leady Cpl Wagner	Forfeit 1 days Sgt 10 days CB	2-6-41	[illegible]	

Certified true Copy
[illegible]
[illegible] Major
[illegible]

SUMMARY OF EVIDENCE
In the case of

F-40472 Pte DeBaie, W.J., of the West NSR, a soldier of the Cdn Army (Overseas), stationed in the field.

By order of Lt-Col. AA Ernst, Commanding Officer West NSR, this Summary is taken on oath.

1st Witness F-39879 Sjt Cunningham, H.S., of C Coy West NSR, having been duly sworn, states:-

On the night of Thursday, 12 Jun 41, I personnaly warned Pte DeBaie, the accused, for guard duty on Friday, 13 Jun 41. At 1400 hrs on 13 Jun 41 L/Cpl Taylor asked me if I had seen DeBaie around the billets. ~~I~~ I searched the billets but was unable to find him and upon inquiring I found that he had not been seen since before noon.

H Cunningham Sgt.

The accused declines to cross-examine this witness.

2nd Witness F-72647 L/Cpl Taylor, F.E. of C Coy, West NSR, having been duly sworn, states:-

I recognize the accused as Pte DeBaie of C Coy, West NSR. I was orderly Cpl for C Coy the week of 8-15 Jun 41. Pte DeBaie was warned for guard duty on Friday, 13 Jun 41. At 1230 hrs on Friday 13 Jun 41 I again warned the guard to be ready to fall in at 1400 hrs. Pte DeBaie was absent. I inquired if anyone had seen him around. Sjt Cunningham told me that he had not been seen since 1100 hrs. I notified C Coy orderly room who in turn notified the Provost.

Ques:- How long had Pte DeBaie been in C Coy?
Ans:- He just came back from the holding unit Wednesday, 11 Jun 41.

L/Cpl F.E. Taylor

The accused declines to cross-examine this witness.

3rd Witness F-39593 L/Cpl Ernst, C.L.C., West NSR, having been duly sworn, states:-

On the 23 Jun 41 while making a patrol of Woldingham at approximately 1000 hrs I saw Pte DeBaie on the side of the road halfway between Slines Oak Hill and Chelsam. I immediately stopped my motorcycle and placed Pte DeBaie under arrest, as he had been posted as Absent Without Leave from his coy. I then called for the police truck and handed him over to the NCO in charge of cells. On 24 Jun 41 about 1045 hrs I made a check of the cell where Pte DeBaie was held. I found that he had loosened a brick and had taken a quantity of mortar from the walls. I also noticed a hole in the far corner of the roof of the cell. I then notified Sjt Lupton of the Provost.

Ques:- Was the hole in the roof there before Pte DeBaie was placed in that cell?
Ans:- No, sir.

Ques:- Could the damage to the cell be caused by any other person?
Ans:- No, as DeBaie was the only person in that cell. I had inspected this cell previous to DeBaie being placed there.

L/Cpl Ernst C.L.C.

3rd Witness F-39776 Sjt W.B. Lupton, of the Provost, West NSR, having been duly sworn, states:-

At approximately 1100 hrs on 24 Jun 41 I went to the cell occupied by the accused and found he had been tampering with the walls, having removed a brick and large quantity of mortar. Also a piece of wood was broken out of the door and a hole made in the far corner of the roof. I immediately took special precautions to stop any further attempt to escape and he was transferred to another cell where he tried digging at the wall again.

W B Lupton Sjt.

The accused declines to cross-examine this witness.

After having been duly warned in accordance with RP 4, the accused reserves his defence.

Certified that RP 4 (c), (d), (e), (f), and (g) has been complied with.

Taken down by me this 24th day of June, 1941, in the presence and hearing of the accused.

Thos Chisholm Lieut
Offr taking Summary of Evidence

LIST OF WITNESSES in the case of F-40472 Pte DeBaie, W.J.

Prosecution:-

1. F-42647 L/Cpl Taylor, F.E. -- West NSR
2. F-39593 L/Cpl Ernst, C.L.G. -- West NSR
3. F-39776 Sjt Lupton, W.B. -- West NSR
4. F-39879 Sjt Cunningham, H.S. -- West NSR

Defence:-

NIL.

Exhibits:-

NIL.

Lieut W. F Fraser

DeBois MS

~~10~~ 8

F-40472 Pte DeBaie, W.J.

(a) The accused has been in confinement awaiting trial on the present charges for no days in Civil Custody and 23 days in Military Custody making a total of 23 days of which no days were spent in hospital.

(b) The present age of the accused according to his pay is 21

(c) The date of the accused's attachment to this Pay is 14 May 40



(d) The accused is in possession of, or entitled to, the Military Decoration of Military Medal.

[illegible]
West N.R.

[illegible]
Pres.

WEST NOVA SCOTIA WEST
ORDERLY ROOM
14/7/44

This is to certify that F40472 Pte W. J. DeBaie

of the West NSR, Sin Army (Overseas), has this day been examined by

me, and found medically fit to undergo [illegible] by Court Martial.

Date 17-7-41

[illegible] Capt.

389 a Pte. de Baie, W. J. (F.10472) 10/D/413/
W. N. S. Regiment

also
237 D
354 B

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 16th day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 3 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ } Brig

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint~~

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President;~~

~~*(3) Three Officers having more than one year's service;~~ } Brig

for the following reasons, namely :—]

President.

Rank.	Name.	Regiment.
Major	F Trudeau	R 22e R

Members.

Rank.	Name.	Regiment.
Capt.	W. P. Steen	Court & York R
Lieut	A. H. Oliphant	Court & York R
Lieut	R. L'Esperance	R 22e R

* Must be signed by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialed by him.

*Signed H. G. Young Brigadier,
Commanding Commanding Bde Infantry Brigade.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F40472 Pte De Bois, W.S. West N.S.R.	(See charge sheet attached) 1st charge A.H. Sec 22 2nd charge id. H. Sec 22	Not guilty Not guilty Plead guilty Plead guilty	Guilty 1st Charge Guilty 2nd Charge 56 days detention	Confirmed W.H. Ganong Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A).):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) W.R. Stevens Capt. (Signed) W.H. Ganong Brig. (Signed) Maitland Lt.
Commanding Officer. Commanding 3rd Infantry Brigade. Witness.
Witness. Confirming Officer (e) Fernand Trudeau Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the 21st April day of _____ and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. B. Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
~~3. The interpreter~~
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 21st day of April 1941.
Fernand Trudeau Maj.
President of the Court Martial.

I certify that the terms of *A.C.I. 579 of 1918 have been complied with. C. Certificate in case of death sentence.

* See footnote (i) on page 762 M.M.L. 1940.

Signed this _____ day of _____ 19__.
President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. D. Confirmation.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 23rd day of April 1941.
W.H. Ganong Brig
Confirming Officer

Promulgated and extracts taken in the case of F 40472 Pte De Bois, W.S.

(a) (Dated) 24 April 41 (Signed) [illegible] Lt. Adjt. 165 Bn.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, Regimental Number F40472 Private DeBaie, N.J. a soldier of the West Nova Scotia Regiment, is charged with:

First Charge
Sec.22
Army Act.

WHEN ON ACTIVE SERVICE, WHEN IN LAWFUL CUSTODY, ESCAPING,

in that he did, at Woldingham, Surrey, while under close arrest, escape from the custody of F39593 L/Cpl. Ernst, C.L.C. and F39917 L/Cpl. Whynot, M.J. of the Regimental Provost Section, at about 1830 hours 19th March, 1941, and remain absent without leave until he surrendered to the Military Police in London at about 1530 hours, 6 April, 1941.

Second Charge
Sec.22
Army Act.

WHEN ON ACTIVE SERVICE, WHEN IN CONFINEMENT, ESCAPING,

in that he did, at Woldingham, Surrey, at about 2130 hours 18 April 41, escape from confinement, while under close arrest awaiting trial on a charge of escaping from custody, and remain absent without leave until apprehended by The Metropolitan Police at Croydon at about 0400hours 18 April 1941.

.....
L.F.Lowther, Lt-Col.
Officer Commanding,
The West Nova Scotia Regiment.

15 April 1941.

Brigadier,
Commanding 3rd Infantry Brigade.

WEST NOVA SCOTIA REGIMENT

This is to certify that F- 40472. Pte Debain W. J.
of the West Nova Scotia Regiment, Canadian Active Service Force, has
been examined by me this day, and found medically fit ~~unfit~~ to under-
go trial by Court Martial.

Date April 21st 1941

[illegible] Capt.
Medical Officer
West Nova Scotia Regiment

Forward Tuesday May 6.
President

21st April 1

F. 40472 Pte De Baie, W. J. — W. N. S. Regt.

Lieut. J. O. Mallard, West. N. S. R.
Lieut. C. B. Higgins, West. N. S. R.

Nil

No

— Both

None

Proceeding of a F.G.C.M. held at WOL-
LINGHAM On the 21st. April 1941.

Convened by order of Brigadier H.H. Ga-
mong, Commanding 3rd Cdn. Inf. Bde.

PRESIDENT Major F. Trudeau R.22e.R.

MEMBERS Capt. W. Steen C&Y.R.

Lieut.A.H.Oliphant C&Y R.

WAITING MEMBER Lieut.R. L'Esperance R.22e.R.

Question No -2- of Form A was asked. Answer No.
The Defence moved that the accused be charged
under Sec. 22 Sub.para -3- instead of under Sec.22
wherein it applies to "Escape from lawful Custody"
This request was denied by the Court on the grounds
that it was considered advisable to review the e-
vidence before amending the Charge. The Defence
then submitted a plea of Guilty on both charges on
behalf of the accused (special request by the accu-
sed).

Question AFA 3 page 2 was asked and the newer was
No.
Question 1 Form B was answered in the negative.
Question 2 Form B was answered in the negative.
Medical Certificate was produced by the Prosecu-
tion and examined by the Court and found in order.
The Court in order to satisfy themselves that the
Plea of Guilty is fair to the accused, decided to
hear the evidence.

PROSECUTION THEN CALLED 1st. WITNESS.

1st WITNESS. F.19893 L/Cpl. Ernst C.L.C. W.W.S.R. having been
FOR PROSECUTION. duly sworn, states:-

Q:-L/c. Ernst do you recognize the accused ?
A:-Yes.
Q:-Would you tell the Court slowly just what hap-
pened on the 19th. March at the midday meal of
the prisonners ?
A:-On the 19th. March I was in charge of luncheon
parade. The accused was present. After lunch I
paraded them and found accused was absent. I then
checked up and could not find him anywhere. I
then notified the R.S.M. and proceeded to do all
in my power to get him back.

Question by the Court.
Q:-What precautions are taken to ensure that prison-
ners do not absent themselves from the lunch para-
de ?
A:-We had three guards at this parade. There were 7
prisonners.

Question by the Prosecution:
Q:-How did the accused happened to be on this parade,
and was he legally in your custody ?
A:-He was under close arrest sentenced to 28 days
Field Punishment. He was going to 1st. F.P. Camp
the next day.

Question by the Defence.
Q:-You stated the accused was on dinner parade on 19th.
March. What have you to substantiate this ?
A:-Yes Sir L/c. Whyat was with me.
Q:-But how did you know the accused was on this parade?
A:-Because I saw him.
Q:-Did you see the accused escape custody ?
Q:-No Sir.

Fernand Trudeau Mj.
President

Q:-How did you know he had escaped custody?
A:-Because I made a check.
Q:-Who of you or the M.Ps were there when the prisonners were eating dinner?
A:-L/c.Whyat, Pte.Patterson and myself were there.

SECOND WITNESS FOR PROSECUTION — F.39917 L/Cpl. Whyat M.J. having been duly sworn states :-

Q:-Have you heard the charges read ?
A:-No Sir.

The president of the Court then read the charges against the accused.

Q:-Do you recognise the accused?
A:-Yes Sir.
Q:- Tell the Court what took place concerning the accused at the midday meal on the 19th March 1941.
A:-Sir on the 19th March, while we were at dinner at 1200 hrs. I stayed behind the parade until it was through. After they had got their food, we went [illegible] and sat at the end of the table. When they were through we fell the prisonners in and found two missing.
Q:-Who was missing ?
A:-Ptes.Debbie and Cote.
Q:-Was the accused in the custody of the R.M.P. at the time ?
A:-Yes Sir.
Q:-For what reason ?
A:-For being A.W.L. but I am not sure.

Questions By the Defence

Q:-Were there any other M.Ps. on the Parade ?
A:-L/cpl. Ernst and myself.
Q:-How do you know the prisonner was on that parade
A:-We count the prisoners before we march them off to dinner.
Q:-When was the first time you realised you were short of two prisoners?
A:-When we fell them in to take them back.
Q:-What were you and the other M.Ps. doing at the time?
A:-We were eating our dinner.
Q:-What were the prisoners doing ?
A:-Eating their dinner.

Prosecution 1st. Witness 2nd. Charge

FIRST WITNESS FOR PROSECUTION — F.39693 L/cpl.Ernst C.L.C. W.N.S.R. having been duly sworn states;-

Q:-Will you tell the Court slowly what you know about the happenings concerning the accused on the night of the 12th. April 1941?
A:-On the 12th. April, I was in camp on duty. At about 2115 hrs. I made a check in the cell where Debbie was. At about 2145 hrs. when I made a check I noticed a hole in the roof and when I opened the door I found that the accused was absent. I then notified Mr. Millard and proceeded to search for the prisoner.

Fernand Jurdan, M.J.
President.

FIRST WITNESS FOR PROSECUTION

F.39593 L/cpl. Ernst C.L.G. WNSR. (Cont'd)

Q:-Was the accused in the cell at 2115 hrs.
A:-Yes Sir
Q:-What precautions had been taken to see that he did not escape.
A:-He was handcuffed to a piece of iron plate. This was cemented into the floor and fastened to the beam above.
Q:-Have you any idea how he got out of the handcuffs?
A:-When I looked at the handcuffs there was a short piece of wire about 2" long sticking out of the keyhole, which was wound tight into the threads of the keyhole.
Q:-Had the accused been searched as usual before confinement?
A:-Yes Sir.
Q:-Have you any idea where he got this wire?
A:-I have no idea sir,
Q:-How did he get out of the cell?
A:-By smashing a hole through the roof.
Q:-Of what materials is the cell roof made of?
A:-It is made of tile shingles ourside & boards inside.

Questions by the Defence.

Q:-Could you tell whether the accused could tear the hole in the roof with his handsL
A:-I couldn't say he could do it with his hands.

Q:-Was there anything in his cell he could have used to tear the roof with?
A:-No Sir.
Q:-How do you think he tore the hole in the roof?
A:-With his feet Sir.
Q:-How high is the cell?
A:-Between 6 and 7 feet.
Q:-Did the prisoner have his boots on ?
A:-I don't know Sir.
Q:-Did you search the prisoner personally before he was put in that cell?
A:-I felt over him before he was put in.
Q:-Did you notice or not whether he had his boots on ?
A:-He had his boots on when I took him into the cell.

Questions from the Prosecution.
2ND. Witness 2ND. Charge

P.C. Warner, H.H.Met. Police having been duly sworn, states:-

Q:-P.C. Warner do you recognise the accused ?
A:-Yes Sir.
Q:-Will you tekl the Court of the circumstances in which you encourtered the accused on the morning of the 13th. April ?
A:-I was patrolling Croydon Rd. and I saw the accused near some bombed property I questionned him as to where he was going.

Fernand Trudeau Maj.
President.

2nd. Witness 2nd. Charge
P.C. Warner, MM. Met. Police (CONT'd)

A:-He replied to my headquarters I asked him where they were. He replied the "R.E.". I asked him where and he could not name any place that I could associate with the REME. I then asked him if he had any identity card or paper. He replied no. I asked him what he had been doing he said "I've just came off guard". I asked him where and he replied "at the garage" in Purley. I then told him that I suspected him of being a deserter and took him into Croydon M. Police station. He was then identified by the description in the Parade book.

The defence did not cross examine this witness. The Defence made no plea for mitigation and ~~witness~~ a plea that the accused be charged totally on a charge of A.W.O.L.

withdrew

The Conduct sheet was produced and sworn by the Adjutant and examined by the Court.

Counsel for the defence objected under Sec. 1824 C. of K.R. (Can) which provided that after 6 months service entries on the conduct sheet be deleted and a blank sheet substituted.
This plea was overuled by the Court in accordance with Routine Order No. 319 dated 23 Sept. 1940.

Fernand Judge Mg.
President.

No

NO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6-1-41	Pte.		Sec. 15 (2) A.A. Failing to appear at place of parade, after being [illegible] by the Commanding Officer.	Sgt. Cunningham	5 days C.B.	6-1-41	[illegible] Johnston	
Field	31-1-41	Pte.		[illegible]	Sgt. Cunningham [illegible]	14 days F.P.	4-2-41	[illegible]	
Field	1-3-41	Pte.		[illegible]	Sgt. Perry	7 days F.P.	10-3-41	[illegible]	
Field	16-3-41	Pte.		Failing to carry out duties [illegible] [illegible] from 1400 hrs. 15-3-41 until [illegible] hrs. 15-3-41. [illegible]	Sgt. Cunningham [illegible]	28 days F.P.	18-3-41	[illegible]	

[illegible]

M.F.M. 6
(A.F.B. 122)

No. [illegible] Name [illegible] Sqn., Battery, or Company [illegible] Corps [illegible] Date of enlistment [illegible] G.C. Badges [illegible] Service or Proficiency Pay [illegible] Character [illegible]

Date of last entry in Company Conduct Sheet [illegible] No. and date of last drunk [illegible] Period not reckoning towards freedom from extra fine [illegible] Sheet No. 2 Signature O.C. Company, etc. [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

(P.T.O.)

SHORT STATEMENT AS TO PARTICULARS
OF THE ACCUSED F40109 Pte. DeBaie, W.J.

(a) The accused was placed in Military Custody, when he surrendered himself to the Military Police at London at 1530 hours 6 Apr 41, returned to the Unit at 1600 hours 7 Apr 41. Escaped from Custody 2145 hours 12 Apr 41. Apprehended by Metropolitan Police at 0405 hours 13 Apr 41. Returned to Unit at 0700 hours 13 Apr 41. Application for Court made 16 Apr 41. Total time in Civil Custody 3 hours. Total time in Military Custody 10 days.

(b) The present age of the accused is 20 years according to his Paybook.

(c) The date of attestation specified in his Paybook is 14 May 40

(d) The accused is not in possession of nor entitled to any Military award or decoration.

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody or from the Paybook of the accused.

.....
J.C.Millard, Lieut.
Adjutant,
The West Nova Scotia Regimnt.

LIST OF WITNESSES IN THE CASE OF

F-40472 Pte. DeBaie,W.J.

For the Prosecution.

F39593 L/Cpl.Ernst,C.L.G.	West Nova Scotia Regiment.
F39917 L/Cpl.Whynot,M.J.	West Nova Scotia Regiment.
F84659 Pte. MacBain,A.J.	West Nova Scotia Regiment.
P.C. /Warren, H.A.	Metropolitan Police.

For the Defence.

N I L.

If I am to be tried by Court Martial on charges now pending against me I wish to have, Lieut.C.B.Higgins,West N.S.R. act in my behalf.

W.J. DuBois

Summary of evidence in the case of F40472 Pte.DeBaie,W.J. of the West Nova Scotia Regiment.

1st Witness for the Prosecution.

F39593 L/Cpl.Ernst,C.L.G. of the West Nova Scotia Regiment,having been duly sworn states:

I was in command of the regt'l Provost Mid-day dinner parade on 19 March 1941. Private DeBaie,W.J. was on that parade as a prisoner. He was awaiting entry into the Field Punishment Camp to serve a sentence. At about 1230 hours I discovered that the accused had escaped from custody. To my knowledge he was absent from the Unit until I went with Sjt.Lupton,at about 1700 hours 7th April 1941 to the Reception Camp at Redhill where we took him into custody again.

C. L. G. Ernst

.....

The accused declines to cross-examine the witness.

The accused declines to make any statement.

Taken down by me this 12th day of April 1941 in the presence of the Accused. Rule of Procedure 4 complied with.

.....Lieut.
West Nova Scotia Regiment.

12 April 1941.

SUMMARY OF EVIDENCE IN THE CASE OF ~~XXXXXXX~~ F40472 Pte.DeBaie, W.J.
OF THE WEST NOVA SCOTIA REGIMENT.

1st Witness for the Prosecution:

F39593 L/Cpl.Ernst,C.L.G. of the West Nova Scotia Regiment, having been duly sworn,states:

I was in charge of the Regt'l Detention quarters on the night of April 15th,1941. The accused Pte.DeBaie was in one of the sheds at the rear of Upper Court. He had been handcuffed to a post in the shed. I checked his cell at about 2115 hours and he was there. When I checked again at 2145 hours I found that the accused had freed himself from the handcuffs,by using a small piece of wire to pick the handcuff lock,and had escaped from the shed by breaking a hole through the roof.

C.L.G. Ernst

The accused declines to cross-examine the witness.

2nd Witness for the Prosecution:

F54659 Pte.McBain,A.J. of the West Nova Scotia Regiment,having been duly sworn,states:

I proceeded to Croydon Police station at about 0645 hours 16th April 1941,in Company with Cpl.Oickle of the Regimental Provost Section. There we found the accused,Pte.DeBaie, locked in the cells. We took him in charge and returned him to the Regimental Detention quarters.

A.J. McBain

The accused declines to cross-examine the witness.

~~The~~ The accused declines to make a statement.

Taken down by me this 15th day of April 1941 in the presence of the accused. Rule of Procedure 4 complied with.

_____ Lieut.
West Nova Scotia Regiment.

151-P

Pte. de Berry, L. B.

O. H. M. S.

M. F. B. 270

151-P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this Tenth day of October, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 5 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial:

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

In my opinion, military exigencies, namely, the dispersion of units, and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistant with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule.

President.

Rank.	Name.	Regiment.
Major	M. Archambault	R. de Mais.

Members.

Rank.	Name.	Regiment.
Capt	~~A.I. MacLaurin~~ J.F. Farmer	R.H.C.
Lieut	D.H.Harrison	Calg Highrs
WAITING MEMBER		
Lieut	M.C.Leith	R. de Mais.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (G.V.Whitehead) Brigadier
Commanding 5 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-62734 Private ROBERT BERNARD DeBERRY R.H.C., a soldier of the Canadian Army, Overseas.	FIRST CHARGE A.A. Sec 40 (See charge sheet attached)	NOT Guilty	The accused is found NOT guilty. 14 Oct 1942 [illegible] major.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on *separate sheet if necessary*) :— No

(Signed) [illegible] Brigadier
(J.P. Whitehead) Brigadier
Comd 5 Can Inf Bde.
Convening Officer (e)

(Signed) [illegible] major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

15

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 14 Th day of October 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) no
* Omit if not applicable. *(4. The officers under instruction)

were duly sworn.

Signed this 14 th day of October 1942

[illegible] major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (f) on page 262 M.M.L. 1909.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

Accused elects Trial by FGCM under AA SEC 46(8)

CHARGE SHEET

The accused D-82734 Pte. DeBerry, ~~H.~~ ROBERT BERNARD, 1st Bn The Black Watch (RHR) of Canada, Overseas, a soldier of the Canadian Army, Active Force, is charged with:-

5

A-2

FIRST CHARGE: Army Act. Sec. 40

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he,

On 16th Sep. 1942, in Chichester, Sussex, at approx 2245 hrs was urinating on the street.

SIGNED "IN THE FIELD"

THIS 7 DAY OF Oct 42

S.D. Caulfield Lt. Col
Officer Commanding, 1st Bn
The Black Watch (RHR) of
Canada, Overseas.

To be tried by FGCM

G.W. Whitelaw BRIG
COMD. 5 CDN. INF. BDE.

I DO/~~DO NOT~~ WISH TO HAVE AN OFFICER APPOINTED BY THE COMMANDING OFFICER TO DEFEND ME AT MY TRIAL BY FIELD GENERAL COURT MARTIAL.

R B DeBerry Pte.
Signature.

Lieut J A Rolland
Name of officer, if available

D Carnegie Capt Adjt

SIGNED "IN THE FIELD"
THIS 8 DAY OF Oct 42

3

14 October, 1942.

A-1

D/60734 Pte. DeBerry R.B.

I have this day examined the a/n soldier and find him fit to undergo trial by Field General Court Martial.

..... Maj.
Medical Officer.

7

Record of proceedings of an R.C.C.M. held in the case of D 92734, Pte DeBerry H.B. of 1 R.H.C. In the field on the 14 day of October 1942.

Actual Court		
President	Major R. Archambault	R de Mais
Members	Capt. J.P. Taylor Lieut D.R. Harrison	R.H.C. Calg Highrs.
Prosecutor	Lieut. L.P.Chandler	R.H.C.
Defending Offr	Lieut. J.A. Rolland	do

9

1 (a) The Court opens at 0925 hrs., 14 oct. 1942.
(b) R.P. 22 and 23 are complied with.
(c) Convening order is read and accused answers to his name.
(d) The accused D62754 Pte. De Berry R.S., has no objection to be tried by the present court.
(e) The Court is duly sworn.
(f) The medical certicate of the accused is produced to the court.
(g) The charge is read to the accused. He pleads guilty.
(h) The prosecuting officer makes an address stating that
The accused has elected to be tried by court martial and that he will produce evidence to show that the accused, in fact, committed an offence under A.A. 40, an act to the prejudice of good order and military discipline, in that he, on Sept, 1s 1942, was found urinating on the street.
(i) The court adjourns till 1400 hrs to allow two witnesses to appear.

2 (a) The court opens at 1400 hrs, 14 oct 1942.
(b) 1st witness for the prosecution is brought in and, having been duly sworn, states:

1 am M16722 L/C. Thompson I.E., No.2 Coy C&M Pro Corps.
On East street, Chichester, Sussex, at approx. 2245 hrs
15 Sept 1942, I was on foot patrol in company with Fay7SD
L/C.Chapman A.E., while standing on the corner of East and
Fore streets, the accused stepped out from in the mens
on the right from rear.I told him he was under arrest
down East street. After going there or four yards, he sto-
ped.As he was very quiet, we could hear the sound of uri-
nating coming from the accused.We walked up the accused immediately.
We took him to the police station, took down his particulars and
advised him what would be a charge that appeared later,
for urinating in a public place and ordered him to report
to his billet.The accused was alone during this whole period.
At no other time during the evening of 15 sept-42 did I
stop the accused and take his particulars.

Q. Do you recognise the accused?
A. No, Sir.
Q. Did you leave him before?
A. No, Sir.
Q. Was he drunk?
A. Yes, Sir.
(a) Questions by the prosecuting officer:
Q. Did you see him in the act of urinating?
A Yes,Sir.
Q Did you hear him in the act?
A Yes, Sir; That is what drew us down.
Q Did you ask him if he was urinating?
A Yes, he said he was pissing.
Q Are you sure this was the same man?
A Yes, he was the only man on the street.
Q Have you any evidence to show that he was urinating?
A No, Sir.
Q Was it dark at 2245 hrs.?
A Yes, Sir.
Q Did you hear the accused urinating?
A No, I could hear running water.
Q You say you could not see him?
A Yes, Sir.
Q Was the accused alone when he was urinating?
A Yes, Sir.
Q Was no one else around?
A No, Sir.
Q You could not see anybody else? Someone behind him might have been doing it?
A Yes, Sir, but I saw him doing it.
Q Could a hipthse been made in the dark? There was no one else there.
A No, Sir.
Q Were you ordered to search for persons urinating in streets?
A Yes, Sir.
Q Did you advise him that he would be charged under AA 40 ?
A No, Sir.

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2 (c) Q You state that there were no witness to this act?
A Yes, Sir.
Q Did you try to obtain witnesses?
A We were two, Sir.
Q What you have said is that there were no persons there to witness
the act?
A Yes, Sir.
Q Can you say where this happened?
A In front of A. Hardware store.
Q It was not near the square where M.T. parked?
A No, Sir.
Q In this square, do several units park their M.T.?
A Yes, Sir.
Q Can you state at what time that M.T. left?
A I can not.
Q Do pass close at anytimes?
A I understand it to be 2200 hrs.
Q Would it be usual for soldiers to be on the street after the
pubs closed?
A Just to get to their M.T.
(d) Cross-examination by the prosecuting officer:
Q Did you take the name of anybody else that night?
A Yes, Sir, two others.
Q Could you have taken up particulars?
A No, Sir.

(e) Second witness for the prosecution having been duly sworn, states:
I am Y49703, L/C. Chapman A.H., No 2 Coy Can Pro.Corps.
On the night of 15 or sept 1/44, I was in company with Private L/C.
Thompson I.E., on foot patrol in Chichester. At approx 2040 hrs,
we were standing on the corner of Forge and East streets. The ac-
cused came up and asked L/C. Thompson if this was the right way home.
He told him he was and he proceeded up East street. The accused
went up East street. The streets were
clear and he could hear him stop a few doors up and knock at a door.
He could not hear what was said. I for one reason
and another, decided to look into it, and found
the accused talking to a female. He started to walk away from
the female and I asked him what he was doing. He stated he was
looking for a place

11

(r) Q Did more than one person urinated there?
A Just one, Sir.
Q There were no other person around when you asked for his paybook?
A No, Sir.
Q Did you place the accused under arrest?
A No, Sir, I ordered him to camp.
Q Did you look for any witness?
A No, Sir.
Q You accosted accused near Clock Tower?
A Yes, Sir; in East Street.
Q Are there usualy a number of soldiers around?
A Yes, Sir.
Q Do pubs close at 2130 hrss?
A At 2200 hrss, I believe.
Q Do soldiers usually proceed to N.T. park ground?
A Yes, Sir.
Q Did L/C. Thompson and yourself lay any other charges that night?
A No, Sir. I was with him for a short while only.
Q Is there any possibilities of a witness in camp?
A No, Sir.

(a) The defending officer puts a series of questions to the accused in order to elicit evidence of mitigation in connection with the charge of conduct to the prejudice of military discipline.

(b) The court is cleared.

(c) The court open and announce their decision.

(d) The court, after having been sworn, proceed to hear evidence under oath.

(e) The accused, after having been duly sworn, elected to call one witnesses.

(f) The first witness for the defence having been duly sworn, stated:
I am D 827?2 Pte. Torrance R of RHC. On the evening of 15 or Sept-42, I went to a show and around 2100 hrss to a pub. At about 2215 hrss, I left the pub and went out towards are trucks. On the way, one Pte De Berry and myself went out towards are trucks. On the way, one Pte De Berry and myself went out towards are trucks. On the way, one Pte De Berry and myself

12 (m) Q Was the pub closing when you left?
A Yes, Sir.
Q How many beers did you have?
A About two.

Questions by the defending officer: (Counter-examination)
Q What time would you say you left the pub?
A About 15 mins. before the trucks leave which is approx. 2230 hres.
Q You turned the corner and asked the provost your way?
A No, Sir.
Q How far were you away from the park Ground?
A It only seemed a few minutes away.
Q Were there many people on the street?
A There were some. I did not take particular notice.
Q When was the first time you saw the Provost?
A I hesitated on the way to light a cigarette and then the provost flashed his light on me and asked if I had urinated. I said no. He then took my particulars and said: You will hear of this.

(n) The prosecuting officer makes a closing address:

Private De Berry has elected to tried by Court-Martial Two provost have given their evidence and there is no reason to think that their story is not true or in error. It is not the job of the provost corps to attempt to incriminate men, merely to report breaches of discipline when they find them. There is a wide discrepancy in the evidences given by the provost and that given in the defence. There is also a difference in details between evidence of Pte De Berry and Pte Torrance in that one saw only two provost and the other thinks he saw four or five. Furthermore, Pte. De Berry says that he hesitated and that Pte. Torrance was not quite with him at the time the provost spoke to him. Pte Torrance has also given evidence that he was not close enough to hear the complete conversation. There is therefore, some reason to doubt wheter Pte. Torrance is actually able to give a complete account of the actions of Pte. De Berry at the time. Due to these discrepancies, I think the court must consider the statement of the provost at their face value.

(o) The Defending Officer makes a closing address:

As the Pub [illegible] at [illegible] hrs, [illegible] number of soldiers in them when they close, these soldiers have their way to bus stops or M.T. park grounds. I claim that the streets could not have been deserted at that time. Prosecution witnesses state that the streets were empty and no one else was near them. They state it was so quiet they could hear the accused urinating at 25 yards distance. That is contrary to what is expected.

The only discrepancy the prosecution brought out in the statement of these men made under oath is that one saw two, the other thought he saw four Provost. On the other hand, L/Cpl. Thompson stated that he flashed his light on the accused and the accused was urinating. L/Cpl. Chapman states that he did not see the accused urinating.

I request the Court to consider the facts that there are four sworn statements, two of which, the accused and his witness are based on the fact there were a number of soldiers in the streets at the time the accusation took place; which is probable and usual due to the closing of the Pubs at that time and the movement of these people along the streets in question, and the statement of the witnesses for the Prosecution that there were no persons with them or the accused and that it was very quiet. I then ask the Court to dismiss the case.

(p) The Court is closed for the findings.

Prosecutor: Lieut. L.P. Chandler, R.H.C.
Defending Officer: Lieut. J.A. Holland, R.H.C.

CERTIFIED A TRUE RECORD OF THIS TRIAL
14 Day of October 1942

Signed..[signature]..... Major
President.

ABSTRACT OF EVIDENCE
in the case of
D-82734 Pte.Deberry,R.B. - 1 R.H.C.
taken by Lieut.L.P.Candler at the direction of the Commanding Officer, 1 RHC, in accordance with DRO 772

FIRST WITNESS: M-16722 L/C.Thompson,I.E., No. 2 Coy Cdn Pro.Corps, having been duly sworn, states:
"On East St.Chichester, Sussex, at approx. 2245hrs 16th Sep 42 I was on foot patrol in Chichester in company with F-49783 L/C Chapman,A.B. While standing on the corner of East and Forth Sts. the accused stopped and asked me if he was on the right road home. I told him he was, and he proceeded down East St. After going three or four doors, he stopped. As it was very quiet, we could hear the sound of running water. We walked up and found the accused urinating. We asked him for his paybook, took down his particulars and advised him that there would be a charge laid against him for urinating in a public place and ordered him to report to his billets. The accused was alone during this whole period. At no other time during the evening of 16th Sep 42 did I stop the accused and take his particulars.

SECOND WITNESS: F-49783 L/C Chapman,A.B., No. 2 Coy Cdn Pro. Corps, having been duly sworn, states:-
"On the night of 16th Sep 42 I was in company with M-16722 L/C Thompson,I.E. on foot patrol in Chichester. At approx. 2245hrs we were standing on the corner of Forth and East Sts. The accused came up and asked L/C. Thompson if this was the right way home. He told him it was, and he proceeded up East St. The streets were clear and we could hear him stop a few doors up and heard the sound of running water. We walked along to look into it, and found the accused urinating in a doorway. We asked him for his paybook, took hisparticulars, and informed him that there would be a charge laid for urinating in a public place, and ordered him to return to his billets at once. At no othertime during the evening did I stop the accused and take his particulars. When we checked the accused he was alone.

THIRD WITNESS: D-82775 Pte.Torrance,R., 1st Bn The Black Watch(RHR) of Can. O/S, having been duly sworn, states:-
"At approx. 2230hrs on 16th Sep 42 D-82734 Pte.Deberry,R.B., 1 RHC., and I came out of a pub in Chichester and walked up to West St a few yards away. As we were walking along West St. two military Policemen flashed their torches on Pte.Deberry and came over to him. I do not remember the exact conversation but Pte.Deberry was asked for his paybook. They returned his paybook and we proceeded back to camp.

STATEMENT OF THE ACCUSED: D-82734 Pte.Deberry,R.B., 1 RHC, having been duly sworn, states:-
At approx. 2230hrs 16th Sep 42 I and my companion D-82775 Pte.Torrance,R, 1 RHC, came out of a pub in Chichester. We were standing on the sidewalk further down the street in company withother soldiers waiting for the time to return to camp. Four or five military policemen walked up to me and asked me if I had urinated on the sidewalk. I stated that I had not, and they asked me for my paybook, which I gave them. They took down my particulars and told me I would be charged withurinating in the street.

I do hereby certify that R.P. 4(e) has been duly complied with.

L.P.Candler, Lieut.
Officer detailed to take summary of evidence by C.O.

EEE-19

PTE DEBLOIS C.A

8 8 8 19

D32

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint~~

~~*(1) Three Officers to form the Court.)~~

~~*(2) A Field Officer as President.)~~

~~[or the following reasons, namely ---]~~

PROCEEDINGS REVIEWED
J Lutiquelou Capt.
20 Mar 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.		Name.	Regiment.
Major	J P	Ensor	Carlt & York R

Members.

Rank.		Name.	Regiment.
Capt	M	Trudeau	R 22é R
Capt	E M	Crouse	West NSR
Lt	A E	Warnes	3 CIB Sp Gp(SLI)

*Signed [signature] Brig

Commanding 3 Cdn Inf Bde
Convening Officer.

D 32

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E.100170 Pte. DEBLOIS, Charles Aime R 22e R	First Charge Sec 9 (2) A.A.	Guilty	Guilty To undergo imprisonment 2 years with hard labour JB	Confirmed N Kilbron Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) N Kilbron Brigadier (Signed) J Ensor Major

Commanding 3 Cdn Inf Bde Cdn Inf Bde — Convening Officer (e) — Cdn Inf Bde — President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twenty-fourth day of January, 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. ~~The officers under instruction)~~

*Omit if not applicable.

were duly sworn.

Signed this 24th day of January 1944.

J Ensor Major
President of the Court Martial

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 25 day of Jan 1944.

N Kilbron Brig
Confirming Officer.

Promulgated and extracts taken in the case of E 100170, Pte Deblois, C. A. R. and R.

(a) (Dated) 27 Jan. 1944 (Signed) Lieut J A Girolami, Royal Mt Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the Field on the 24th day of January 1944 by order of Brig. T. G. Gibson Commanding 3 Cdn. Inf Bde dated the 22 day of January 1944

President.

Major J. P. Ensor Carlt and Yrk R

Members.

Capt M. Lindeau R22eR

Capt E. M. Crouse West N.S.R.

, ~~Judge Advocate~~ JAG

Trial of* E 100170 Pte Deblois, Charles Aime

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that NA JAG is not available to serve owing to , waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J. A. Gicolami R22eR

~~Counsel~~‡ or defending officer† Lieut F. S. J. Hogan R22eR.

At 1055 o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q6274. W1W1605/78. 25,000 ams. 5/43. K. & H., Ltd. G6671/1. Forms A 9/35

B

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.
N. A.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 4 (3), the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N. A *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N. A. *Answer.*

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CHARGE SHEET

The accused E.100170 Private Charles Aime DEBLOIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service is charged with:-

1st Charge: A.A.Sec.9(2) WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, at about 1000 hours on the 7th January 1944, did not proceed to his company on the front line when ordered to do so by Captain Jalbert , Royal 22e Regiment.

(J.V. Allard), Lt-Col.,
Commanding Royal 22eRegiment.

In the Field
12 January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
22 Jan 44

(T.G. Gibson) Brig
Comd 3 Cdn Inf Bde

Jos Enos May

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E100170...

Rank...Pte..... Name...DeBlois C.A..... of Royal 22e Regiment,

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial?

Station...In the Field

Date...24 Jan. 1944....

Richard S Burks Capt.
(Medical Officer)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E 100170 Pte, Deblois, Charles Aime, is found guilty of the charge

R 22e R

†The summary (or abstract) of evidence is read, marked C, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused

No

Answer

Evidence as to character

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. J. A. Giulame, R 220 R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce.

A F B 296

The above statement, with the schedule of convictions and of cases in which trial has been dispensed with, is read, marked D, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES

Cross-examined by the accused. N A

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused 100170 Pte. Deblois, Clarence Charles Aime, R22R to undergo imprisonment of two years with hard labour

J.P.C.

SUMMARY OF EVIDENCE

In the case of E.100170 Private Charles Aime DEBLOIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness; For the prosecution.

Captain J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:-

" I am Captain J.B. Jalbert, R.22e.R. On the 7th January 1944, I, Captain J.B. Jalbert, was O.C. "HQ" Company of the Royal 22e Regiment and in charge of the "B" Echelon. At about 1000 hours on the 7th January 1944, I had a parade of soldiers A.W.L. I explained them the situation that now they have had a night or two of good sleeping and a good rest they were to go back to their respective company. I told them that their absence will be judged by their Company Commander but I was now giving them a definite order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to the Military Law. I then called each name and gave to each one the order to get in the truck, when I called the name of the accused Pte DEBLOIS C.A. whom I now recognize, the accused answered " I don't go" or words to that effect. After I had organized those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was then put under close arrest.

The accused declines to cross examine the witness.

Capt.

2nd Witness; For the Prosecution.

E.4591 P/Sgt. Despres R.C. Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 P/Sgt. Despres R.C. R.22e.R. On the 7th January 1944, at about 1000 hours, I was present when Capt. J.B. Jalbert, gave the order to Pte Deblois C.A. the accused, whom I now recognize, to rejoin his company on the front line. Pte Deblois C.A. did not do so and refused saying " I don't go " or words to that effect. The accused did not go forward and after four or five minutes, time taken by Capt. Jalbert, to organize the ones going forward, as the accused has not yet obeyed the order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

Despres R.C. P/Sgt.

In the case of E.100170 Private Charles Aime DEBLOIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness: For the Prosecution.

E.4671 L/Cpl. Beaudet E. Royal 22e Regiment, having been duly sworn states;-

" I am E.4671 L/Cpl Beaudet E. R.22e.R. clerk at "HQ" company. On the 7th January 1944, at about 1000 hours, I was present when Captain J.S. Jalbert ordered Pte Deblois C.A. the accused, whom I now recognize, to rejoin his company on the front line. The accused refused saying " I don't go" or words to that effect. He did not go forward and after four or five minutes, time taken by Captain Jalbert to organize the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

Beaudet E L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

Jalbert Lieut.
Officer taking summary

In the Field
15th January 1944.

LIST OF WITNESSES FOR THE PROSECUTION

In the case of,

E.100170 Private Charles Aime DEBLOIS, Royal 22e Regiment.

Capt. J.B. Jalbert

FOR THE PROSECUTION:

E.4591	P/Sgt.	Despres,	R.O.
E.4671	L/Cpl.	Beaudet,	E.

FOR THE DEFENCE:

N I L

- -

I hereby acknowledge the receipt of a true copy of the summary of evidence taking prior to my trial by F.G.C.M. I further acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into Court Martial.

I desire the services of an Officer to represent me at my trial.

I desire the services of Capt. J.B. Jalbert

if he is available.

E A Deblois Pte.

In the Field.

12 January 1944.

No. E 100170 Name DEBLOIS, C.A. Sqn., Battery, or Company C Corps C. I. C. FIRST SHEET DESTROYED 10 Oct. 42 U FOUNIER A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Date of enlistment 4 May 42 G.C. Badges Service or Proficiency Pay M.F.M. 6

Sheet No. Signature O.C. Company, etc. One Character

Place	Date of offence	Rank	Cause of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14/12/43	Pte		AA sec 15(1) W.O.A.S.A.W.L. 0930 hrs 14 dec 43 until 11 00 hrs 16 dec 43 Total 2 days 2 hrs 30 minutes	Cpl Fortune Sgt Leech Sgt Dieples	14 days F.C.P. 3 days pay.			[signature] Major

Certified true copy [signature]

(P.T.O.)

ARMY FORM B 2195.

D

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E.100170	Pte	Dubois C.A.	R 22e R

1. The following is a fair and true summary of the entries in the regimental and ~~squadron, battery~~ or company conduct sheet(s)† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R., 1940

* The entries herein stated should correspond with the number of entries in the conduct sheets, per centage being given to the most serious offence in each court, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A A sec 15 (1)	one times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of ~~gallantry or distinguished conduct~~,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the~~ Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under ~~sentence~~ for ~~imprisonment~~ beginning on the ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~civil~~ brief days in civil custody, and ~~first~~ days in military custody, making a total of ~~five~~ days, of which ~~brief~~ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27 years

6. The date of ~~his commission~~ attestation specified in his ~~record of service~~ attestation paper is 4 May 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The ~~accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or~~ entitled to *(state any military decoration or reward)*.

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of dated

12. *(In the case of an officer.)* The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated

(*2364) 6/57 W1-21763-1877 10,000 3/43 A.A. & W. Ltd. Gp.438

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		4/a.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th Day day of Jan 44.

J B Rousseau Lapt Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

4/a.

(Instructions—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

A. McDougall. Certified True Copy. R. Indeau Capt

EEE-19.

RECORDED AT CMHQ IN AD 160

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ "F.G.C."

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint —~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~ "F.F.G."

~~for the following reasons, namely:—]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c. of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maja	J. B. Ensor	Cault & York R.

Members.

Rank.	Name.	Regiment.
Capt	M. Trudeau	R. 22e R.
Capt	E. M. Crouse	West. N. S. R.
Lt	A. E. Warnes	3 C1B Sp Gp. (541)

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be notified by him.

*Signed "F. G. Gibson" Brig

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E 100170 Pte DEBLOIS, Charles Aime R. 22e R.	Just Charge Sec 9(2) A A	Guilty	Guilty To undergo Imprisonment 2 years with hard labour "J P E"	Confirmed "J H Gibson" Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "J H Gibson" Brigadier (Signed) "J P. Enzor" Maja

Commanding 3 Cdn Inf Bde Commanding Officer (c) Can't York R President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the Twenty-fourth day of January, 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

*Omit if not applicable

were duly sworn.

Signed this 24th day of January 1944

"J P Enzor" Maja
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote to on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 19[illegible] have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.)

Signed this 25 day of Jan 1944.

"J H Gibson" Brig
Confirming Officer.

Promulgated and extracts taken in the case of E 100170 Pte Deblois, C A R 22e R.

(a) (Dated) 27 Jan 1944 (Signed) Lieut J A Girolami Royal 22e Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] P.1-47503/1242 50,000 2-42 A.& E.W.Ltd. Gp.693
[illegible] P.1-19004/1324 40,000 7-42

"J.P. Ensor Major" "B2"

CHARGE SHEET

The accused E.100170 Pribate Charles Aime BEBLOIS, A soldier of the Royal 22e Regiment, Canadian Army, Overseas, On active Service is charged with:-

1st Charge: A.A. Sec.9(2) WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, at about 1000 hours on the 7th January 1944, did not proceed to his company on the front line when ordered to do so by Captain Jalbert, Royal 22 Regiment.

J.V. Allard
(J.V. Allard), Lt-Col.,
Commanding Royal 22e Regiment.

Inthe Field,
12 January 1944.

TO BE TRIED BYFIELD GENERAL COURT MARTIAL

In the Field
22 Jan 44

T.G. Gibson
(T.G. Gibson)Brig
Comd 3 Can Inf Bde

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at

In the Field on the 24th day of January 1944 by order of

Brig. F. G. Gibson,

Commanding 3 Cdn. Inf. Bde

dated the 22 day of January 1944

President.

Maja J. P. Ensor, Carlt and York R.

Members.

Capt. M. Trudeau, R. 22e R.

Capt. E. M. Crouse, West N. S. R.

"J P E"

, ~~Judge Advocate~~

Trial of* E 100170 Pte Deblois, Charles Aime

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that N/A is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor† Lieut. J. A. Girolami, R. 22e R.

~~Counsel~~‡ or defending officer† Lieut. F. S. J. Hogan, R. 22e R.

At 1055 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

N. A.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (B) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N. A. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N. A. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N. A. *Answer.*

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"J.P. Ensor Major"

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No.E100170
Rank Pte Name DeBlois C.A. of Royal 22e Regiment,
and in my opinion he is fit/~~unfit~~ to undergo trial by
Court Martial.

Station In the Field

Date 24Jan 44

Richard L. Berks Capt.
(Medical Officer)

CC

Proceedings on Plea of Guilty.

*The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.

The accused 100170 Pte Leblois, Charles Aime,
R 22 R is found guilty of the charge

†The summary of evidence is read, marked C, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

or hands in a written statement, which is read, marked X, signed by the President, and attached to the proceedings.]

* To be struck out in case no plea of "Not Guilty" has been recorded.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

No

Question to the accused.

Answer

Evidence as to character

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

"J P E"

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, etc.

*The Court being re-opened, the accused is again brought before it.

Lieut. J. A. Guelame, R.22e R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce

A F B 296

The above statement, with the schedule of convictions (and of cases in which trial has been dispensed with) is read, marked D signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

Cross-examined by the accused. N A

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused E 100170 Pte Debois, Charles Army Sentence.
R 22. R to undergo imprisonment for two years with hard labour

JPE

X "J.P. Esnor Major"

No plea.

Nothing can be said.

Prisoner does not wish.

Pte Deblois.

The Defence offers no plea for mitigation of punishment.

Not only can nothing be said for Pte Deblosi' behaviour, but he wishes no plea be made.

"F.S. Nogan Lieut"

First Sheet Destroyed 10 Oct 42 L. J. FOURNIER

No. E100170 Name DEBLOIS, C A. Sqn., Battery, or Company C Corps C.I.C. Date of enlistment G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. Signature O.C. Company, etc. One Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-12-43	Pte		A A Sec 15(1), JPOAS, awl 0930 hrs 14 Dec 43 until 1100 hrs, 16 Dec 43 Total 2 days 2 hrs 30 mins	Cpl Lafortune Sgt Lacelle " Despres			J. P. Ensor major	

Certified true Copy

J. B. Brousseau Capt & Adjt

(P.T.O.)

"J. P. Ensor" Major D

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E 100170	Pte	Deblois, C. A.	R. 22e R.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	AA Sec 15 (1) one times	one times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.A. 15 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and five days in Air Force / military custody, making a total of five days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 27 years ~~attestation paper is~~

6. The date of his ~~commission~~ attestation specified in his record of service is 4 May 42 ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... dated ..... Permanent Force unit, and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit ..... Regiment ..... Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Penalty Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th Day day of Jan 44 J. R. Brousseau Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

"J.P. Ensor Maj" "C"

SUMMARY OF EVIDENCE

In the case of E.100170 Private Charles Aime DEBLOIS Royal 22e Regiment, Canadian Army, Overseas, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness for the prosecution.

Captain J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:-

I am Captain J.B. Jalbert, R22e R. On the 7th January 1944, I, Captain J.B. Jalbert, was O.C. "HQ" Company of the Royal 22e Regiment andin charge of the "B" Echelon. At about 1000 hrs on the 7th January 1944, I had a parade of soldiers A.W.L. I explained them the situation that now they had a nighter two of good sleeping and a good rest they were to go back to their respective company. I told them their absence will be judged by their Company Commander but I was now giving them a definite order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to Military Law. I then called each name and gave to each one the order to get in the truck, when I called the name of the accused Pte DEBLOIS, C.A. whom I now recognize, the accusedanswered "I don't go" or words to that effect. After I had organized those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was then put under close arrest.

The accused declines to cross examine the witness.

J.B. Jalbert
(Undecipherable) Capt.

2nd Witness: for the Prosecution.

E.4591 P/Sgt Despres R.O. Royal 22e Regiment, having been duly swornstates:-

I am E.4591 P/Sgt Depres R.O. R22eR On the 7th January 1944, at about 1000 hours, I was present when Capt. J.B. Jalbert, gave the order to Pte Deblosi C.A. the accused, whom I now recognize, to rejoin his company on the front line. Pte Deblois C.A. did not do so and refused saying "I don't go" or words to that effect. The accused did not go forward and after four or five minutes,atime taken by Capt. Jalbert to organize the ones going forward, as the accused has not yet obeyed the order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

Despres R.O. P/Sgt

In thecase of E.100170 Private Charles Aime DEBLOIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness for theProsecution

From E.4671 L/Cpl. Beaudet E. Royal 22e Regiment having been duly sworn states:-

"I am E.4671 L/Cpl Beaudet E. R.22eR. Clerkat "HQ" company. Onthe 7th January 1944, at about 1000 hrs I was present, when Captain J.B. Jalbert ordered Pte Dablois C.A. the accused whom I now recognize, to rejoin his company on the front line. The accused refused saying "I don'tgo" or words to that effect. He did not goforward and after four or five minutes, time taken by Captain Jalbert to organize the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

Beaudet E. L/Cpl

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rulesof procedure 4 (c) (d) (e) (f) and (g) were duly complied with.

In the field
18th January 1944

(Undecipherable) Lieut.
Officer taking Summary.

LIST OF WITNESSES FOR THE PROSECUTION

in the case

E.100170 Private Charles Aime Deblois,
Royal 22e Regiment,

FOR THE PROSECUTION

Capt J.B. Jalbert
E.4591 P/Sgt Despres, R.C.
E.4671 L/Cpl Beaudet, E.

FOR THE DEFENCE:

N I L

I hereby acknowledge the receipt of a true copy of the summary of evidence taking prior to my trialby F.G.C.M. I further acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into Court Martial.

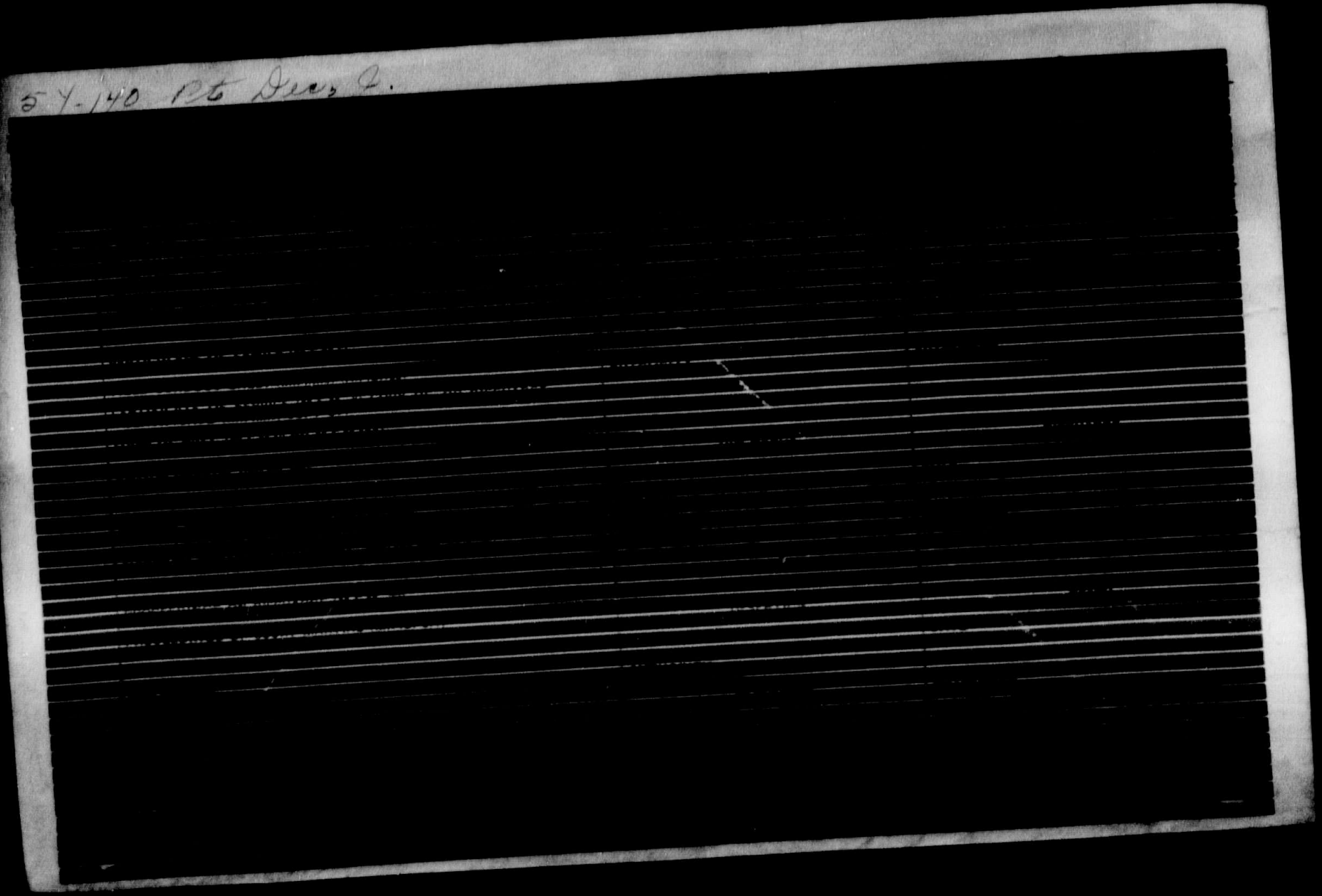
I desire the services of an officer to represent me at my trial.

I desire the services of Lieut F.S. Nogan if he is available.

C.A. Deblois Pte

In the Field.
12 January 1944.

5 Y-140 Pts Decs 2.



RECORDED AT CMHQ IN AB 168/ 5Y-140

RECEIVED 5 MAR 1946 CMHQ BRANCH

FIELD GENERAL COURT-MARTIAL (CFA96 (To Issue of AFA2) AG P & N 1608 (2604))

Convening Order of Lt Col H F BAKER Comd 1 CDN DEMOB DEPOT dated 14 FEB 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 4017	PTE	JOHN	DEC	3 CDN TRANSIT CAMP

PROCEEDINGS REVIEWED 5 Mar 46 C.H. Tuft Maj.

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Field (or country) HOLLAND on (date(s)) 15 FEB 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED ON APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for births and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~were~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to be interpreted by ... Ans: ...~~

~~The Interpreter is sworn.(1) The oath object to ... as interpreter? Ans: ...~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans: NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 16(B). If objection, see procedure AA 51, RP 25, 71, 108, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J A Bastarache	Sen Int 3 Cdn Transit Camp
Member	Capt	H R McLeod	CIC 3 Cdn Transit Camp
Member	Lieut	D R Saunderson	CIC 3 Cdn Transit Camp
~~Judge Advocate~~			
Prosecutor	Capt	R V Anstruther	CIC 3 Cdn Transit Camp
Defending Offr	Lieut	W P Callaghan	CIC 3 Cdn Transit Camp

~~Questions by President~~: Is the Prosecutor a lawyer? Ans: YES Is the Defending Offr a lawyer? Ans: NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 23.)

A8. The accused M 4017 PTE DEC JOHN before arraignment make(s) (no) ~~the~~ plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE. B

Accused: M 4017 PTE DEC JOHN 3 CDN TRANSIT CAMP

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
~~B~~ HP STD				
1st	AA 15(1)	NOT GUILTY / GUILTY	GUILTY	of AWL from 1800 hrs 29 JUN 45 until apprehended by Russian Provost at 1800 hrs 5 JUL 45 (absent 6 days)
2nd				
3rd				
R 4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in lieu of Art see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date) ...~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for thirty (30) days

B (sgd) ... Judge Advocate, if any. 15 FEB 46 Date awarded. (sgd) H F Baker President. (RP 43, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 562-577. ~~Acquittals~~ require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not confirmed

I ~~direct~~ that the accused be not committed to prison or detention barracks until further orders.(1) ~~B~~

(1. AA 57A. Delete if not under.)

(Sgd) H F Baker Lt Col

Date 23 Feb 46 Commanding 1 Cdn Demob Depot Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
M 4017 Pte Dec J X4 Lest R.C.E. 3 Cdn Transit Camp	22 Feb 46	H A C Rose Major Legal Officer 3 Cdn Transit Camp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (*). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) charge(s) has (there) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.~~(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans GIVE EVIDENCE MYSELF. Do you intend to call witnesses on your behalf? Ans NO SIR. ~~Are they witnesses as to character only? Ans~~

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(R).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and so to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is deleted and signed.~~

(1. *AA 54(3) (4), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES THROUGH MY DEFENDING OFFICER. (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed ~~by him and the J.A. if any.~~

(1. *When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 47, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-346, Overseas RC 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 47(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M-4017 Pte. John DEC, X-4 list Royal Canadian Engineers, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Sect. 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the field, at 1800 hrs. on 29 June 1945 Absented Himself Without Leave he surrendered to the Polish Provost a t PAMBURN, Germany at 1100 hrs 26 Jan.46. (Absent 210 days 17 hrs).

IN THE FIELD
11 Feb. 1946.

(M.A. Frank) Major
Officer Commanding
3 Cdn Transit Camp- CFN.

To be tried by Field General Court-Martial

IN THE FIELD
14 Feb. 46

(H.P. Baker) Lt-Col.
Officer Commanding
1 Cdn Demob Depot.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-4017	Pte.	John	DEC.	3 Cdn Transit Camp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Feb.46 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial: [and that it is necessary in the interests of discipline that the trial be referred to a superior qualified offr] (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

(a) [Cdn qualified to appear] as Mbrs of the Court, (b) a Fd Offr as President, for the reasons [not otherwise] [available] (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[I hereby appoint as Judge Advocate] [detail the Offr mentioned hereunder] (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F.A. BAILLARGEON	Gen List 3 Cdn Transit Camp

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	H.N. McLEOD	CIC 3 Cdn Transit Camp
Lieut.	D.R. SAUNDERSON	CIC 3 Cdn Transit Camp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt.	J.G. BRUCE	CIC 3 Cdn Transit Camp

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

Dat 14 February 1946

H.F. Baker (Signed personally. RP 105 fn 2.)

Lt-Col. (Rank.)

(H.F. BAKER) Lt-Col

Commanding 1 Cdn Demob Dep ot

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 66 (To Sect of AFA 2) 46-P.A.B.-1697 (6.45)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Can 562, RP 26, 29, 111.*)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 762, RP 82, 111.*)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*RO (Can) 2892.*)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 82(C)*), any objections (*RP 82(B)*) and any statements by accused, may be summarized and, the evidence, subject to RP 82(A) and 114(3), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1430 hrs on 15 Jan 45 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (*sr*, Jones.)
Re-exam: Jones.
Exam by Court: He said—"I've had enough parades".
RP 82(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 82(A), be taken by him verbatim. (*RP 85 fn 1.*) If the evidence is taken by him in narrative form, RP 82(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 118 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:
(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)
(ii) All oaths of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 30)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fns 3, 45 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 45 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than on mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 9-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 562(6).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 527.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (*As to submitting an exhibit a certified copy in lieu of original see KR Can 586. As to certified copies of regimental books see AA 182 (1) (g) (8).*)
(v) Exhibits numbered Ex A, Ex B, etc.
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 96(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 709.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

I certify that I have this day examined M-401 7 (No)

Pte. DEC, J. (Name)

fit to undergo trial by Court-Martial.

Station 3 Cdn Transit Camp (CFN) (Capt),

Date 15 Feb. 46 (Unit)

E3

The Court, upon hearing the plea in mitigation, consider that the accused does not understand the effect of his plea of 'guilty' alters the record and enters a plea of 'not guilty'.

Accordingly the trial proceeds on Record Form "D."

A Bastarache
Pres.

D6

M4017 Pte Dec John 3 Can Transit Camp having been duly sworn states:

I went to the Polish sector to contact my uncle who is a Col in Polish Army and try to get information from him with regard to my family, mother, brother, and sister. The last I heard of them they were in a concentration camp. I ~~do~~ could not find my uncle the Col. There were 2 other Polish chaps going to Poland and I had a feeling to go there to find out about my mother. When I came up to new Polish border. During that evening I went to place where my mother lived. I found her, she was sick - no food - no clothing and I felt I had to try to find something for her

to live. After the 3rd night 2 of Russian Police arrested me and I was detained in one Camp for 3 months and another camp for 2 months and 3 weeks. The first place was "Radon" and other place they call "Litvie" After that I tried to get out In evening about 12 mid night I escaped from the jail and I got to South Poland in the mountains All I did there was ~~go~~ travel ~~for walks~~ by night. When I got to Czechoslovakia border and found myself in American zone. They fed me until I got a lorry to take me to another town called Sathaeren. Then I came up to Hanover and went to Pamburn and gave myself up to the Polish Pro. Then the Can Pro brought me here to 13 Bn.

I volenteered 10 Sep 39. Landed in Engl 18 Dec 39. In England until invasion of Sicily. I was with 1 Div. I was a gun ten with 3 Fd Arty. Thirty days fighting in Sicily. Then we landed at Reggio, Calabria. Then we moved forward to Taranto. Then to Foggia and Ortona. From there we went into rest for 3 months. Then we went into Liri valley and then chased enemy up to Florence. Then to Rimini and then to Naples. From there to Marseilles, France. Then to Ghent and Holland and from Holland and there I was sent to 1 Corps HQ AGRA. We went up to Cuxhaven where germans surrendered. I was there 1 month. Then all Corps came back to Holland place called Zutphen. Then I had my 3 day pass from Col and that was beginning of my road to Poland

Cross-examination

I tried to get permission to go to Poland but could not get it. The last I heard from my family was in 1939 before the war. ~~The Russian Police~~

By the Court

The Russian Police picked me up 5th Jul 45 sometime in the evening

PP 83(B) complied with

Summing up by Prosecution 4 ½

4A

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Closing statement of prosecution in case of M4017 Pte Dec, J.

Pte Dec has certainly brought to the attention of the court a story strong in human interest and appeal but I must ask the court not to be too influenced by it. The fact still remains that Pte Dec did go AWL from the Canadian Army and had he not been in a zone of Europe he had no legal right to be in he would not have been apprehended and held in custody by the Russians.

Furthermore there is no corroboration of his statement, nor is there much possibility of obtaining any.

[illegible] Capt.

4/71 CFA 170

PLEASE WRITE ON BOTH SIDES

5.

Reply by Defending Q

The prosecution
simple documentary en. forward
do not contest this evid. We
such but by the sworn en as
of the only witness, the accused,
which we must accept as fact.
It would appear that accused
was held against his will
and therefore cannot be
considered to be absent for
the entire period in charge.
Further, the circumstances
surrounding his absence
should, I think, influence
you in the judgment on
the remainder of his time
of AWL. His record of service
is outstanding as has been
brought out in his evidence.
His conduct previous to this
has been exemplary.

A Baillargeon
Pres.

EXHIBIT "B" Pathfinder Pres

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
M-401 7	Pte.	Dec. J.	3 Cdn Transit Camp CFN

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

~~2. [illegible]~~

~~3. [illegible]~~

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 26/9 days in military custody, i.e. ..... days in open arrest, 26/9 days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is 31 yrs 4 months.

6. The date of his ~~[illegible]~~ Attestation 10 Sep 39

~~7. [illegible]~~

8. The accused is in possession of † 39-45 Star, Fr.& Germ.Star, Ita ly Star, Defense Medal CVSM & Clasp

~~9. [illegible]~~

~~[illegible]~~

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

*Strike out if not applicable

†State the military decorations (if any) held by accused

[illegible]

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~1 19th~~ day of Feb. 1946

(J.H. Watson) Lieut.

No. M-4017 Name DEC, John | Sqn., Battery, or Company | Corps RCE | Date of enlistment 10 Sep [illegible] | Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & C/3136 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. D.R.Abbey Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET					

Certified true copy of the Temporary sheet in my Possession

J.H. Watson Lieut

(J.H. Watson) Lieut.

EXHIBIT "C"

E.3 P.to Dec 7 AB

This soldier who is a pole had his mother ~~a~~ sister & a brother in Poland from whom he had no word for a long time.

He had an uncle in the Polish army who was a Colnel So he tried to see him in order to get word of his family

He had a three day pass so he proceeded to the polish sector to see his Uncle but unfortunately his uncle had moved so he tried to locate him but could not. So being very worried about his people he decided to go to Poland.

By devious means which took some time he arrived in Poland. His worst fears were borne out his sister & brother had been killed by the Germans and his elderly mother was ill and starving He tried to do what he could for his mother but unfortunately he was picked up by the Russian Provost and he was held under close arrest for a period of 5½ months.

He managed to escape and returned via the America Zone to the Polish Zone where he surrendered himself to the Polish Provost He has not had any word of his mother since

Consider the forgoing gentleman surely. this soldier has ~~suffered~~ enough for his crime It seems ~~had~~ to ~~adjudge~~ work a man as a criminal because of his interest in the welfare of his family and it is certainly born out that he was not worried without reason

Therefor ~~gentleman~~ sir I would request P.T.O.

that consideration be shown this soldier and as light a sentence as possible be imposed.

Record of Service
Came overseas in 1939
Went to Italy. 1942 served until 1944
Served in Belgium & Germany from 1944 until present.

[illegible] Gallagher

EXHIBIT "A"

SUMMARY OF EVIDENCE

In the case of M-4017 Pte. John DEC, X-4 list Royal Canadian Engineers, on strength of 3 Canadian Transit Camp, Canadian Forces in the Netherlands, a soldier of the Ca nadian Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

The following document was laid before the Officer detailed to take Summary of Evidence and will be produced by the prosecution at the court as exhibit "A" pertaining to the accused and initialled by me for purpose of identification.

"A" A certified true extract of 1 CDN HQ ARMY GP ENGRS Pt.II Order # 22 dated 16 Jul 45 showing the accused as AWL from 1800 hrs 29 Jun 45.

The accused does not question the document

(D.R. Abbey) Lieut.
Officer detailed to take
Summary of Evidence.

FIRST WITNESS Major HAC ROSE, 3 Canadian Transit Camp, C.F.N., having been duly sworn states:

I am Major HAC ROSE and on 11 Feb. 46, I took a statement by M-4017 Pte. DEC, J in which he sta ted that he had surrendered at Famburn, Germany at 1100 hrs. 26 Jan 46. I now recognize the accused and initial the statement for identifica tion.

The accused declines to cross-examine the witness.

(HAC ROSE) Major.

The accused was cautioned as follows:-

Do you wish to make a statement or to give evidence on oath ? you are not obliged to say anything or give evidence unless you wish to do so but any statement you make or any evidence you may give will be taken down in writing and may be given as evidence.

The accused reserves his defense.

Certified tha t all the provisions of R.P. 4 (c)(d)(e) (f)and (g) have been complied with. Taken down by me in the presence and hearing of the accused this 11 day of February 1946, in the field .

(D.R. Abbey) Lieut.
Officer detailed to take
Summary of Evidence.

PART II ORDER EXTRACT FORM

99/20/

TO: D & P

16 JUL 45 19

EXTRACTS FROM: UNIT 1 CDN HQ ARMY GP ENGRS

Part II Order No. 22 dated JUL 45

ABSENT WITHOUT LEAVE

AWL from 1800 hrs 29 Jun 45 Still absent 1800 hrs 7 JUL 45(8th day)

M4017 Pte DEC J (RCASC)

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials

for Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECM—6

Exhibit "B" Hack

3 CANADIAN TRANSIT CAMP, C.M.F.

Statement of M-4017 Pte DEC J 3 Cdn Transit Camp.

Who states:

I have been cautioned that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence. I state that I understand this caution, I sign my name.

(Sgt) [signature]

I am M-4017 Pte DEC J and I surrendered to the Polish Provost at Famburn Germany as AWL. The time that I surrendered was 1100 hrs 26 Jan 46.

(Sgt) [signature]

11 Feb 46 Statement taken by:

[signature]
(W.A.C. Rose) Major
3 Cdn Transit Camp

AB

LIST OF WITNESSES

In the case of M-4017 Pte. John DEC.

(For the Prosecution)

(1) Major HAC ROSE, 3 Cdn Transit Camp, CFN.

(For the Defense)

NIL

LIST OF EXHIBITS

In the case of M-4017 Pte. John DEC.

(For the Prosecution)

"A" A certified true extract of 1 CDN HQ ARMY GP ENGRS Pt.II Order # 22 dated 16 Jul 45 showing the accused as AWL from 1800 hrs 29 Jun 45.

"B" A statement purported to be signed by the accused

(For the Defense)

NIL

CERTIFICATE OF ACCUSED

I, M-4017 Pte. John DEC, hereby acknowledge that I have received, free of charge, one copy of the Summary of Evidence and one copy of the Charge Sheet therein. I also request that an Officer be appointed to act as Defending Officer at my forthcoming Court-Martial.

J. Dec

(J. DEC)

Accused: M.4017 Pte John DMC, 3 Cdn Transit Camp

I direct that the accused should not be tried upon the same charges

H F Baker Lt Col

(H F Baker) Lt col
Comd
1 Cdn Demob Depot

5 21-100

Ste. Decarie, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: "EEW" D-77746 Pte Roland Decarie Lake Sup R (M).

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd AA 15(1)	Guilty	Guilty	
3rd AA 15(1)	Guilty	Guilty	
4th AA 15(1)	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of NG see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 33 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of nine (9) months.

(Sgd) "E E Wasson" Major — 3 Oct 45 — (Sgd) "N A DANN" Major President.
Judge-Advocate, if any — Date awarded. — President. (RP 45, 50.)
(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1. AA 57A. Delete if not used.)

(Sgd) "G D Wotherspoon" Lt-Col

Date 5 Oct 45

Commanding Cond 4 Cdn Armd Bde.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-77746 Pte Decarie R.	8 Oct 45	"H H A Perker" Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

54-103

CFA66 (To form of AFA31) 40-P-N-S-1868 (1945)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of G D de S Wotherspoon Comd 4 Cdn Armd Bde dated 27 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-77746	Pte	Roger Decarie		Lake Sup R (M)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 3 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF TA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fms KRs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for duties and instrs on how to record testimony, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 13, RP 36, 63-70, 73, 74, 94, 103, 119, 182.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member recites. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N A DANN	27 Cdn Armd Regt
Member	Capt	C F REITTENSTEIN	27 Cdn Armd Regt
Member	Lieut	W MOREWOOD	21 Cdn Armd Regt
Judge-Advocate	Major	E E Wasson	HQ 4 Cdn Armd Div
Prosecutor	Capt	L A Hardy	Lake Sup R (M)
Defending Offr	Capt	H P Fisher	Lake Sup R(M)

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Qn p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea(s).

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 120), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 886 to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re-closes and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 90(*C*); *powers and duties of JA see RP* 105; *duty of Prosecutor see RP* 90(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 90(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *end of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans ..... [5]

(*1. RP* 27(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para* E3 *of Record Form* E. *5. Statement, if any, recorded per Notes.*)

B3. The Court considers that the plea(s) of Guilty is (are) proper.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and the proceedings with respect to the charge(s) to which the plea(s) of Guilty is (are) recorded will be continued as provided in Part I of the Schedule in consecutive proceedings.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(*1. RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..... initialled and read aloud by the President.[1]

(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Trial Shows of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....[1]

(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]

(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.[1]

(*1. RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans .....

Do you intend to call witnesses on your behalf?

Ans ..... Are they witnesses as to character only? Ans .....

(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CA* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 40(*A*) *fn* 1, 84(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*B*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or. The President announces that the accused is found Not Guilty on all charges and as to his removal forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(*1. AA* 24(*J*) (*i*), *RP* 43, 120(*A*). *2. AA* 24(*J*), *RP* 45, 117. *This otherwise unnecessary statement is not applicable when there are pleas of Guilty subsisting and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]

Ans .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*l*) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.[3]

(*1. MML p* 255 *or AFB* 296. *2. MML p.* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?[1] Ans .....[2]

(*1. RP* 27(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to proceed with anything here or previously stated which would affect the amount of punishment. RP* 27(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(*1. AA* 24(*K*), *RP* 120(*A*).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]

(*1. "When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty.* *RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309/1953. *MML p* 6*C*, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 45(*c*), *KR Can* 564. *2. RP* 50. *As to release from prison by Confirming Offr see KR Can* 567. *As to assembly and dispersal of persons after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

D 1

CHARGE SHEET.

The accused D-77746 Pte Decarie Roland of the Lake Superior Regiment (Motor) a soldier of the Canadian Army Overseas, placed on active service is charged with:

First Charge
ArmyAct
Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

on 2 Nov 44 at 2200 hrs, did absent himself without leave, from his unit to 0001 hrs 11 Dec 44 when he surrendered to the Provost. (TTA 38 days 2 hrs.)

Second Charge
Army Act
Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

on 21 Dec 44 at 2130 hrs did absent himself without leave from 13 CBR Bn to 1700 hrs 25 Jan 45 whe n he surrendered himself to the Provost at HQ First Cdn Army. (Total absence 34 days, 19 hrs, 30 mins)

Third Charge
Army Act
Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

on 5 Feb 45, at 0650 hrs did absent himself without leave from 11 CBR Bn to 0001 hrs 28 Fe b 45 (Arb Time) when he surrendered himself. Total absence 23 dys 17 hrs 10 mins)

Fourth Charge
Army Act
Sec 15(1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

in that he

On 16 March 45, did absent himself without leave from 109 Br Gen Hosp to 27 Jun 45 till he surrendered himself at Leopold Barracks in Ghent. (Total absence 121 days)

In the Field,
24 Sep 45.

"H H A Parker" Lt-Col
(H H A Parker) Lt-Col
The Lake Superior Regt (M).

To be tried by Field General Court Martial.

27 Sep 45.

"G D Wotherspoon"

"R H Stapleford) Major,
DAA&QMG 4 Cdn Armd Bde.
for (G D de S Wotherspoon) Lt-Col
Comad 4 Cd n Armd Bde.

"N A D"
Pres.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) ~~Apptmt, A/R or A/Apptmt~~	Full Christian Names.	Surname.	Unit.
D-77746	Pte		Roland	DECARIE	Lake Sup R (M)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Sep 45 endorsed ~~XXXX~~ (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable that the trial should be held at a place and within the time ordinarily required~~)
(Delete parts in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~And I direct that the proceedings of the Court in the case of the said accused be forwarded for the confirmation thereof to~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	N A DANN (Must be named. RP 106.)	27 Cdn Armd Regt.	(Unit.)

MEMBERS.

Captain	C F REIFFENSTEIN	22 Cdn Armd Regt.	
Lieutenant (Rank.)	H MOREWOOD (Named or detailed. RP 106.)	21 Cdn Armd Regt.	(Unit.)

WAITING MEMBER.

Lieutenant (Rank.)	A K L EAVES (Named or detailed, if any. RP 106.)	28 Cdn Ardm Regt.	(Unit.)

JUDGE-ADVOCATE.

Major (Rank.)	E E WASSON (Must be named, if any. RP 106.)	4 Cdn Armd Div	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

"G D Wotherspoon" (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

(G D De S Wotherspoon "

Date 27 Sep 45. Commanding 4 Cdn Armd Bde. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for edits and notes for use on trial.)

4/38A (Cross (To Secy of AFA): SD F & S/1867 (4401))

M I R Lake Superior Regt (M)

3 Oct 45

D-77746 Pte

Decarie R.

Field.

"J W Pickering" Capt. RCAMC

Att The Lake Superior R (M)

3 Oct 45

Exhibit 'A' "NA Dan" Major

PAGE ONE

SUMMARY OF EVIDENCE

Summary of evidence in the case of D77746 Pte Decarie R. The Lake Superior Regiment (Motor) Canadian Army Overseas, charged with, First Carge AA 15(1) Absenting himself without leave from his Unit from 2200 hrs 2 Nov 44 to 0001 hrs 11 Dec 44. Second Charge AA 15(1) Absenting himself wit hout leave from 13 CBR Bn from 2130 hrs 21 Dec 44 to 1700 hrs 25 Jan 45. Third Charge AA 15(1) bsenting himself without leave from 11 CBR Bn from 0650 hrs 5 Feb 45 to 0001 hrs 28 Feb 45. Fourth Charge AA 15 (1) Absenting himself without leave from 109 Br Gen Hosp from 16 ar 45 to 15 Jul 45.

FIRST WITNESS

Lt EN Steele a member of the Lake Superior Regiment (Motor) having been duly sworn states:

I am Lt EN Steele Officer i/c records of The Lake Superior Regiment (Motor) I now produce from my custody - under RP4G -
(a) Pt 11 Order Extract 2 Ech No 70 d/12 Dec 44 Marked Exhibit "A"
(b) Pt 11 Order Extract 2 Ech No 14 d/6 Apr 45 Marker Exhibit "B"
(c) Certificate of Surrender signed DJ Thwaites and JC Bingham d/25 Jan 45 Marked Exhibit "C"
(d) Declaration Court of Inquiry 109 Br Gen Hosp d/11 Apr 45 Marked Exhibit "D"
(e) Pt 11 order Extract 2 Ech No 54 d/17 May 45 Marked Exhibit "E"

"Lt EN Steele"
(Lt EN Steele) A/Adjt

EXHIBIT "A"

PT 11 ORDER EXTRACT FORM
99/20/Lake Sup R/1(A.50)
18 Apr 45

To: Dis and Pay section
2 Ech

EXTRACT FROM: UNIT THE LAKE SUPERIOR REGIMENT(MOTOR)
PART 11 Order No 70 dated 12 Dec 44

ABSENT WITHOUT LEAVE
AWL from 2200 hrs 2 Nov 44 Still absent 2200 hrs 24 Nov 44(22nd Day)
D77746 Pte DECARIE R

STRENGTH DECREASE
SOS as des wef 30 Nov 44 having been dec illegally absent by CT ISQ
from 2200 hrs 2 Nov 44 Deficiencies in kit 16 dollars 79 cents.
D77746 Pte Decarie R Equip Rep "C"

Signed by officer IC Records
Cdn Sec 2 Ech
HQ 21 A Group

EXHIBIT "B"

PART 11 ORDER EXTRACT FORM
99/20LAKE SUP R/1(A.50)
18 Apr 45

To Dis and Pay Section
2 Ech

Extracts From: Unit The LAKE SUPERIOR REGIMENT (Motor)
Part 11 Order No 14 Dated 6 Apr 45.

STRENGTH INCREASE
TOS on app from des wef 11 Dec 44
D77746 Pte DECARIE R Equip Rep "C"

ABSENT WITHOUT LEAVE
AWL from 2130 hrs 21 DEC 44 App from AWL 1700 hrs 25 JAN 45
D77746 Pte DECARIE R Equip Rep "C"

AWL from 0650 hrs 5 Feb 45 Ret from AWL 0001 hrs 28 Feb 45(Arb Time)
D77746 Pte DECARIE R

Signed by officer IC Records
Cdn Sec 2 Ech
HQ 21 A Group

EXHIBIT "C"

CHARGE
LAKE SUPERIOR REGIMENT 4 CDN ARMD DIVISION
ATT'D 58 COMPANY 13 CBR Bn
CHARGE againstNO D77746 Rank Pte Name DECARIE R
Place TILBURG Holland Date of Offence 25 Jan 45
OFFENCE WOAS Was Absent Without Leave

Signed By Offr i/c Records
Cdn Sec 2 Ech
HQ 21 A Group

Names of Witnesses:-
H1C2302 Pte THWAITES DJ No 11 Cdn Pro Company
B97143 Cpl BINGHAM JC No 11 Cdn Pro Company

STATEMENT OF EVIDENCE IN THE CASE OF
D77746 Pte DECARIE R
Lake Superior Regiment 4 Cdn Armd Division
Att'd 58 Company No 13 CBR Bn

Sirt

At approximately 1700 hrs 25 Jan 45 while on duty at the Camp Enquiries Post at Main HQ First Cdn Army I was approached by the a/m Soldier who informed me that he was absent Without Leave from his UnitHe stated that he absented himself on the 19 Dec 44
I then placed te Decarie under Close arrest and later escorted to No 11 Cdn Provost Company HQ.

Signed by H1C2302 DJ THWAITES
NO 11 Cdn Pro Coy

I have read the above Statement of Evidence and corroborate same.

Signed by B97143 JC Bingham
No 11 Cdn Pro Coy

EXHIBIT "D" In lieu of Army Form B1115

RECORD OF THE DECLARATION OF A COURT OF A INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

RECORD OF THE DECLARATION OF A COURT OF INQUIRY assembled at 109 (British) General Hospital on the 11th day of April 1945 for the purpose of investigating and recording the absence without leave from his duty and deficiency if any in the Arms Ammunition Equipments Instruments Regimental Necessaries or Clothing of No D77746 Private R Decarie Lake Superior Regiment of Canada.

DECLARATION

The Court declare that D77746 Pte R Decarie Lake Superior Regiment of Canada, Illegally absented himself without leave from 109 (Br) General HospitalBLA. on the 16th day of March 1945. That he is still so absent and that on the 16th day of March 1945 he was deficient and is still deficient of the following articles:

ARTICLES		VALUE
Blouse, Battle Dress	One	19.9 1/2D
Braces, pairs	One	1.4 1/2D
Shirts, Angols	One	.9 1D
Trousers, Battle Dress Pairs	One	19.6 1/2D
	Total Value	2.9.9 1/2D

NAMES OF PRESIDENT AND MEMBERS
PRESIDNET (SGD) EL RUBIN Major RAMC 87694
MEMBER (SGD)EM Hall Lt RAMC 317644
Signature of Commanding Officer(SGD) AJ BADE Colonel

EXHIBIT "E"
PART 11 ORDER EXTRACT FORM 99/20/A5X3
TO AG 3 Sep 45

EXTRACT FROM: Unit XList Lake Sup Regt
PART 11 ORDER NO54 Dated 17 May 45

ABSENT WITHOUT LEAVE
AWL from 2359 hrs 16 Mar 45
D77746 Pte DECARIE R (X3 List)

Signed by Officer i/c Records
Cdn Sec 2 Ech HQ 21 A Group

SECOND WITNESS Evidence of A57003 Cpl Richardson FW Documentary
EXHIBIT "F" In the Field
4 Jan 45

Charge against D77746 Pte Decarie RF When in confinment escaping AA Sec 22

Statement of evidence in the case of D77746 Pte Decarie R.
On the 21st Dec 44 I was acting in the capacity of Guard Commander of 58 Fwd Rft Coy 13 CBR Bn. I had under close custody the above mentioned soldier.
At approx 2130 hrs 21 Dec 44 the electric lights sent out I immediately lit a homemade oil lamp. Approx 10 minutes later the lights came on again. It was then I discovered one of the prisoners Pte Decarie RF had escaped. I immediately took out four of my guard and searched the building and the grounds for him. I did not find any trace of him so I informed the CSM the next morning at approx 0830 hrs 22nd Dec 44 that Pte Decarie had escaped.

Signed By Cpl Richardson FW(A57003)

Third Witness Evidence of B147173 Rfn Duncan G Documentary
EXHIBIT "G"
STATEMENT OF EVIDENCE IN THE CASE OF D77746 Pte Decarie R
STATEMENT OF EVIDENCE BY B147173 Rfn DUNCAN G
On 5 Feb 45 I was employed as Regt'l Police 11 CBR Bn I w s detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts.
On return from the kitchen we went up the stairs leading from the kitchen we went up thestairs leading fron the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to theentrance of the mess hall there is a staircase leading down to the main floor.
I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him but because it was dark and because the staircase was crowded with men coming and going from breakfast I lost him. I later found the man missing to be Pte Decaire.

Signed by B147173 Frn Duncan G

FOURTH WITNESS Evidence of B157327 Pte Backhus J Documentary
EXHIBIT "H"
STATEMENT OF EVIDENCE IN TH CASE OF D77746 Pte DECARIE R
STATEMENT OF EVIDENCE BY B157327 Pte BACKHUS J (R REGT C)
I am B157327 Pte Backhus J (R Regt C) RP 11 CBR Bn . On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decarie. As we passed the staircase I saw Pte Decarie lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other escorts of the party ran after him. I stayed with the balance of the prisoners.

Signed by (B157327 Pte Backhus J)

FIFTH WITNESS Evidence of R Foston Pro Sgt Documentary
EXHIBIT "I"
MESSAGE FORM Date Time of Origin
28/0830 A
From(A) Pro Sgt
To CSM 58 Coy
Originator's No 113 RP
Sir:
We have this man in town guard room(.) Records show that he belongs to your coy Please advise true or not and time of OC orders.

Signed R Foston Pro Sgt

SIXTH WITNESS Evidence of J Henry Carson Lt Col Documentary
EXHIBIT "J"
HQ 13 CANADIAN BASE REINFORCEMENT BATTALION

2 CBR Gp

13 CBR Bn/6-O/D
31 Aug 45

O i/c
Cdn Sec 2 Ech
BAOR
D77746 Pte DECARIE R

1. Ref your EA8/414 unclassified d/301700B.

2. The m/n soldier arrived here along with several others around 15 Jul 45 with as far as can be learned now no documents.

3. He was held here for some time pending arrival of documents. None arrived and since he became restless doing nothing but waiting, we put him to work as a shoimaker and he has done a very good job.

4. He has never been TOS here.

5 He is being forwarded today to the Lake Sup R.

6 For your information please.

RVS/rh

Copy to Lake Sup Regt

J Henry Carson Lt Col
Commanding
13 CBR Bn 2 CBRG

I certify that in my ipinion the attendance of these witnesses is owing to their absence on duty not readily procurable and written statements of their evidence signed by them have been read to the accused and are attached hereto as Exhibits A?B?C,D,E,F,G,H,I,J, RP 4 (G)

"LA Hardy Capt
(LA Hardy) Capt

I do not require the attendance of the above witnesses for the purpose of cross-examination

"D77746 Pte Decarie R"
(D77746 Pte Decarie R)

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

I do not wish to make a statement or give evidence on oath,

The accused does not call any witnesses.

"R Decarie"

D-77746 Pte Decarie R.

I certify that the foregoing Summary of Evidnece consisting of five pages was taken down by me in the presence of the accused and that RP 4 (C)(D)(E) and (F) have been complied with.

In the Field.
14 Sep 45

"L A Hardy" Capt.
(L A Hardy) (Capt)

In the Field
10 Sep 45.

I D-77746 Pte Decarie R of the Lake Superior Regiment (Motor) request that the commanding Officer appoint as my defending officer:

Capt H P Fisher

If this officer is not available I request that the Commanding Officer appoint any officer he deems fit. Appointed Officer to be my defending officer in my forthcoming Field General Court Martial.

"R Decarie R"

D-77746 Pte Decarie R.
The Lake Sup R (M).

"A"

LAKE SUP R/1(A.SC)

18 APR 45

TO: Dis & Pay Section
2 Ech

THE LAKE SUPERIOR REGIMENT (MOTOR)

70

12 DEC 44

ABSENT WITHOUT LEAVE
AWL from 2200 hrs 2 NOV 44 Still absent 2200 hrs 24 NOV 44(22nd day)
D77746 Pte DECARIE R

STRENGTH DECREASE
SOS as des wef 30 NOV 44 having been dec illegally absent by CI INQ from
2200 hrs 2 NOV 44 Deficiencies in kit $18.79
D7746 Pte DECARIE R Equip Rep "C"

"J Mac Rae" Lt. C3

"B"

TO: Dis & Pay Section
2 Ech

LAKE SUP R/1(A.SC)

18 APR 45

THE LAKE SUPERIOR REGIMENT (MOTOR)

14

6 APR 45

STRENGTH INCREASE
TOS on app from des wef 11 DEC 44 D77746 Pte DECARIE R Equip Rep "C"

ABSENT WITHOUT LEAVE
AWL from 2130 hrs 21 DEC 44 App from AWL 1700 hrs 25 JAN 45
D77746 Pte DECARIE R
AWL from 0650 hrs 5 FEB 45 Ret from AWL 0001 hrs 28 FEB 45 (Arb time)
D77746 Pte DECARIE R

11 CBREn ?

"J. MacRae" Lt.
O3

CHARGE

Army Form B 252
(See King's Regulations)

DIVISION

LAKE SUPERIOR REGIMENT, 4 CDN ARMD Regiment

ATT'd 58 COMPANY, 13 C.B.R.B. Battery / Squadron / Troop or / Company

CHARGE against No. D.77/46 Rank PTE

Name DECARIE, R.

Place TILBURG, HOLLAND Date of Offence 25 JAN 45

OFFENCE WOAS: Was Absent Without Leave.

"Illigible" Capt.
(Offr i/c Patrols)

Names of Witnesses :—

H.102302 PTE.THWAITES,D.J.-No.11 Cdn Pro Company.

B.97143 CPL. BINGHAM,J.C.- No.11 Cdn Pro Company.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded The.....produced as documentary evidence, was read to the accused, marked Exhibit "C"(C) signed by me and attached hereto.

By whom Awarded "L.M. Hardy" Capt.

Adjutant.

P.T.O.

T)158

"A"

LAKE SUP R/1(A.5C)

18 APR 45

To: Dis & Pay Section
2 Ech

THE LAKE SUPERIOR REGIMENT (MOTOR)

70

12 DEC 44

ABSENT WITHOUT LEAVE
AWL from 2200 hrs 2 NOV 44 Still absent 2200 hrs 24 NOV 44(22nd day)
D77746 Pte DECARIE R

STRENGTH DECREASE
SOS as des wef 30 NOV 44 having been dec illegally absent by CT INQ from 2200 hrs 2 NOV 44 Deficiencies in kit $18.79
D77746 Pte DECARIE R Equip Rep "C"

"J Mac Rae" Lt.
C3

Originating clerks initials

Officer in Charge

Canadian Section GHQ 2nd Echelon

The above produced as documentary Evidence, was read to the accused, marked Exhibit "A" signed by me and attached hereto.

"L.M. Hardy" Capt.

"B"

LAKE SUP R/1(A.SC)

TO: Dis & Pay Section
2 Ech

18 APR 45

THE LAKE SUPERIOR REGIMENT (MOTOR)

14

6 APR 45

STRENGTH INCREASE
TOS on app from des wef 11 DEC 44 D77746 Pte DECARIE R Equip Rep "C"

ABSENT WITHOUT LEAVE
AWL from 2130 hrs 21 DEC 44 App from AWL 1700 hrs 25 JAN 45
D77746 Pte DECARIE R

AWL from 0650 hrs 5 FEB 45 Ret from AWL 0001 hrs 28 FEB 45 (Arb time)
D77746 Pte DECARIE R

11 CERBn ?

"J. MacRae" Lt.

C3

The ..... produced as documentary evidence was read to the accused, marked Exhibit "B" signed by me in the Summary:

"L.M. Hardy" Capt.

Army Form B 252
(See King's Regulations)

CHARGE DIVISION

LAKE SUPERIOR REGIMENT, 4 CDN ARMD — Regiment

ATT'd 58 COMPANY, 13 C.B.R.B. — Battery / Squadron / Troop or Company

CHARGE against No. D.77746 Rank PTE

Name DECARIE, R.

Place TILBURG, HOLLAND Date of Offence 25 JAN 45

OFFENCE WOAS: Was Absent Without Leave.

"Illigible" Capt.
(Offr i/c Patrols)

Names of Witnesses:— Company.

H.102302 PTE.THWAITES,D.J.-No.11 Cdn Pro Coy.

B.9/143 CPL. BINGHAM,J.C.- No.11 Cdn Pro Company.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded: The.....produced as documentary evidence, was read to the accused, marked Exhibit "C"(C) signed by me and attached hereto.

By whom Awarded: "L.M. Hardy" Capt.

Adjutant.

P.T.O.

T/156

STATEMENT OF EVIDENCE IN THE CASE OF

EVIDENCE

D.77746 PTE. DECARIE, R.
Lake Superior Regiment, 4 Cdn Armd Division,
Att'd 58 Company, No.13.CBRB.

Sir:

At approximately 1700 hrs., 25 Jan 45, while on duty at the Camp Enquiries Post at Main HQ First Cdn Army, I was approached by the a/m soldier, who informed me that he was Absent Without Leave from his Unit. He stated that he absented himself on the 19 Dec 44.

I then placed Pte. Decaries under Close Arrest and later escorted to No. 11 Cdn Provost Company H.Q.

"D.J. Thwaites" Pte
H.102302 (D.J. Thwaites)
No. 11 Cdn Provost Company.

I have read the above Statement of Evidence and corroborate same:

"I.C. Bingham" Cpl
B.97143 (I.C. Bingham)
No. 11 Cdn Provost Company.

REMARKS

REMARKS

"D" Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at 109(British) General Hospital on the 11th day of April 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D77746 Private. R. De/Carrie, Lake Superior Regiment, of Canada.

DECLARATION.

The Court declare that D.77746 Private. R.De-Carrie, Lake Superior Regiment of Canada, illegally without leave from 109(British) General Hospital B.L.A. on the 16th day of March 1945. That he is still absent, and that on the 16th, day of March 1945 he was deficient, and that he is still deficient of the following articles:-

Article		Value.
Blouse, Battle Dress	one.	19. 9d
Braces, pairs.	one.	1. 4½d

Over/Certified

The... produced as domentary Evidence, "D"
was read to the accused, marked Exhibit
sitned by me and attached hereto.

"L.M. Hardy" Cap.t

Shirts, Angols drab.	one.	9. 1d.
Trousers, Battle Dress, pairs	one.	19. 6½d
Total Value		£2. 9. 9½d

Names of President and Members

PRESIDENT (Sgd) E.L. RUBIN, Major R.A.M.C. 87694
MEMBER (Sgd) E.M. HALL, Lieut R.A.M.C. 317644

Signature of Commanding Officer (Sgd) A.J. BADO Colonel

CERTIFIED TRUE COPY. OF ORIGINAL ENTRY IN ARMY BOOK 161

22 June 1945

"Illigible" Colonel.
Signature of Officer having custody of the Original Record.

(£1,00) Wt.10000/791 150,000 4/42 A.& E.W.Ltd. Gp.698 Form/B 115/56
(£2199) Wt.[illegible]/1800 100,000 10/42 " "

"E"

TO: A8 A5X3

3 SEP 45

EXTRACTS FROM: UNIT S List LAKE SUP REGT

Part II Order No. 54 dated 17 May 45

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 16 Mar 45
D77746 PTE DECARIE R (X 3 List)

The...produced as documentary evidence was read to the accused, marked Exhibit E signed by me and attached hereto.

"L.M. Hardy" Capt.

"W.H. Boughlin" Capt.

BJS

In the Field,
4 Jan 45.

Charge against D77746 Pte. Decarie, R.F., when in confinment escapint. AA Sec 22

Statement of evidence in the case of D77746 Pte. Decarie, R.F.

On the 21st Dec 44, I was acting in the capacity of Guard Commander of 58 Fwd. Rft. Coy, 13 C.B.R.Bn.

I had under close custody the above mentioned soldier.

At approx, 2130 hrs 21st Dec 44, the electric lights went out I immediately lit a homemade oil lamp. Approx. 10 minutes later the lights came on again. It was then I discovered one of the prisoners, Pte. Decarie R.F. had escaped. I immediately took out four of my guard and searched the building and the grounds for him. I did not find any trace of him, so informed the C.S.M. the next morning at approx 0830 hrs 22nd Dec 44, the Pte. Decarie had escaped.

"F.W.Richardson" Cpl.
(A57003 Cpl. Richardson F.W.)

The.....produced as documentary evidence, was read to the accused marked Exhibit "F" signed by me and attached hereto.

"L.M. Hardy" Capt.

"G"

STATEMENT OF EVIDENCE IN THE CASE OF B77746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE by B147173 Rfn DUNCAN, G.

"On 5 Feb 45 I was employed as Regt'l Police 11 CBR BN. I was detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts."

"On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor."

"I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor, one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him, but because it was dark and because the staircase was crowded with men coming and going from breakfast, I lost him. I later found the man missing to be Pte Decaire.

The.....produced as demontary evidence, was read to the accused marked Exhibit "G" signed by me and attached hereto

G Duncan
.....
(B147173 Rfn Duncan, G.)

"L.M. Hardy" Capt.

"H"

STATEMENT OF EVIDENCE IN THE CASE OF 877746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE BY B157327 Pte BACKHUS, J.) (R Regt C)

"I am B157327 Pte Backhus, J.(R Regt C) PP 11 CHR BN. On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decaire. As we passed the staircase I saw Pte Decaire lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other two escorts of the party ran after him. I stayed with the balance of the prisoners."

The.....produced as documentary evidence, was read to the accused marked Exhibit "H" signed by me and attached hereto.

J. Backhus
.....
(B157327 Pte Backhus, J.)

"L.M. Hardy" Capt.

ARMY FORM C2136 (Small)

MESSAGE FORM "I"

Register No.

Call | Sri. No. | Priority | Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: PRO SGT

Date-Time of Origin: 28/0830A

Office Date Stamp

For Action

TO C.S.M. 58 Coy

(W) For Information (INFO)

Message Instructions | GR

Originator's No.

113 R.P. SIR

WE HAVE THIS MAN IN TOWN GUARD ROOM(.) RECORDS SHOW THAT HE BELONGS TO YOUR COY PLEASE ADVISE TRUE OR NOT AND TIME OF O.C. ORDERS(.)

The....., produced as documentary evidence, was read to the accused, marked Exhibit "I" signed by me and attached hereto.

"L.M. Hardy" Capt.

This Message may be sent AS WRITTEN by any means {EXCEPT} WIRELESS

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Originator's Instructions Degree of Priority

Time	Sender	Op.
THI or TOR		
Time cleared		

Signed R. Foston Pro Sgt.

Signed

"J"

HQ. 13 CANADIAN BASE REINFORCEMENT BATTALION

2 C.B.R.Gp.

13 C.B.R.Bn/6-O/D
31 Aug 45

Arrived 2100 hrs
31 Aug 45

"W.Barron" Cpl.

O i/c
Cdn Sec 2 Ech
B.A.O.R.

D.77746 Pte. DECARIE R.

1. Ref your EA8/414 unclassified, d/301700 B.

2. The m/n soldier arrived here along with several others around 15 Jul 45 with, as far as can be learned now, no documents.

3. He was held here for some time pending arrival of documents. None arrived and since he became restless doing nothing but wait we put him to work as a shoemaker and he has done a very good job.

4. He has never been TOS here (was put on PE of 13 Bn by bond [illegible] Parker [illegible] Then to [illegible] HQ [illegible] as Bn Shoemaker)

5. He is being forwarded today to the Lake Sup Regt.

6. For your information, please.

The....produced as documentary evidence was read to the accused, marked Exhibit "J" signed by me and attached hereto.

"L.M. Hardy" Capt.

"J.Swetham" Capt.
for(J. Henry Carson) Lt.-Col.
Commanding
13 C.B.R.Bn. 2 C.B.R.Gp.

RVS/rn

Copy to: Lake Sup Regt.

ARMY FORM B.296 (WAR). 26

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D77746	Pte	Decarie ROLAND Roger	Lake Superior Regt (Motor)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 40 — 1 times.

For AA 15(1) — 2 times.

For ____ — ____ times.

For ____ — ____ times.

Date of first entry in Field Conduct Sheet 10 Feb 1943

Date of last entry in Field Conduct Sheet 23 Apr 1944

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~[illegible]~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for ~~25~~ 33 days in military custody, i.e., nil days in open arrest, ~~25~~ 33 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 24 years 1 month 19 days

6. The date of his ~~[illegible]~~ attestation is 16 July 41

~~[illegible]~~

‡State the military decorations (if any) held by accused.

8. The accused is in possession of: CVSM & Clasp

~~[illegible]~~

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Exhibit "K"

[illegible]

(27833) W1.24928/3404 28,000 7/44 A.S.&S.W.Ltd. Gp.693 Forms/B.296/(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of Sep 1945

(W.S. Short)
Lake Sup R (Mot)
Lt & Adjt

Exhibit "Y"

No. D77746 Name Decarie R. Sqn, Battery, or Company Corps C.I.C. Date of enlistment 16 Jul 41 GC Badges Service or Proficiency Pay "N.A. Dem" Maj. Pres. (AFB 122) 16/P&S/136 (5413)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
First sheet destroyed			16	Jan 42 Last entry 15 Jan 42 Cases AA40 Coduct to the prejudice etc being in unlawful possession of the property of an Army Training Est (one piece of leather)	Drunk NIL Mr A Court Sgt Hopley L/Cpl Hailey (a) Pte Peladeau Pte Coxelie	J.H. Atkinson Lt. deprived of 7 days pay AA 40	11 Feb 43	Capt No3 A.H.Trendhad	(Brighton Tachmere Training Gp Forft 3 d pa FRI 149 (2)
Field	10 Feb 43	Tpr							
Field	22 Mar 43	Pte		AA15(1)AWLfrom 0800 hrs 22 Mar 43 till 1500 hrs 27 Mar 43(5 days 7 hrs)	Cpl Yearwood DOCUMENTARY	21DAYS FP 21 days forf pay FRI 149(1b)	30 Mar 43	Col A.S. Pearson	Forfts 6 da pay FRI 149(1 (a)cost of a apprehension 8/5
Field	23 Apr 44	Pte		AA15(1)AWLfrom 2359 hrs 23 Apr 44 to 1200 hrs 26 Apr 44(2 days 12 hrs 1 min)	L/Cpl Bellamy DOCUMENTARY	28 days FP	29 Apr 44	Lt.Col J.W. Murrell	Auto forft 3 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy from Regt'l documents	"W.E.Short" (W.E.Short) Lt& Adjt The Lake Superior Regt (Mot)				

Plea in Mitigation ... ed.

Sir: I joined the army 16 Jun 41. My intention at the time was the best. I joined the RCR. transferred to Camerons of Ottawa. then I was in equip and repair with CH of O. Some of us were sent to CBRG and they sent me to Lake Sup R. from 2 CBRG. I was paraded before C.O. of the Lake Sup R. and asked him to send me back to the CH of O because I thought the 4th Div would not see action for a while. The Col refused my request and told me to soldier in the Lake Sup R which I have tried my best to do. I came to France before the LSR and joined the Regt at Falaise. I fought from Falaise to Holland then while LOB I got news from home saying that 4 of my cousins were killed. I also got news that my mother was dead. Then my grandfather died too. There I still remained there for awhile until I was not having any more news from home which I know now because some of my friends told my lady friend that I was dead. The news got home and they stopped writing. When I didn't receive any more letters from home I thought my mother and cousins and I figured that there was nothing much left to go back to Canada for. The day before I was sent out LOB I was in the front line and quite a few of the boys got killed, some tanks knocked out and so on. Our Major from the Grenadier Gds got a hole in the head then I lost my head and I was sent out LOB. While LOB I thought of home and everything that had happened and I took out.

When I was AWL I started thinking what my father used to say to me. I thought of my father who was a good soldier in the last war. I didn't want him to know what I had been doing. I knew at the time that the war in Europe was finished. But I thought if I joined for Burma before they catch me up that it would re-establish me. Then I turned myself in to the Leopold Barracks at Ghent. I told the Sgt Maj that I was AWL and asked him where the guard room was. He asked me how long I had been gone. I told him around four months. so I started to work there. Then 2 CBRG moved to Holland. I was left with the rear party. Two days after 2 CBRG was in Holland I was sent up to Nijmegen with an English truck. I reported to theBOR that I was sent there by the Rear Party in Leopold Barracks. They told me to report to 4 Coy which I did. Then I was transferred to 6 Coy, back i nto 4 Coy and then to 2 Coy.

Major Purdy was i/c 2 Coy at time. I asked him if I could sign for CAOF or CAFF. Then the Sgt told the officer that all the papers were through already. So he asked me if I would want to go home. with 1 Div. I told Him I didn't want to go home I wanted to go to CAOF to make for the wrong I had done. I told him I was a qualified shoe-maker and equip repairer. I went to the BOR and I was told there was a vacancy for a shoe-maker. I was paraded to Maj Purdy and asked for job as shoeman. So they put me on staff as Bn shoe maker. I was supposed to remain there till the papers came through for CAOF. Then this Regt found out I was in 13 Bn and told them I was A.W.L. Then they looked me up and brought me to Lake Sup R.

That is about all sir.

I would like to add I would like to go to C.A.O.F.

I am 24 years of age.

I was wounded by a V1 in Antwerp in Feb. The wound stripe was issued to me at 13 Bn. I have one brother in the marines. I have five sisters. My father was in a M.G. Bn in last war.

I was wounded in chest, eye, nose, head.

When I was away I went to civilian people that i knew when I was fighting.

I like the L.S.R. I knew a few in C H of O.

I went to front line to fight with rest of the boys leaving my equip-repair job but they did not drop my trades pay.

I feel that I deserve my punishment and will take any punishment.

I don't blame the Army for the spot I'm in now - It is my own fault.

RECORD AT CMHQ IN AB 188 54-100

CFA86 (To lieu of AFA 40/P & S/1698)

FIELD GENERAL COURT-MARTIAL

27 Sep 45

Convened by Order of G. D. de S. Wotherspoon Comd 4 Can Armd Bde dated 3 Oct 45

RECEIVED 29 OCT 1945 JAG BRANCH CMHQ Number

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 77746	Pte.		Roger.	Decarie	Lake Sup R (Mot)

PROCEEDINGS REVIEWED
K Lucas Capt
REVIEWING OFFICER JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held at (in) UK (or (country) 4 Can Armd Bde on (date(s)) 3 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MANL pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2); accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3) NA

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0000 hours trial commences. NAD

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ NAD

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ an interpreter? Ans NAD

~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ ~~The shorthand writer is sworn.(1)~~ an shorthand writer? Ans NAD

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2) NAD

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MANL p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N.A DANN	27 Can Armd Regt.
Member	Capt.	C.F. Reitenstein	22 Can Armd Regt.
Member	Lieut.	W. Morewood	21 Can Armd Regt
Judge-Advocate	Maj.	E.E. Wasson	4 Can Armd Div
Prosecutor	Capt.	L.A. Hardy	Lake Sup R (Mot)
Defending Offr	Capt.	H.P. Fisher	Lake Sup R (Mot.)

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused _____ before arraignment makes(s) (no) ~~(a)~~ plea. (1) NIL

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule. NAD

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried ~~separately~~ see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D-77746 Pte Desarie R. of the Lake Superior Regiment (Motor) a soldier of the Canadian Army Overseas, placed on active Service is charged with:

First Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

On 2 Nov 44 at 2200 hrs, did absent himself without leave, from his unit to, 0001 hrs, 11 Dec 44 when he surrendered to the Provost.
(Total absence 38 days, 2 hrs.)

Second Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

On 21 Dec 44 at 2130 hrs, did absent himself without leave, from 12 CBH Bn, to 1700 hrs 25 Jan 45 when he surrendered himself to the Provost at HQ First Cdn Army.
(Total absence 34 days, 19 hrs, 30 mins)

Third Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

On 5 Feb 45 at 0630 hrs, did absent himself without leave, from 11 CBH Bn, to 0001 hrs, 20 Feb 45 (Arm Time) when he surrendered himself.
(Total absence 15 days, 17 hrs, 10 mins)

Fourth Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he,

On 16 March 45, did absent himself without leave from 109 Fr Gen Hosp to 27 Jun 45 will be surrendered himself at Leopold Barracks in Ghent.
(Total absence 121 days)

In The Field
24 Sep 45

(H.H. Stapleford) Lt Col
A.A.A.G. 4 Cdn Armd Bde
The Lake Superior Regt (M)

To be tried by Field General Court Martial.

27 Sep 45

(H.H. Stapleford) Maj.,
DAAAG 4 Cdn Armd Bde.
for (G D de S Wotherspoon) Lt Col
Comd 4 Cdn Armd Bde

Copy #1

RECORDED AT CMHQ IN AB 160 5 54-100

FIELD GENERAL COURT-MARTIAL

CFAFRS (The Dept of AFRA) 40-P 36-B-1698 (1945)

Convened by Order of G.O.C. 1 Can Army Tps Comd dated 27 Sept 45

RECEIVED 29 OCT 1945 JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/appmt, if any, see AA 182, 183. (as, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Appmt.	Full Christian Names.	Surname.
D 77746	Pte.		Roger Decarie	Lake Sup R (MG)

PROCEEDINGS REVIEWED
K Lawrence Capt
30 Oct 45
REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at (the 21st Can Army Tps Coy) on (date(s)) 30 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 38/26.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in NML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 133.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ ~~Lt~~ as interpreter? Ans ~~—~~

~~The Interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans ~~—~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(6). If objection, see procedure AA 51, RP 25, 71, 118, NML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N.A. DANN	27 Can Armd Regt.
Member	Capt.	C.E. Reifenstein	22 Can Armd Regt.
Member	Lieut.	W. Morewood	21 Can Armd Regt
Judge-Advocate	Maj.	E.E. Wasson	4th Can Armd Div
Prosecutor	Capt.	L.A. Hardy	Lake Sup R (MG)
Defending Offr	Capt.	H.P. Fisher	Lake Sup R (MG)

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ p 3.)

A8. The accused ~~—~~ before arraignment make(s) (no) ~~(a)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Not at this time Sir (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E2 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement~~(1) The Court decides (not) to advise accused to change ~~his (their)~~ plea(s) of Guilty to Not Guilty on the four charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s)~~. ~~Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D-77746 Pte Decarie R. of the Lake Superior Regiment (Motor) a soldier of the Canadian Army Overseas, placed on active Service is charged with:

First Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

On 2 Nov 44 at 2200 hrs, did absent himself without leave, from his unit to 0001 hrs, 11 Dec 44 when he surrendered to the Provost.
(Total absence 38 days, 2 hrs.)

Second Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

On 21 Dec 44 at 2130 hrs, did absent himself without leave, from 13 CBH Bn, to 1700 hrs 25 Jan 45 when he surrendered himself to the Provost at HQ First Cdn Army.
(Total absence 34 days, 19 hrs, 30 mins)

Third Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

On 5 Feb 45 at 0650 hrs, did absent himself without leave, from 21 CBH Bn, to 0001 hrs, 28 Feb 45 (Arb Time) when he surrendered himself.
(Total absence 23 days, 17 hrs, 10 mins)

Fourth Charge
Army Act
Sec 15 (1)

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

On 16 March 45, did absent himself without leave from 109 Br Gen Hosp to 27 Jun 45, till he surrendered himself at Leopold Barracks in Ghent.
(Total absence 121 days)

The Field
Sep 45

H.H.A. Parker Lt-Col
The Lake Superior Regt (M)

To be tried by Field General Court Martial.

Sep 45

(R.H. Stapleford) Maj.,
DAA&QMG 4 Cdn Armd Bde.
for (G D de S Wotherspoon) Lt Col
Comd 4 Cdn Armd Bde

Nat Pres.

COPY #1

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) ~~Appmt, A/R or A/Appmt~~	Full Christian Names.	Surname.	Unit.
D 77746	Pte		Roland ~~Roger~~	DECARIE	Lake Sup R(M)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Sep 45 endorsed ~~by me, or~~ by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Ed Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N A DANN	27 Cdn Armd Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	C F REIFFENSTEIN	22 Cdn Armd Regt
Lieutenant	W MOREWOOD	21 Cdn Armd Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieutenant	A K L EAVES	28 Cdn Armd Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Major	E E Wasson	4 Cdn Armd Div

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 fn 2.)

(G D deS Wotherspoon) Lt Col (Rank.)

Dat: 27 Sep 45

Commanding 4 Cdn Armd Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 5) 40/F & S/1697 (5143)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Can 562, RP 26, 29, 111.)

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 762, RP 82, 111.)

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (RD (Can) 2693.)

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (RP 95(C)), any objections (RP 85(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: None.

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure due regard to the public service. (*RP 116* provides that for procedure on defence RP 40-42 will apply so far as practicable, having (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) As option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 2, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence* except as *provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by *JA, if any.* (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, *if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, *if any*, and then joined by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy as lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 96(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 114(C), MML p 762.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

M.I.R. Lake Superior Regt.(M),

3 OCT 45.

I hereby certify that I have this day examined D 77746 Pte. DeCarie R. and that he is FIT to stand trial by court martial.

J.W.Pickering Capt.

J.W.Pickering Capt.R.C.A.M.C.

Att. The Lake Superior R.(M).

W.A. Pres.

Plea in mitigation by accused.

Sir - I joined the army 16 Jul '41. My intention at the time was the best. I joined the R M R - transferred to Cameron H. of Ottawa - then I was in equip. repair with C H of O. Some of us were sent to CBRT and they sent me to Lake Sup. R. from 2 CBRT.

I was paraded before Col of Lake Sup R. and asked him to send me back to the C H of O. because I thought the 4th Div. would not see action for awhile. The Col. refused my request and told me to soldier in the Lake Sup R. which I have tried my best to do - I came to France before the L SR and joined the Regt at Falaise. I fought from Falaise to Holland then while LOB I got news from home saying that 4 of my cousins were killed. I also got news that my mother was dead. Then my grand father died too. Then I still remained there for awhile until I was not hearing any more news from home which I know now because some of my friends told my lady friend that I was dead. The news got home and they stopped writing. When I did it receive any more letters from home I thought of my mother and cousins and I figured that there was nothing much left to go back to Canada for. The day before I was sent out LOB I was in the front line and quite

Edw

a few of our boys got killed - some tanks knocked out and so on. Our maj. from the Grenadier Gds got shot in the head then I lost my head and I was sent out L O B. While L O B I thought of home and every thing that had happened and I took out.

When I was awh I started thinking what my father used to say to me. I ~~asked~~ thought of my father who was a good soldier in the last war. I didn't want him to know what I had been doing. I knew at the time that the War in Europe was finished. But I thought if I joined for Burma before they catch me up that it would ~~take a lot of my back~~ re-establish me. Then I turned myself in to the Mysore Barracks at Fleet. I told the Sgt maj. that I was ~~there~~ awh and asked him where the guard room was. He asked me how long I had been gone. I told him around four months. So I started to work there. Then 2 C.B.R. I moved to Holland. I was left with the rear party. Two days after 2 C.B.R. I was in Holland. I was sent up to Nijmegen with an English truck. I reported to the B.O.R. that I was sent there by the Rear Party in Mysore Barracks. He told me to report to 4 Coy which I did. Then I was transferred to 6 Coy, back into 4 Coy, then to 2 Coy.

Ed

Maj. Purdy was 1/c 2 Coy at time
I asked him if I could sign for CAOF
or CAPF. Then the Sgt. told the Officer
that all the papers were there already. So
he asked me if I wanted to go home with
1 Div. I told him I didn't want to go home
I wanted to go to CAOF to make up for the
wrong I had done. I told him. I was a
qualified shoemaker also and equip repairer
I went to the BOR and I was told there was
a vacancy for a shoemaker. I was paraded
to Maj. Purdy and asked for job as shoeman.
So they put me on staff as Bn shoemaker.
I was supposed to remain there till the
papers came there for CAOF. Then this Regt
found out I was in 13 Bn and told them I
was Arch. Then they locked me up and
brought me to halt Sup R.

That is about all Sir.

I would like to add I would like to go
to CAOF.

I am 24 years of age.

I was wounded by a V1 in Cent Mays in Feb.
The wound stripe was issued to me at 13 Bn.
I have one brother in the Marines. I have five
sisters. My father was in a Ma T. Bn in
last War.

I was wounded in chest, eye, nose, head.
When I was away I went to civilian people
that I knew when I was fighting.

EEW

I like the L. A. R. I knew a few in CH of O.

I went to front line to fight with rest by the boys having my equip. rep air job but they did not drop my trades stay.

I feel that I deserve my Punishment and will take my Punishment.

I don't blame the Army for the spot I'm in now - It is my own fault.

EXHIBIT 'A'

Nat [illegible] Pres

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D-77746 Pte Decarie R. The Lake Superior Regiment (Motor) Canadian Army Overseas, charged with, First Charge A.A. 15 (1) Absenting himself without leave from his Unit from 2200 hrs 2 Nov 44 to 0001 hrs 11 Dec 44. Second Charge A.A. 15 (1) Absenting himself without leave from 13 CBR Bn from 2130 hrs 21 Dec 44to 1700 hrs 25 Jan 45. Third Charge A.A. 15 (1) Absenting himself without leave from 11 CBR Bn from 0650 hrs 5 Feb 45 to 0001 hrs 28 Feb 45. Fourth Charge A.A. 15 (1) Absenting himself without leave from 109 Br Gen Hosp from 16 Mar 45 to 15 Jul 45.

FIRST WITNESS Lt. E.N. Steele a member of The Lake Superior Regiment (Motor) having been duly sworn states:

I am Lt. E. N. Steele Officer i/c records of The Lake Superior Regiment (Motor). I now produce from my custody - under RP4G -

(a) Pt II Order Extract 2 Ech No. 70 d/12 Dec 44 marked Exhibit "A".

(b) Pt II Order Extract 2 Ech No. 14 d/6 Apr 45 marked Exhibit "B".

(c) Certificate of Surrender signed D.J. Thwaites and J.C. Bingham d/25 Jan 45, marked Exhibit "C".

(d) Declaration Court of Inquiry 109 Br Gen Hosp d/11 Apr 45. marked Exhibit "D".

(e) Pt. II Order Extract 2 Ech No. 54 d/17 May 45, marked Exhibit "E".

E. N. Steele

Lt. E.N. Steele A/Adj.

EXHIBIT "A"

PART II ORDER EXTRACT FORM

To: Dis and Pay Section 99/20/ LAKE SUP R/I(A.5C)
2 Ech 18 APR 45

EXTRACTS FROM: UNIT THE LAKE SUPERIOR REGIMENT (MOTOR)

Part II Order No 70 dated 12 DEC 44

ABSENT WITHOUT LEAVE

AWL from 2200 hrs 2 Nov 44 Still absent 2200 hrs 24 Nov 44 (22nd day) D77746 Pte DECARIE R.

STRENGTH DECREASE

SOS as des wef 30 NOV 44 having been dec illegally absent by CT INQ from 2200 hrs 2 Nov 44 Deficiencies in kit 18 dollars 79 cents.
D77746 Pte DECARIE R Equip Rep "C"

Signed by - Officer IC Records
Can. Sec. 2 Ech Bq. 21 A Gp.

EXHIBIT "B"

PART II ORDER EXTRACT FORM

To: Dis and Pay Section 99/20/ LAKE SUP R/I(A.SO)
2 Echn 18 APR 45

EXTRACTS FROM: Unit THE LAKE SUPERIOR REGIMENT (MOTOR)
Part II Order No. 14 dated 6 Apr 45

STOPPAGE INCREASE
ICS on App from Gen wef 11 DEC 44
D 77746 Pte DECARIE R Equip Rep "C"

ABSENT WITHOUT LEAVE
AWL from 2130 hrs 21 DEC 44 App from AWL 1700 hrs 25 JAN 45
D 77746 Pte DECARIE R

AWL from 0650 hrs 5 FEB 45 Ret from AWL 0001 hrs 20 FEB 45(Arb time)
D 77746 Pte DECARIE R

Signed by - Officer IC Records
Dis. Sec. 2 Echn, HQ 21 A Gp.

EXHIBIT "C"

CHARGE

LAKE SUPERIOR REGIMENT 4 CDN ARMD DIVISION
ATT'D 58 COMPANY, 15 C.B.'R.B.

CHARGE against No: D-77746 Rank PTE

Name DECARIE R.

Place TILBURG, HOLLAND Date of Offence 25 Jan 45.

OFFENCE BCAB: Was Absent Without Leave.

Signed by (Offr i/c Patrols)

Names of Witnesses:-
B-102302 Pte T'WAITES, D.J. No. 11 Can Pro Company.
B. y 143 Sgt BINGHAM, J.C. No. 11 Can Pro Company.

STATEMENT OF EVIDENCE IN THE CASE OF

D.77746 PTE DECARIE, R.
Lake Superior Regiment, 4 Can Armd Division,
Att'd 58 Company, No. 15 CBRB.

Sir:

At approximately 1700 hrs., 25 Jan 45, while on duty at the Camp Enquiries Post at Main HQ First Can Army, I was approached by the a/m Soldier, who informed me that he was Absent Without Leave from His Unit. He Stated that he absented himself on the 19 Dec 44.

I then placed Pte. Decarie under Close Arrest and later escorted to No. 11 Can Provost Company H.Q.

Signed by - B 102302 D.J. Thwaites
No. 11 Can Provost Company.

I have read the above Statement of Evidence and corroborate same:

Signed by - B 97143 J.C. Bingham
No. 11 Can Provost Company

EXHIBIT "D" In lieu of Army Form B. 1115.

RECORD OF THE DECLARATION OF A COURT OF A INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

RECORD OF THE DECLARATION OF A COURT OF INQUIRY assembled at 109 (British) General Hospital on the 11th, day of April 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D77746 Private. R. Decarie, Lake Superior Regiment, of Canada.

DECLARATION

The Court declare, that D77746 Private. R. Decarie, Lake Superior Regiment of Canada, illegally absented himself without leave from 109 (British) General Hospital B.L.A. on the 16th, day of March 1945. That he is still so absent, and that on the 16th, day of March 1945 he was deficient, and that he is still deficient of the following articles:-

Article		Value
Blouse, Battle Dress.	one.	19.9 1/2d
Braces, pairs,	one.	1.4 1/2d
Shirts, Angola drab.	one.	.9 1d
Trousers, Battle Dress, Pairs	one.	19.6 1/2d
	Total Value	2. 9.9 1/2d

NAMES OF PRESIDENT AND MEMBERS

PRESIDENT (SGD) E.L. Rubin, Major R.A.M.C. 87694
MEMBER (SGD) E.M. Hall, Lieut R.A.M.C. 317644

Signature of Commanding Officer (Sgd) A.J. BADO. Colonel.

EXHIBIT "E"

PART II ORDER EXTRACT FORM

TO: AS 99/20/ A5X3
3 Sep 45

EXTRACT FROM: Unit X List LAKE SUP REGT
Part II Order No 54 Dated 17 May 45.

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 16 Mar 45

D 77746 PTE DECARIE R (X 3 List)

Signed by Officer IC Records
Cdn Sec 2 Ech HQ 21 A Gp.

SECOND WITNESS Evidence of A-57003 Cpl Richardson F.W. Documentary.

EXHIBIT "F"

In The Field
4 Jan 45.

Charge against D77746 Pte. Decarie R.F., when in confinment escaping. A.A. Sec 22

Statement of evidence in the case of D77746 Pte. Decarie, R.

On the 21st Dec 44, I was acting in the capacity of Guard Commander of 58 Fwd. Rft. Coy, 13 C.B.R. Bn.

I had under close custody the above mentioned soldier.

At approx, 2130 hrs 21st Dec 44, the electric lights went out I immediately lit a homemade oil lamp. Approx. 10 minutes later the lights came on again. It was then I discovered one of the prisoners, Pte. Decarie R.F., had escaped. I immediately took out four of my guard and searched the building and the grounds for him. I did not find any trace of him, so I informed the C.S.M. the next morning at approx 0630 hrs 22nd Dec 44, that Pte. Decarie had escaped.

Signed By - Cpl Richardson F.W.(A57003)

THIRD WITNESS Evidence of B-147173 Rfn Duncan, G. Documentary.

EXHIBIT "G"

STATEMENT OF EVIDENCE IN THE CASE OF D-77746 Pte DECARIE R.

STATEMENT OF EVIDENCE by B147173 Rfn DUNCAN G.

"On 5 Feb 45 I was employed as Regt'l Police 11 CBR Bn I was detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts."

"On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor."

"I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor, one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him, but because it was dark and because the staircase was crowded with men coming and going from breakfast, I lost him. I later found the man missing to be Pte Decaire.

Signed by - B147173 Rfn Duncan, G.

FOURTH WITNESS Evidence of B 157327 Pte Backhus J. Documentary.

EXHIBIT "H"

STATEMENT OF EVIDENCE IN THE CASE OF D77746 Pte DECARIE R.

STATEMENT OF EVIDENCE BY B 157327 Pte BACKHUS J. (R Regt C)

"I am B157327 Pte Backhus, J. (R Regt C) RP 11 CBR Bn. On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners

P.T.O.

to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decarie. As we passed the staircase I saw Pte Decarie lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other two escorts of the party ran after him. I stayed with the balance of the prisoners."

Signed by - (B157327 Pte Backhus J.)

FIFTH WITNESS Evidence of R. Foston Pro Sjt. Documentary.

EXHIBIT "I"

MESSAGE FORM

From (A) Pro Sjt. Date - Time of Origin 28/ 0830 A

To - C.S.M. 58 Coy

Originator's No. 113 R.P.

Sir

We have this man in town guard room (.) Records show that he belongs to your coy Please advise true or not and time of OC orders(.)

Signed R. Foston Pro Sjt.

FIFTH WITNESS Evidence of J. Henry Carson Lt.-Col. Documentary.

EXHIBIT "J"

H.Q. 13 CANADIAN BASE REINFORCEMENT BATTALION
2 C.B.R. Gp 13 C.B.R. Bn/6-O/D
31 Aug 45.

O i/c
Cdn Sec 2 Ech
B.A.O.R.

D.77746 Pte DECARIE R.

1. Ref your EAS/414 unclassified, d/301700 B.

2. The m/n soldier arrived here along with several others around 15 Jul 45 with, as far as can be learned now, no documents.

3. He was held here for some time pending arrival of documents. None arrived and since he became restless doing nothing but waiting, we put him to work as a shoemaker and he has done a very good job.

4. He has never been TOS here.

5. He is being forwarded today to the Lake Sup R.

6. For your information, please.

RVS/rh

Copy to: Lake Sup Regt.

J. Henry Carson Lt.-Col
Commanding
13 C.B.R. Bn 2 C.B.R. Gp.

I certify that in my opinion the attendance of these witnesses is, owing to their absence on duty, not readily procurable, and written statements of their evidence, signed by them, have been read to the accused and are attached hereto as Exhibits A,B,C, D,E,F,G,H,I,J. RP4 (G).

Lon A Hardy Capt
L.A. Hardy

I do not require the attendance of the above witnesses for the purpose of cross-examination.

P Decarie
P-77746 Pte Decarie P.

[redacted]
-PAGE SEVEN-

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

I do not wish to make a statement or give evidence on oath.

The accused does not call any witnesses.

D. Decarie
D77746 Pte Decarie R.

I certify that the foregoing Summary Of Evidence consisting of FIVE pages was taken down by me in the presence of the accused and that RP 4 (c) (d) (e) and (f) have been complied with.

In the Field
14 Sep 45

Lon A. Hardy Capt
L.A. Hardy (Capt)

In The Field
10 Sep 45

I D-77746 Pte Decarie R. of The Lake Superior Regiment (Motor) request that the commanding Officer appoint as my defending Officer:

Capt W. P. Fisher

If this officer is not available I request that the Commanding Officer appoint a n officer is deems fit. Appointed Officer to be my defending Officer in my Personal w. Field General Court Martial.

R Decarie
D 77746 Pte Decarie R.
The Lake Sup R. (M)

"A"

PART II ORDER EXTRACT FORM

TO: Dis & Pay Section
2 Ech

99/20/ LAKE SUP R/1(A.5C)

18 APR 45 19

EXTRACTS FROM: UNIT THE LAKE SUPERIOR REGIMENT (MOTOR)

Part II Order No. 70 dated 12 DEC 44

ABSENT WITHOUT LEAVE

AWL from 2200 hrs 2 NOV 44 Still absent 2200 hrs 24 NOV 44 (22nd day)
D77746 Pte DECARIE R

STRENGTH DECREASE

SOS as des wef 30 NOV 44 having been dec illegally absent by CT INQ from 2200 hrs 2 NOV 44 Deficiencies in kit $18.78
D77746 Pte DECARIE R Equip Rep "C"

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

The above ...produced as documentary evidence, was read to the accused, marked Exhibit "A" ...signed by me and attached for [illegible]

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records C 3
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

Originating Clerk's Initials

for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
W/P & S/1270 (8707)

10 "B"

PART II ORDER EXTRACT FORM

TO Dis & Pay Section
2 Ech

99/20/ LAKE SUP R/1(A,5C)

18 APR 45 19

EXTRACTS FROM: Unit THE LAKE SUPERIOR REGIMENT (MOTOR)

Part II Order No. 14 dated 6 APR 45

STRENGTH INCREASE
TOS on app from des wef 11 DEC 44
D77746 Pte DECARIE R Equip Rep "C"

ABSENT WITHOUT LEAVE
AWL from 2130 hrs 21 DEC 44 App ? from AWL 1700 hrs 25 JAN 45
D77746 Pte DECARIE R

AWL from 0650 hrs 5 FEB 45 Ret from AWL 0001 hrs 28 FEB 45 (Arb time)
D77746 Pte DECARIE R 11 CBR Bn?

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

The.....produced as document bry evidence was read to the accused, marked Exhibit.. "B"....signed by the Summary.

Lon A Hardy Capt

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records C3
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

for

Originating Clerk's Initials

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH-6
40, P & S/1278 (3757)

Army Form [illegible]
(See King's Regulations)

"C"

CHARGE

DIVISION

LAKE SUPERIOR REGIMENT, 4 CDN ARMY

ATT'd 58 COMPANY, 13 C.B.R.B.

(Regiment
(Battery
(Squadron
(Troop or
(Company

CHARGE against No: D.77746 Rank PTE.

Name DECARIE, R.

Place TILBURG, HOLLAND Date of Offence 25 JAN 45

OFFENCE WOAS: Was Absent Without Leave.

[signature] Capt

(Offr i/c Patrols)

Names of Witnesses :-

H.102302 PTE. THWAITES, D.J. - No. 11 Cdn Pro Company.

B.97143 CPL. BINGHAM, J.C. - No. 11 Cdn Pro Company.

Signature of O.C. Battery,)
Squadron, Troop or Company)

Punishment)
Awarded)

The ....., produced as documentary evidence, was read to the accused, marked exhibit: "C" (C)

By whom)
Awarded)

[signature] Capt
Adjutant

P.T.O.

7/1/58

9MD/486

STATEMENT OF EVIDENCE IN THE CASE OF

D.77746 PTE. DECARIE, R.
Lake Superior Regiment, 4 Cdn Armd Division,
Att'd 58 Company, No. 13 CBRB.

Sir:

At approximately 1700 hrs., 25 Jan 45, while on duty at the Camp Enquiries Post at Main HQ First Cdn Army, I was approached by the a/m Soldier, who informed me that he was Absent Without Leave from his Unit. He stated that he absented himself on the 19 Dec 44.

I then placed Pte. Decaries under Close Arrest and later escorted to No. 11 Cdn Provost Company H.Q.

D.J. Thwaites
.....Pte.
H.102502 (D.J. Thwaites)
No. 11 Cdn Provost Company.

I have read the above Statement of Evidence and corroborate same:

J.C. Bingham
.....Cpl
REMARKS
B.97143 (J.C. Bingham)
No. 11 Cdn Provost Company.

In lieu of Army Form B.115.

D

RECORD OF THE DECLARATION OF A COURT OF A INQUIRY ON THE ILLEGAL ABSENCE OF A SOLDIER.

RECORD OF THE DECLARATION OF A COURT OF INQUIRY assembled at 109 (British) General Hospital on the 11th, day of April 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.D[illegible]746 Private. R. De-Carrie, Lake Superior Regiment, of Canada.

DECLARATION.

The Court declare, that D.[illegible]746 Private. R. De-Carrie, Lake Superior Regiment of Canada, illegally absented himself without leave from 109 (British) General Hospital B.L.A. on the 16th, day of March 1945. That he is still so absent, and that on the 16th, day of March 1945 he was deficient, and that he is still deficient of the following articles:-

Article		Value.
Blouse, Battle Dress.	one.	19. 9½d
Braces, pairs.	one.	1. 4½d
Shirts, Angols drab.	one.	9. 1d.
Trousers, Battle Dress, pairs	one.	19. 6½d
	Total Value	£2. 9. 9½d

NAMES OF PRESIDENT AND MEMBERS

PRESIDENT .....(Sgd) E.L. RUBIN, Major R.A.M.C. 87694

MEMBER .....(Sgd) E.M. HALL, Lieut R.A.M.C. 317644.

Signature of Commanding Officer...(Sgd) A.J. BADO. Colonel.

The ....., produced as document ary evidence, was read to the accused, marked Exhibit "B" (D) signed by me and attached hereto.

Over./Certified.....

"B" (D)

Lon H Hardy Capt

CERTIFIED TRUE COPY.
OF ORIGINAL ENTRY IN ARMY BOOK. 164.

22 June 1945. .....Colonel.

Signature of Officer having custody of Original Record.

"E"

PART II ORDER EXTRACT FORM

TO: A8

99/20/ A5X3

3 SEP 45 19

EXTRACT FROM: Unit X List LAKE SUP REGT

Part II Order No. 54 dated 17 May 45

ABSENT WITHOUT LEAVE

AWL from 2359 hrs 16 Mar 45

D77746 PTE DECARIE R (X 3 List)

The ....., produced as documentary evidence was read to the accused, marked Exhibit ....E.... signed by me and attached hereto.

Lon S Hardy Capt.

The following documents are { attached. Please acknowledge receipt on attached duplicate. required. Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

W A Langdon Capt

Officer ID Records

Cdn. Sec. 2 Ech. HQ. 21 A Gp. for

Officer in Charge

Canadian Section, G.H.Q., 2nd Echelon

Originating Clerk's Initials BJS

ECH—6
40/P & S/1276 (2671)

In the Field,
4 Jan. 45.

Charge against D77746 Pte. Decarie, R.F., when in confinment escaping. AA Sec 23

Statement of evidence in the case of D77746 Pte. Decarie, R.F.

On the 21st Dec 44, I was acting in the capacity of Guard Commander of 58 Fwd. Rft. Coy, 13 C.B.R. Bn.

I had under close custody the above mentioned soldier.

At approx. 2130 hrs 21st Dec 44, the electric lights went out I immediately lit a homemade oil lamp. Approx. 10 minutes later the lights came on again. It was then I discovered one of the prisoners, Pte. Decarie R.F., had escaped. I immediately took out four of my guard and searched the building and the grounds for him. I did not find any trace of him, so informed the C.S.M. the next morning at approx 0830 hrs 22nd Dec 44, that Pte. Decarie had escaped.

Cpl. Richardson F.W.
(A 57003 Cpl. Richardson F.W.)

The ....., produced as documentary evidence, was read to the accused, marked Exhibit..."F"(F)..., signed by me and attached hereto.

Lon A Hardy Capt

STATEMENT OF EVIDENCE IN THE CASE OF [redacted]77746 Pte DECAIRE, R.F.

G

STATEMENT OF EVIDENCE by B147173 Rfn DUNCAN, G.

"On 5 Feb 45 I was employed as Regt'l Police 11 CBR BN. I was detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts."

"On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor."

"I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor, one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him, but because it was dark and because the staircase was crowded with men coming and going from breakfast, I lost him. I later found the man missing to be Pte Decaire.

The..... produced as documentary evidence, was read to the accused marked Exhibit..."K.G." signed by me and attached hereto.

K G
Lm H Hardy Capt.

G Duncan
.....
(B147173 Rfn Duncan, G.)

STATEMENT OF EVIDENCE IN THE CASE OF B77746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE by B147175 Rfn DUNCAN, G.

"On 6 Feb 45 I was employed as Mont'l Police 11 CMP BN. I was detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts."

"On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor."

"I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor, one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him, but because it was dark and because the staircase was crowded with men coming and going from breakfast, I lost him. I later found the man missing to be Pte Decaire.

G Duncan

(B147175 Rfn Duncan, G.)

STATEMENT OF EVIDENCE IN THE CASE OF B77746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE BY B147175 Rfn DUNCAN, G.

"On 5 Feb 45 I was employed as Regt'l Police 11 CBR BN. I was detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts."

"On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor."

"I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor, one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him, but because it was dark and because the staircase was crowded with men coming and going from breakfast, I lost him. I later found the man missing to be Pte Decaire.

G Duncan

(B147175 Rfn Duncan, G.)

STATEMENT OF EVIDENCE IN THE CASE OF D77746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE by B147173 Rfn DUNCAN, G.

"On 5 Feb 45 I was employed as Regt'l Police 11 CDN RR. I was detailed that morning to go as escort with prisoners drawing rations. The ration party consisted of six prisoners and three escorts."

"On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor."

"I was at the rear of the party on the return journey. As we were passing the staircase leading to the main floor, one of the prisoners who was helping to carry a dixie of tea, let go the handle and ran downstairs. I ran after him, but because it was dark and because the staircase was crowded with men coming and going from breakfast; I lost him. I later found the man missing to be Pte Decaire."

G Duncan
.....
(B147173 Rfn Duncan, G.)

19

H

STATEMENT OF EVIDENCE IN THE CASE OF B77746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE BY B157327 Pte BACKHUS, J.) (R Regt C)

"I am B157327 Pte Backhus, J.(R Regt C) RP 11 CBR BN. On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decaire. As we passed the staircase I saw Pte Decaire lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other two escorts of the party ran after him. I stayed with the balance of the prisoners."

The .....produced as documentary evidence, was read to the accused marked Exhibit..."H", signed by me and attached hereto.

Lon H Hardy Capt. ..... J. Backhus
(B157327 Pte Backhus, J.)

STATEMENT OF EVIDENCE IN THE CASE OF C77746 Pte DECAIRE, R.F.

STATEMENT OF EVIDENCE BY B157327 Pte BACKHUS, J.) (R Regt C)

"I am B157327 Pte Backhus, J.(R Regt C) RP 11 CBR BN. On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decaire. As we passed the staircase I saw Pte Decaire lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other two escorts of the party ran after him. I stayed with the balance of the prisoners."

J. Backhus

(B157327 Pte Backhus, J.)

STATEMENT OF EVIDENCE IN THE CASE OF B77746 Pte DECAIRE, H.F.

STATEMENT OF EVIDENCE BY B157327 Pte BACKHUS, J.) (R Regt C)

"I am B157327 Pte Backhus, J.(R Regt C) RP 11 CBR BN. On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decaire. As we passed the staircase I saw Pte Decaire lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other two escorts of the party ran after him. I stayed with the balance of the prisoners."

J. Backhus

(B157327 Pte Backhus, J.)

STATEMENT OF EVIDENCE IN THE CASE OF B77746 Pte DUCAIRE, H.F.

STATEMENT OF EVIDENCE BY B157327 Pte BACKHUS, J.) (R Regt C)

"I am B157327 Pte Backhus, J.(R Regt C) HF 11 CIB BN. On 5 Feb 45 at approx 0650 hrs I was helping to escort prisoners to the guard room with rations. On return from the kitchen we went up the stairs leading from the kitchen to the second floor. We passed through a mess hall and then into a hallway. Close to the entrance of the mess hall there is a staircase leading down to the main floor. I was slightly to the right and four feet behind Pte Decaire. As we passed the staircase I saw Pte Decaire lower the end of the dixie of tea he was helping to carry and dashed down the stairs. The other two escorts of the party ran after him. I stayed with the balance of the prisoners."

J. Backhus

(B157327 Pte Backhus, J.

MESSAGE FORM

ARMY FORM C2136 (Small)
40 P&S 2433(5945)(Pads of 100)

Register No. 24

Transmission Instructions

Call	Srl No.	Priority	

ABOVE THIS LINE FOR SIGNALS USE ONLY

Office Date Stamp

Originator

Date—Time of Origin 28/0830A

FROM (A) PRO. SJT.

For Action

TO C.S.M. 58 COY.

(W) For Information (INFO)

Message Instructions — GR

Originator's No.

USRP SIR

WE HAVE THIS MAN IN TOWN GUARD ROOM (1) RECORDS SHOW THAT HE BELONGS TO YOUR COY PLEASE ADVISE TRUE OR NOT AND TIME OF OC ORDERS(1)

The ..... [illegible] evidence, [illegible]

This Message May be sent as written by any means {except / wireless}

Signed R. Foston pro sgt

If liable to be intercepted or fall into enemy hands, the message must be sent in cipher

Signed

Originator's Instructions

Designed Lon H Hardy Capt

Time	System	Op
Call or TOR		
Time cleared		

H.Q. 13 CANADIAN BASE REINFORCEMENT BATTALION

2 C.B.R. Gp.

13 C.B.R. Bn/6-O/B
31 Aug 45.

arrived 2100 hrs 31 Aug 45

O i/c
Cdn Sec 2 Ech
B.R.O.R.

D.77746 Pte. BECARIE B.

1. Ref your EA8/414 unclassified, d/301700 B.

2. The m/n soldier arrived here along with several others around 15 Jul 45 with, as far as can be learned now, no documents.

3. He was held here for some time pending arrival of documents. None arrived and since he became restless doing nothing but wait we put him to work as a shoemaker and he has done a very good job.

4. He has never been TOS here.

5. He is being forwarded today to the Lake Sup Regt.

6. For your information, please.

(J. Henry Carson) Lt.-Col.
Commanding
13 C.B.R. Bn. 2 C.B.R. Gp.

NVS/rh

Copy to: Lake Sup Regt.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
D77746	Pte	Roland Decarie Roger	Lake Superior Regt (Motor)

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For AA 40 ..... 1 time

For AA 15(1) ..... 2 times

For ..... times

For ..... times

2. Previous convictions of the Accused by a court martial or a civil court are set out in the Schedule overleaf.

3. [redacted]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody* and for 77 33 days in military custody, a total of 77 33 days of which Nil days were spent in hosp.

5. The present age of the accused is 24 years 1 month 15 days

6. The date of his attestation is 16 July 41

7. [redacted]

8. The accused is in possession of # CVSM & Clasp

State the military decorations (if any) held by accused.

[redacted]

In the substantive rank of ....

In the war substantive rank of ....

In the actingrank of ....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

N/A

Army Form A 76 (War)

EXHIBIT "//" "illigible" Maj Pres.

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

N/A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 3rd day of Oct 1945

"W.E.Short"
(W.E.Short) Lt & Adjt
Lake Sup R (Mot)

No. D77746 Name Decarie R. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 16 Jul 41 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /8136 (2000)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
First sheet destroyed 16 Jan 42 Last entry 15 Jan 42 Cases Drunk NIL									
Field	10 Feb 43	Tpr		AA40 Conduct to the prejudice etc being in unlawful possession of the property of an Army Training Est (one piece of leather)	Mr. A Court Sgt Hopley L/Cpl Bailey Pte Delsdeau Pte Cexelle	deprived of 7 days pay AA40 (a)	11 Feb 43	Capt. A.H. Trenchard	No3(Brighton Techmere Training Sp Forft 3 d pay FRI 149 (2)
Field	22 Mar 43	Pte		AA15(1)AA1from 0830 hrs 22 Mar 43 till 1500 hrs 27 mar 43 (5 days 7 hrs)	Cpl Yearwood DOCUMENTARY	21 DAYS F.P. 21 days forf pay FRI 149(1b)	30 Mar 43	Col A.B. Pearson	forfts 6 days pay FRI 149(1 (a) cost of a apprehension 8/5
Field	25 Apr 44	Pte		AA15.1)AA1 from 2359 hrs 25 apr 44 to 1200 hrs 28 Apr 44(2 days 12 hrs 1 min)	L/Cpl Bellamy DOCUMENTARY	28 days F.P.	29 Apr 44	Lt.Col. Murrell	(a)to forft 3 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy from Regt'l documents

(W.E. Short) Lt & Adjt
The Lake Superior Regt (Mot)

Pts here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....

Do you intend to call witnesses on your behalf? Ans.....

Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(7) (b), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO SIR

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)

(1. MFB 355 or AFB 296. 2. MJM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES, SIR.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to arrive on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RC 309, 2323. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RC 309, 2323. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RC 309, 2323. MML p 50, 737-739. As to sentences assigned for civil offences by the law of England see AA 61(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: ~~D 129107~~ D 77746 Pte Roland Decarie Lake Sup R(M)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd AA 15 (1)	Guilty	Guilty	
3rd AA 15 (1)	Guilty	Guilty	
4th AA 15 (1)	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 33 days, of which NO days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
to undergo detention for a period of nine (9) months

(Sgd) [signature] Judge-Advocate, if any. 30 Oct 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

NA

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the findings and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
~~(1. AA 57A. Delete if not used.)~~

(Sgd) [signature] Date 5 Oct 45 Commanding Comd 4 Cdn Armd Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

D 77746 Pte Decarie R. 8 Oct 45 [signature] Lt Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4Q-4

Rfn De Charm G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L 103056 Rfn Gilbert De Charm

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 86(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present undergoing sentence for ~~breaking out (date)~~ (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To forfeit all ordinary pay for a period of 60 days

(Sgd) Judge-Advocate, if any. 18 Dec 44 Date awarded. (Sgd) Geo. G. M. Edwards President. (RP 45, 50.)
(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not~~ committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 21 Dec/44 (Sgd) H. H. Maag Lt-Col. A.E.T. Brig
Commanding 1 Can Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

GILBERT
L 103056 RFN DECHARM 21 DEC 44 Kenneth A Gwyld.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4 P 4

CPA66 (To form A AFA81) 40-P & B-1048 40-01 4,38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.G. Spence, Comd 1 Can Inf Bde dated 17 Dec 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-103056	Rfn	Gilbert	DeCHARM	Regina Rif.

PROCEEDINGS REVIEWED IN 1 Can Armoured Div Adv Hq 2 Feb 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 18 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order; provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans.
~~The Interpreter is sworn.~~(1) ~~Do you object to~~ as shorthand writer? Ans.
~~The shorthand writer is sworn.~~(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)
(1. RP 110. 2. If no objection, waiting member returns. RP 60(2). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.M. Edwards	H & 1 Gc
Member	Capt	W.D. Ormiston	R Hamilton Rif.
Member	Capt	D.R. Forbes	Regina Rif.
Judge-Advocate			
Prosecutor	Lieut	R.R. Dolan	Regina Rif.
Defending Offr	Lieut	E.D. Harmon	Regina Rif.

Questions by President: Is the Prosecutor a lawyer? Ans. No. Is the Defending Offr a lawyer? Ans. No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused L 103056 Rfn Gilbert DeCharm before arraignment make(s) (no) plea(s).(1)
(1. If a special plea is made for separate trial on one or more charges (RP 60(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposed, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF Afds to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Carry on page 53

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 39, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(K) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) is/~~are~~ changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

President to accused: Do you intend to call witnesses on your behalf? Ans .....

President to accused: Are they witnesses as to character only? Ans .....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 42 fns 2 & 3.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This sentence commencement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 353 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No, but I plead for a punishment [illegible] Defending Offr to prove on oath anything there or previously stated which would affect the amount of punishment.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 95, 118, 119(A)(i), KR Con 309, 330, 343-344, Overseas RO 309, 2323, MML p 96, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(i), 68(1), KR Con 344.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused L.103056 Rfn DECHARM, Gilbert, 1st Bn The Regina Rifle Regiment, a soldier of the Canadian Army Overseas, while on Active Service, is charged with:

First Charge
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he, in the field,, absented himself without leave after being duly warned for outpost duty, from 1600 hrs 20 Nov 44 and remained absent until apprehended at 2140 hrs 27 Nov 44.
Time absent: 7 days, 5 hours, 40 minutes.

Remanded for FGCM 1340 hrs 8 Dec 44

(A S GREGORY) Lt-Col.,
Co., Regina Rif

To be tried by Field General Court-Martial.

Convening Officer
(J G STRAGE) Brigadier.
Comd 7 Canadian Infantry Brigade.

17 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 61, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-102056	Rfn		Gilbert	DeCHARM	Regina Rif

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[s] named above as the accused, being subject to military law, has (~~have~~) committed the offence[s] set forth in the Charge Sheet(s) attached and on (*date*) 17 Dec 44 endorsed by me, (~~or by an offr of my staff (or me)~~), "To be tried by Field General Court-Martial".

~~XXXX

MEDICAL OFFICER'S CERTIFICATE

18 Dec 44

I certify that No. L 102056 Rfn Decharm, G 1st Bn Regina Rifle Regt

is fit to undergo trial by Court-Martial.

.....
Signature of the Medical Offr

Gants

Plea of Mitigation for L103156 Rfn. Sacharm G.

The accused has had over two years service and has no entries in his M F M 6. He has been in action with his Regiment since June 6 of this year and has a very good record as a fighting man in the field. His action in going A.W.L. came as a surprise to N.C.O.'s and Officers.

I would further point out to the Court that Rfn Sacharm surrendered voluntarily to the authorities and in pleading guilty has offered no fabricated stories or excuses for his action, but has acted in a straightforward and sincere manner. He has conducted himself well during the time after the 27 of November 44.

E A Harman Lt.

SUMMARY OF EVIDENCE

In the case of L 103056 Rfn DECHARM, G., 1st Bn The Regina Rifle Regiment, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that all evidece be taken on oath.

FIRST WITNESS

K 50263 Opl ROYLANCE J R 1st Bn The Regina Rifle Regiment, having been duly sworn, states:

"I am K 50263 Opl Roylance, J R, section commander of number 7 section "A" Company, 1st Bn The Regina Rifle Regiment, and L 103056 Rfn Decharm, G was in my section. At approximately 1400 hrs on the 20 Nov 44 my section was on parade with the rest of the platoon, at which time our platoon commander, Lt R R Dolan, warned the platoon that they would be proceeding to outpost K house that night, to be ready to leave by 1600 hrs. L 103056 Rfn Decharm was on parade at that time. At 1600 hrs 21 Nov 44 I checked my section before reporting to Sjt Kirkness that my section was ready to proceed to outpost K house. I found L 103056 Rfn Decharm, G absent. I reported the absence to Sjt Kirkness and with him made a search of the area but was unable to locate the accused. During the period 20 Nov 44 till 6 Dec 44 Rfn Decharm G did not return to my section nor did I see him at any time on or near the Company area."

The evidence is read back to the accused.
The accused declines to cross-examine the witness.

Cpl Roylance J R

SECOND WITNESS

L 27925 Sjt KIRKNESS H H, 1st Bn The Regina Rifle Regiment, having been duly sworn, states:

"I am Sjt Kirkness, Platoon Sjt, of 9 platoon, "A" Company, 1st Bn The Regina Rifle Regiment. At approximately 1400 hrs 20 Nov 44 the personnel of the platoon were warned by Lt. R R Dolan, platoon commander, that they would be proceeding to "K" house that night, to be ready to leave at 1600 hrs. L 103056 Rfn Decharm, G was present on parade when this warning was given. At 1600 hrs 20 Nov 44 I checked my platoon before proceeding to outpost "K" house. I first received word from Opl Roylance that Rfn Decharm was absent from his section. On the platoon parade before our departure I found Rfn Decharm absent. With Opl Roylance I searched the area but was unable to locate him. Rfn Decharm did not return during the period 20 Nov 44 to 6 Dec 44.

The evidence is read back to the accused.
The accused declines to cross-examine the witness.

THIRD WITNESS

L 27689 Sjt TAYLOR R C , 1st Bn The Regina Rifle Regiment, having been duly, sworn, states:

"I am Sjt Taylor, R C, formerly Sergeant major of "A" Company. I did neither see nor hear of the whereabouts of the accused for the period of 20 Nov 44 to 6 Dec 44. The accused at no time during this period, appeared on company parade or in the company area."

The evidence is read back to the accused.
The accused declines to cross-examine the witness.

The accused was cautioned as follows:

Q - Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A - I do not wish to make a statement.

The certificate under AA. Sec 163 (1) J, produced as Documentary evidence, was read over to the accused, marked Exhibit "A". Signed by me and attached hereto.

R R Dolan Lt

(R R DOLAN) Lt.,
Regina Rif.

"I certify that the foregoing Summary of Evidence, consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure (c)(d)(e)(f) and (g) (13) have been complied with."

R R Dolan Lt

(R R DOLAN) Lt.,
Regina Rif

Officer detailed to take Summary of Evidence.

Dated in the Field
this 13th day of
December 1944

First Witness

L75

First Witness

L27689 Sgt Taylor R.C. having been duly sworn states:

I hereby produce as evidence certificate of apprehension under the army act section 163 (1) s. for L103056 Rfn De Charm G.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) J

I A/Capt J. Tweddle O.C. 2 Cdn LofC Pro Coy Certify that

Reg No L.103056 Rank Rfmn Name DECHARM G.

REGIMENT "A" Coy, Regina Rifles 3 Cdn Inf Div.

UNIT

STATIONED AT Field

Surrendered himself to McG.28756 Rank L/C Name Arsenault

of the 2 Cdn LofC Pro Coy

on the 27 Day of Nov 1944 at 2140 Hours,

AS AN ABSENTEE WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) or

(xxxxxxxxxxxxxxxx)

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of his Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

"This is EXHIBIT "A" referred to in the Summary of evidence in the case of L 102056 Rfn DECHARM, G taken before me this 28 Nov 44 13th day of December 1944

(R R DOLAN) Lt.

DAPM Cdn Sec

AD BRIGADE CARRION

J. Tweddle A/Capt

Officer Commanding.,

2 Cdn LofC Pro Coy

ARMY FORM B.296 (WAA).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
L.103056	Rfn	DECHARM G	1st Bn The Regina Rifle Regt

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For _____ _____ times.
For _____ _____ times.
For _____ _____ times.
For _____ _____ times.

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL R		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this Fourteenth day of December 1944

17th Gen.

C M Rehill Capt
Adjt Regina Rep.

No. L.103056 Name DECHARM, G. Sqn., Battery, or Company Temporary Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment | Sheet No. | G.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

M.F.M. 6 (A.F.B. 1) 175M—7-41 (1219-20) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				N/L.					

Certified True copy of M.F.M. 6 in my possession.

14 Dec 41

C M Rehill Capt.
(C.M. Rehill) Capt.
Adjt, Regina Rif

(P.T.O.)

5 B 80

Pl. Duvine J. E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M16077 Pte. JOSEPH EDWARD DECOINE LER

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st S 41 AA	Not Guilty	Guilty	} R&D.
2nd S 40 AA	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 463 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 34 days, of which NIL days were spent in hospital.(1) (1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO FORFEIT ALL ORDINARY PAY FOR A PERIOD OF THIRTY DAYS.

(Sgd) L. J. Brody Capt
Judge-Advocate, if any.

28 Feb 45
Date awarded.

(Sgd) K. Hickman Maj.
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date

(Sgd)
Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.4c(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Quashing after promulgation: KR Can 573. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the court

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

Date 4 Feb 45

(Sgd) W. Bogert Brig
Commanding 2 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

Pte Joseph Edward Decoine 4 Feb 45 Earl Boyd
Maj. Deputy Judge Advocate

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD OF PROCEEDINGS IN AB 160 5885

CPA96 (1st Rev. of AP 40/P & B/1938) 40-P-1

FIELD GENERAL COURT-MARTIAL

4385

Convened by Order of Brig M.P. Bogert Comd 2 Cdn Inf Bde dated 1 Feb 45

RECEIVED 2 MAR 1945 JAG BRANCH CMHQ

REVIEWED 28 Mar 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
Pte	Pte	Joseph Edward	DECOINE LER

M16077

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 2 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant fns BOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A45, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to 2/Lt C. Bazin Fossette, Atk Hq 2 Cdn Inf Bde, as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	D.G. DUNCAN	SCAF or C
Member	CAPT	J.H. PROWSE	LER
Member	LT	G.S. FRET	PPCLI
Judge-Advocate	CAPT	L.J. BRODY	HQ 1 Cdn Div
Prosecutor	LT	T.N. ADAMSON	LER
Defending Offr	CAPT	A.M. JOHNSON	LER

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2(i) p 3.)

A8. The accused before arraignment make(s) (no) ~~X~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in Lar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 18, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to PoP cited. Insert in AB cond. and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. ~~The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 4.~~ The proceedings are continued on Record Form II

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C.147

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *assisting and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 fn 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 37(*D*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing as in paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB.: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans DO NEITHER Do you intend to call witnesses on your behalf? Ans YES. Are they witnesses as to character only? Ans NO
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*k*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*E*).)

D8. The President announces the finding(s) of Guilty, and states to the accused that the finding(s) of the Court on the FIRST charge is being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(1. *AA* 54(3) (*d*), *RP* 45, 120(*E*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 3. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 3 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans NO
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to persue on each anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. ~~if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As to sentences see AA* 44, 138, 182. *RP* 46-50, 88, 118, 119(*A*); *KR Con* 308, 330, 563-566. *Overseas RO* 309, 2302. *RP* 48. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED M16099 Private Joseph Edward DECOINE OF The Royal Edmonton Regiment, a soldier of the Canadian Army Overseas, On Active Service, is charged with:

1st Charge
Sec 41
Army Act

WHEN ON ACTIVE SERVICE

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, DAMAGING PROPERTY CONTRARY TO SECTION 51 OF THE MALICIOUS DAMAGE ACT, 1861

In that he

in Rome, Italy, on the night 29/30 November 1944, maliciously damaged one wardrobe, one bed, three chairs and one door, the property of Galloni Colanzi, an Italian Civilian and thereby did injury exceeding five pounds.

2nd Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

In Rome, Italy, on the night 29/30 November 1944, created a disturbance on the premises of Galloni Colanzi, an Italian Civilian, by shouting and throwing about articles of furniture, thereby bringing the Canadian Army and members thereof into disrepute.

J.R. Stone

(J.R. Stone) Lt-col
Commanding The 1 Edmn R

In the field
in Italy
1 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

W.P. Bogert

(M.P. Bogert) Brig
Comd 2 Cdn Inf Bde

In the field
1 Feb 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-16099	Private		Joseph Edward	DECOINE	LER

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~[illegible]~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 1 Feb 45 endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	D.G. Duncan	Seaf of C
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	J.H. Prowse	L E R
Lt	G.S. Frost	PPCLI
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Lt	W. Remple	L E R
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

Capt	L.J. Brody	HQ 1 Cdn Div
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.)
(M.P. Bogert)
Brig (Rank.)

Date 1 Feb 45

Commanding 2 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Con 562, RP 26, 29, 111.)

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless there-unto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 763, RP 82, 111.)

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TÉMOINS. (RO (Con) 269.)

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (RP 95(C)), any objections (RP 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl B. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said ..." I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 90(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (not sworn or subject to cross-exam by Prosecutor, Court or *JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 86.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address (on matters other than in mitigation of punishment) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (When accused charged jointly *see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence* except as provided by *RP* 46(*E*), *KR Con* 565(*a*).)

(vii) Summing up by *JA*, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED) MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con* 527.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (*As to admitting in evidence a certified copy in lieu of original see KR Con* 560. *As to certified copies of regimental books see AA* 162 (1) (*g*) (85).)

(v) Exhibits numbered Ex 1, Ex 2, Ex B, etc.

(vi) Summary of Evidence, if not already an exhibit.

(vii) Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95 (*D*).)

3. A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(3), *RP* 118(*C*), *MML* p 788.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE
(K.R.(CAN)337)

I certify that I have this morning examined M16099 Pte DECOINE, J.E., THE LOYAL EDMONTON REGIMENT and in my opinion he is fit/~~unfit~~ to stand trial by Court Martial.

In the Field
2 Feb 45

.....C. F. Gan...MO
THE LOYAL EDMONTON REGIMENT

OPENING ADDRESS - PROSECUTOR

In the case of: M16099 Pte. Decoine, J.E.

The accused is charged with creating a disturbance in Rome, and causing malicious damage to private property. I will call as a witness the civilian on whose premises the incident occurred, and also the Provost personnel who were called to the scene.

T. N. Adamson. Lieut.

4803
DSD.

1

A-5 The interpreter 2/Lt FOGHETTI, is sworn in to act as interpreter for Italian - speaking witnesses

D-2 The Prosecutor makes an opening address (see attached)

First Witness for Prosecution: Signora Galloni Colanzi, Via Del Boschetto, No 27, Rome, Italy, having been duly sworn, states:

I operate a pension at No 27 Via Del Boschetto, in Rome. On the night of 29/30 Nov 44 the accused came into my house. He had been there for 5 days and had behaved quite well until then. That night he came home around 2300 hrs and he was in a state of drunkenness and he went into his room and I heard shrieks as though a quarrel was going on. That is all I can say because I wasn't in this room and I only heard the furniture being smashed. After this one of the accused's friends went out to get the police. While the accused beat at my door I opened the door and I accompanied him out so he could breathe some fresh air. While we were going out the police came and took him away. The furniture that was smashed was in the room the accused had rented. It was the owner of the furniture. The furniture damaged was one wardrobe with mirror, one 4-foot bed of three chairs and one arm chair. The door of the room was also damaged. The amount of the damage was approximately Fifteen thousand lires. The accused occupied this room with 2 more friends, both soldiers. It was the accused who damaged the furniture. His 2 friends were already in bed when he came home. The accused came home by himself. He was very drunk and I helped him up the stairs.

CROSS-EXAMINATION: The accused did not struggle with me at any time. I am certain all the damage was done on that night. I was in the room that same night at about 2000 hrs to close the blackouts and at that time everything was in perfect order.

NO RE-EXAM:

RP 83(B) complied with

[illegible]

[illegible]

Second Witness for Prosecution: F54668 Pl. Hugh James Murphy, No 3 Coy C Pro C, having been duly sworn, states:

At approx 0050 hrs on 30 Nov 44 I received a complaint as a result of which I proceeded to No 27 Via Del Boschetto, Rome, accompanied by Lothar Proost. On arriving at this address I was escorted to Room No 4 on the second floor where I observed considerable damage to furniture in the room. The accused was coming out of this room as I was going into it. As a result of information then given to me by the lady operating the house I placed him under arrest and escorted him to the central guard room in Rome. He had been drinking. There was a wardrobe in the room with a mirror door size 4 ft by 2 ft. This had been ripped off and the glass completely smashed. The end of the bed had been yanked off. The back of one chair was slightly chipped and ~~[illegible]~~ another chair was slightly warped and the joints of the 3rd chair were loosened. Only ~~[illegible]~~ minor spans were needed for the chairs to the bed. There was a crack in the panel of the door in the room.

CROSS-EXAMINATION: The accused did not actually fight ~~or attempt by force~~ me. Nothing serious happened so far as taking him into custody is concerned.

NO RE-EXAM:

R.P. 83(B) complied with.

The Prosecution is closed:

[illegible]

The Def Offr declines to make an opening address

FIRST WITNESS FOR DEFENCE: K 48160 Pte John DIXON, The Royal Ednator Regt, having been duly sworn, states:

I was in bed in the room on this night. I had not yet gone to sleep. The accused came in. There was no light on in the room when he came in. I heard him fall or stumble over a chair or something and I got up to put on the light. When I got the light on I could see the accused was on the floor. He was under the influence of liquor. I saw him pull himself up by getting hold of the corner of the bed. The accused damaged the furniture, when he got up off the floor and staggered around the room. He is a very big man and he knocked over this wardrobe, which then over the bed, smashing the wardrobe. He did not deliberately break or damage any furniture.

NO CROSS-EXAM.

EXAM BY COURT: When the accused came in the room there were myself and another soldier Pte Steinhauer already in the room. We were already in bed.

R.P. 83(B) complied with

Second Witness for Defence: M 56399 Pte Lawrence Steinhauer, The Royal Ednator Regt, having been duly sworn, states:

I was in the room with Pte Dixon when the accused came home. We were in bed. I saw the accused flop over something when he came into the room. He fell down and got up and zig-zagged all over the place. He knocked a wardrobe down. That is all I saw him do. I then went out of the room. He was pretty drunk.

No Cross-Exam

R.P. 83(B) complied with

[illegible]

Third Witness for Defence (Witness as to character)
M15650 Sgt. Alexander McLeod, The Loyal Edmonton Regt, having been duly sworn, states:

I have known the accused personally for about 4 years. He has been under my command in the same platoon for about 9 months. He is a very smart soldier and a very good fighting man and has always been ready to do anything I've asked him to do. I would like to have him back in my platoon at the present time.

NO CROSS-EXAM.

R.P.S.(B) complied with.

The Defence is closed.

Closing address by Def Offr:

The prosecution has not proven the guilt of the accused beyond a reasonable doubt on these charges and he should be found "NOT Guilty" on both charges.

Closing address by Prosecutor:

The prosecution has proven the accused guilty on both charges. He caused the damage to the witness's furniture. He was not so drunk that he did not know what was going on. The court should find him guilty on both charges.

L.S.

5

FGCM - M 16099 Pte JOSEPH Edward DECOINE, LER.

Summing - up by J.A. 27 Feb 45

The Court should accept my advice on all questions of law arising in this case. The Court, however, are the sole and only judges of all questions of fact arising in this case.

The accused must be presumed to be innocent until proven guilty beyond a reasonable doubt. He does not have to prove his innocence. On the contrary the onus is on the prosecution throughout the trial of proving that the accused is guilty beyond a reasonable doubt. A reasonable doubt is an honest doubt remaining in the minds of the Court after carefully considering the evidence, with their minds entirely freed of any private information concerning this case or the accused which may have come to their notice. If there is a reasonable doubt, the accused must be found NOT guilty.

In order to justify a conviction on the first charge the Court must be satisfied beyond a reasonable doubt that the damage was caused maliciously. What constitutes malicious damage for the purposes of this charge is defined in para 74 Ch VII, MML p127 which I will now read to the Court (I read all of para 74). The question of fact for the Court, and the Court alone to decide with respect to the first charge is, was the damage to the furniture caused by mere negligence or accident, as distinguished from the doing of an act by the accused which he knew would probably cause damage or was he reckless whether he caused the damage or not.

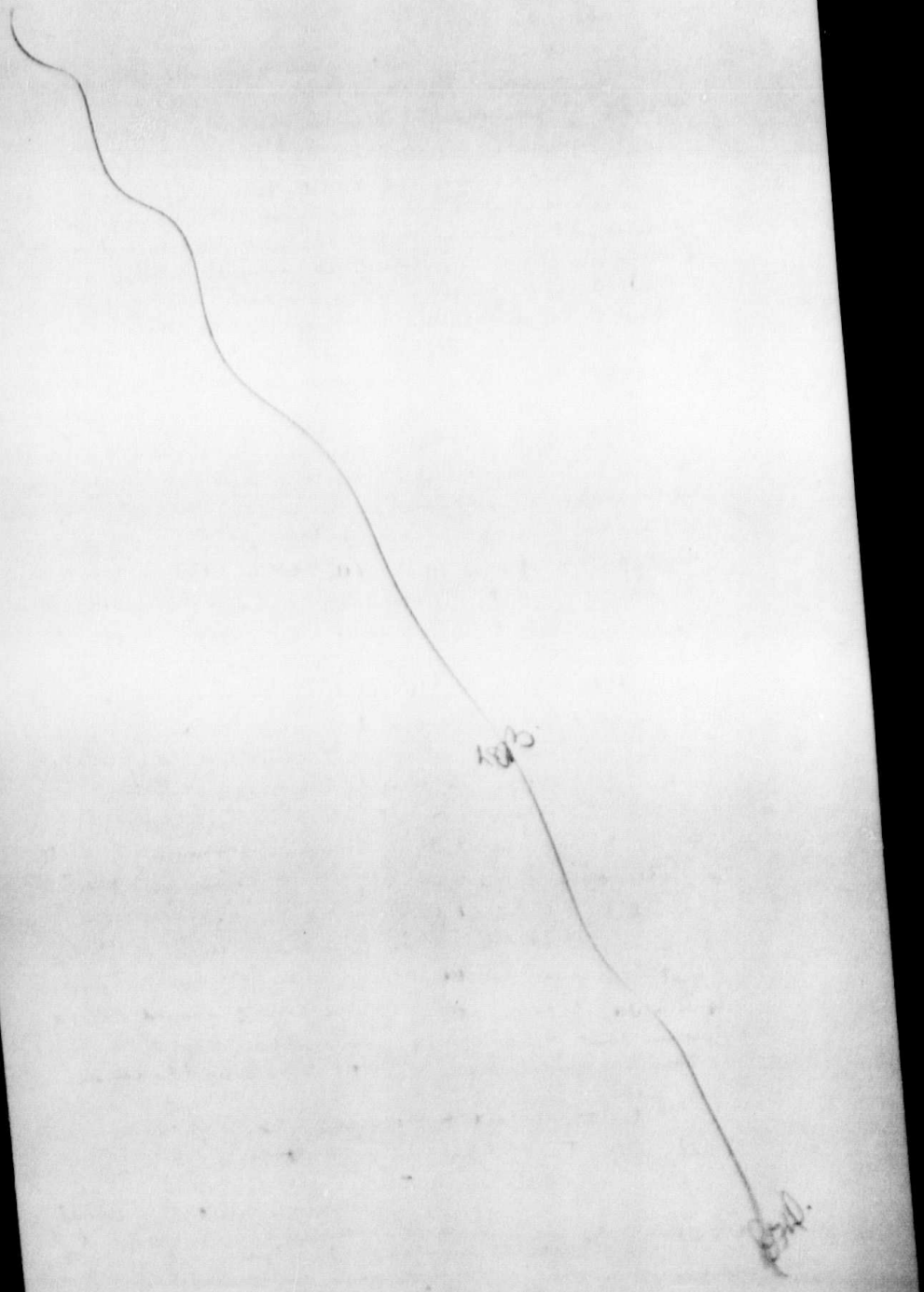
With respect to the question of ~~drunkenness~~ the degree of the state of intoxication of the accused, this again is a question of fact for the Court to determine on the evidence. With respect to drunkenness as a defence I read to the Court para 48 Ch III, MML p25 and also para 9 Ch VII, MML p106. If the Court should be of the opinion that the accused was so drunk as to be unable to form the necessary intent he should be found not guilty.

With respect to the second charge, this is purely a question of fact for the Court and it is for the Court decide whether the particulars of the charge if established do in their opinion constitute conduct to the prejudice etc., deserving of conviction and punishment.

I repeat the accused must be presumed innocent until proven guilty beyond a reasonable doubt.

I am prepared to a question by the J.A. the prosecution and if offer state they have no objection to the summing up.

R.J. Brody Capt J.A.



7

FlyCM - M16099 Pte. Joseph Edward DECOINE, LER.

2 Feb 45

E-2

Upon inspection of the Conduct Sheet of the accused (Ex. B) the J.A. advises the Court that the accused having completed 2 years consecutive service (i.e. between 21 Jan 42 and 11 Feb 44) free of any entry in his conduct sheet, a fresh conduct sheet should have been prepared under AFH to Overseas RO 319 as amended by Overseas RO 208 and to avoid prejudice to the accused the Court in awarding sentence should deal with the conduct sheet as though a fresh conduct sheet had been prepared accordingly.

AJB

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
M16099	Pte	Decoine, Joseph Edward	The Loyal Edmonton Regiment

1. The following is a fair and true summary of the entries in the ~~regimental and squadron, battery or company~~ conduct sheet† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provided sentence being given for the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 40	once times	once times.
For AA 15	nil times	five times.
For AA 19	nil times	once times.
For AA 10	nil times	twice times.
For	times	times.

Ed B [redacted]

or

Ed B [redacted]

2. The accused has not been previously convicted, *or*

Ed B [redacted]

Ed B 3. The accused is not under sentence at the present time, *or* [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 34 days in military custody, making a total of 34 days, of which nil days were spent in hospital.

Ed B 5. The present age of the accused according to his record of service is 24

Ed B 6. The date of his attestation specified in his record of service is 24 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs service.

9. The accused is entitled to reckon 5 yrs serving for the purpose of determining his pension, etc.

Ed B 10. The accused is in possession of, or entitled to, no military decoration or military award [redacted]

Ed B [redacted]

Ed B 12 [redacted]

E + A
Med
DDS

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M16099 Rank Pte Name Decaine, J'E. of The L Edmn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under s. A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of January 1945

E.L. Boyd

(E.L. Boyd) Capt & Adjt
The Loyal Edmonton Regt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	years	
In the rank of	years	
In the rank of	years	

N/A

(Instructions—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No. M16099 Name DECOINE Joseph Edward | Sqn. Battery or Company | Corps Cdn Inf Corps | Date of enlistment 24/9/39 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in | No and Date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tatsfield	1/1/41	Pte	Nil	Conduct to the prej etc in using a WD veh without permission	Sgt Smith Cpl Hilema	7 days D.P.	1/1/41	Maj Adams	
Oxted		Pte	one	Sec 19 DRUNKENNESS 1st offence	Sgt Stone	7 days D.P.	17/2/41	Maj Beaton	1 days Forf
				Sec 10 Breaking out of barracks	Sgt Smith				
				Sec 15(1) AWL 1700 hrs 14/2/41 until 0300 hrs 15/2/41	Cpl O'donnell				
Oxted	1/3/41	Pte	one	Sec 15(2) Failing to appear at place of parade etc (2) Sec 15(3) AWL 5 hrs 45 mins	Cpl Ronnie	3 days Deten	3/3/41	Maj Beaton	
Oxted	3/7/41	Pte	one	Sec 10(4) Breaking out of barracks whilst a defaulter	Cpl O'Donnell	4 days D.P.	8/7/41	Maj Beaton	
Oxted	15/7/41	Pte	one	Sec 15(2) Failing to appear at the place of parade appointed	Sgt Hughes	2 days F.P.	16/7/41	Lt-Col Wilson	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Portslade	29/11/41	Pte	one	Section 15 (1) AWL from 2120 hrs 29/11/41 until 2320 hrs 29/11/41	Cpl Hudson Sgt Forester	14 days F.P. 14 days D.P.	1/12/41	Maj Beaton	1 days forf
~~Field 17/1/42~~ Field	17/1/42	Pte	one	Sec 15(1) AWL 2359 hrs 17/1/42 until 2045 hrs 20/1/42	Cpl McElroy Cpl Southall Cpl Russell	28 days Det 10 days F.P. 10 days pay	21/1/42 19/2/44	Maj ---- Lt-Col E.W. Day	e days forf
Field	18/2/44	Pte	one	Sec 40AA Conduct to the prej etc in that he in the field at 0715 hrs 18 Feb 44 neglected to get up promptly when ordered to do so by Cpl Russell					

CERTIFIED TRUE COPY

(E.L. Boyd) CAPT & ADJT
The Loyal Edmonton Regiment

SUMMARY OF EVIDENCE in the case of M16099 Private Joseph Edward DECOINE of the Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, C.M.F., on Active Service.

By order of the Commanding Officer evidence is taken on Oath.

1st Witness Prosecution — F54668 Corporal Murphy, H.J., Cdn. Provost Corps, (Rome Detachment)

A written statement of the evidence of this witness, purporting to be signed by him is read to the accused, marked "Exhibit "A" ", and attached to the Summary.

2nd Witness Prosecution — Galleni Elvira ved. COLANZI, Via Del Boschetto, No. 27, Rome.

A copy of the statement of this witness, referred to in "Exhibit "A" ", is read to the accused, marked "Exhibit "B"", and attached to the Summary.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement, and reserves his defence.

I certify that, owing to the exigencies of the service, the attendance of the First and Second Witnesses cannot be readily procured, and that the accused does not demand their attendance for cross-examination by him, and that the original statement and translation of the Second Witness cannot be readily procured.

I further certify that this Summary of Evidence, consisting of one page, was taken by me in the presence of the accused, in the Field, in Italy, this 30th day of December, 1944, and that Rules of Procedure 4(C) (D) (E) (F) and (G) have been complied with.

In the Field
In Italy
30 December 1944

Signed T.W. Adamson Lieut
The Loyal Edmonton Regiment
Officer taking Summary

EXHIBIT "A"

Statement of EVIDENCE in the case of

M 16099 Private Decoine J.E. 49th Edmonton Regt. 1 Cdn.Div.

Sir:-

At Rome, 30 Nov. 44 at 0045 hrs. I received a complaint that a Canadian soldier was creating a disturbance in a civilian house, in Via Del Boschetts No. 27, Rome.

Accompanied by F 44925 Cpl Harting and M 11569 L/Cpl Waet, I.H. Cdn Provost Corps Detachment I proceeded to investigate.

On arrival at m/n address I was escorted to the second floor, room No. 4 I found a Canadian soldier in a fighting mood and observed considerable damage. I placed the m/n soldier under a rrest, considerable force was necessary to escort him to the Central Guard Room, Rome.

His particulars was checked and verified from his M.B.M. Part 1 & 2. He proved to be the m/n soldier.

On investigation I found damage to the following articles:

Wardrobe;- Mirror and casing smashed, size 4' x 2'.
Top pulled off and smashed.
Shelves broken.

Bed;- Head pulled off double bed.

Chairs;- 1. Joints loose and back slightly chipped.
2. Seat slightly warped.
3. This chair is listed in the owners statement a s an easy chair, and the joints loose.

Door;- Door panel cracked.

REMARKS

A Statement from the Italian Civilian of above address attached.

Signed HJ Murphy Cdn Provost Corps (Rome Detachment) F54668 Cpl ~~Harding~~ Murphy HJ	Signed GJ Hartling Cdn Provost Corps (Rome Detachment) F44925 Cpl Hartling GJ	Signed IH Waet Cdn Provost Corps (Rome Detachment) M11569 L/C Waet I.H.

The original statement and interpretation of Galloni Elvira ved. Colanzi is on file.

Certified True Copy.

T.N. Adamson
Lieut
(T.N. Adamson)
Officer taking Summary

LBB
DeD.

EXHIBIT "B"

Cdn Provost Corps
(Rome Detachment)

30 Nov 44.

TO:- A.P.M.
Rome Area Allied Comd.

Statement of; Galloni Elvira Colanzi
Via Del Boschetts, No. 27 Rome.

Who states;-

To the Canadian Military Police of Rome.

The undersigned Galloni Elvira, widow Colanzi owner of the wine store on Via Del Boschetto n.27 second floor apt 4 is reporting the following facts:

Yesterday evening at 11 o'clock came home the M 16099 Pte Decoine J.E. which had taken a room for 6 days with two other soldiers of the same regiment. He was drunk but judging from his appearance no one could suspect any harm, but going into the room where the other soldiers were at sleep he started to throw on the floor all the furniture making all the sounds of a mad man and the undersigned with her little daughter locked herself in her own room because she was scared to death and besides she has the daughter v ry ill.

One of the soldiers saw that was impossible to calm his companion so he ran out to call for police help, and he came back with police and arrested the mad man.

Going into the room rented to the soldiers she found the following furniture damaged:

1. Big wooden closet with mirror of old style.
1. Honeymoon bed in wood.
1. Easy chair and two chairs and the door of the room.

From an estimation of the damages the prices are as follows:
For the closet with the mirror.....Lires 8,000
For the bed and other things,..... " 4,000

Being that the undersigned has no means of leaving and considering tha she has four children to support, she asks to be refounded for the material and moral damages.

Sgnd. Galloni Elvira ved. Colanzi
Rome 30 November 1944.

Certified True Copy of Exhibit "B"

T.N. Adamson

Lieut.
(T.N. Adamson)
Officer ta king Summary

A.P.B.
[illegible]

Summary of Evidence in the case of M16099 Pte Joseph Edward Decoine, of the Loyal Edmonton Regiment, a soldier of the Canadian Army Overseas, C.M.F., on Active Service

By order of the Commanding Officer evidence is taken on oath

1st Witness Prosecution

No. 754668 Cpl Murphy, H.J., Cdn Provost Corps (Rome Detachment)

A written statement of the evidence of this witness, purporting to be signed by him is read to the accused, marked "Exhibit A", and attached to the Summary.

2nd Witness Prosecution

Gallone Elvira vid. Colange, Via Del Boschetto, No 27, Rome

A copy of the statement of this witness, referred to in "Exhibit A", is read to the accused, marked "Exhibit B", and attached to the Summary

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused declines to make any statement and reserves his defence

I certify that, owing to the exigencies of the service, the attendance of the First and Second Witnesses cannot be readily procured, and that the accused does not demand their attendance for cross-examination by him, and that the original statement and translation of the Second Witness cannot be readily procured.

L.E.J.
Capt.

I further certify that this Summary of Evidence consisting of two pages T.R.A. was taken by me in the presence of the accused, in the Field, in Italy, this 30th day of December, 1944, and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been complied with.

In the Field
In Italy
30 Dec 44

T. R. Adamson, Lieut.
The Royal Edmonton Regt, C.A., C.M.F.
Officer detailed to take
the Summary of Evidence

1943

Exhibit "A" ma.

Statement of EVIDENCE in the case of
M 16099 Pte. DeCoine J.E. 49th Edmonton Regt. 1 Cdn.Div.

Sir:-

At Rome,30 Nov.44 at 0045 hrs. I recieved a complaint that a Canadian soldier was creating a disturbance in a civilian house,in Via Del.Boschetts No.27, Rome.

Accompanied by F 44925 Cpl.Hartling and M 11569 L/C Waet I.H. Cdn.Provost Corps.Detachment I proceeded to investigate.

On arriving at m/naddress I was escorted to the second floor, room No.4 I found a Canadian soldier in a fighting mood and observed considerable damage.I placed the m/n soldier under arrest, considerable force was necessary to escort him to the Central Guard Room,Rome.

His particulars was checked and verified from his M.B.M. Part 1 & 2. He proved to be m/n soldier.

On investigation I found damage to the following articles;-

Wardrobe; Mirror and casing smashed,size 4'x 2'.
Top pulled off and smashed.
Shelves broken.

Bed;- Head pulled off double bed.

Chairs;- 1. Joints loose and back slightly chipped.
2. Seat slightly warped.
3. This chair is listed in the owners statement as an easy chair, and the joints loose.

Door;- Door panel cracked.

EXHIBITS

A statement from the Italian Civilian of above address attached.

Signed.....Signed.....
Cdn.Provost Corps (Rome Detachment) Cdn.Provost Corps (Rome Detachment)
F 54668 Cpl Murphy F 44925 Cpl Hartling M 11569 L/C Waet I.H.

The original statement and interpretation of Galloni Elvira ved. Colanzi is on file.

G.J.

1995.

in lieu of
Army Form B 252

CHARGE 49th Edmonton Regt, Regiment.
Battery,
1st Cdn. Division. Squadron,
Troop or Coy.

CHARGE against No. M 16099 Rank Pte

Name DeCoine J.E.

Place Rome Date of Offence 30 Nov.44

OFFENCE 1. Creating a Disturbance.
2. Damage to Civilian Property.
3. Resisting Arrest.

Names of Witnesses:- F 54668 Cpl Murphy H.J.
F 44925 " Hartling G.J.
M 11569 L/C Waet I.H.

Signature of O.C. Battery,
Squadron, Troop or Company

Punishment Awarded

By whom awarded Adjutant.

MAJOR. APM (Br) R.A.C

Exhibit "B"

Can.Provost Corps.
(Rome Detachment)

30 Nov.44

To:- A.P.M.
ROME AREA ALLIED COMD.

Statement of; Galloni Elvira Colanzi
Via Del.Boschetta, No.27 Rome.

Who states;-

To the Canadian Military Police of Rome.

The undersigned Galloni Elvina, widow Colanzi owner of the wine store on Via del Boschetto n.27 second floor apt.4 is reporting the following facts:

Yesterday evening at 11 o'clock came home the M 16099 Pte. DECOIRIE J.E. which had taken a room for 6 days with two other soldiers of the same regiment.He was drunk but judging from his appearance no one could suspect any harm,but going into the room where the other soldiers were at sleep he started to throw on the floor all the furniture making all the sounds like a mad man and the undersigned with her little daughter locked herself in her own room because she was scared to death and besides she has the daughter very ill.

One of the soldiers saw that ## was impossible to calm his companion so he ran out to call for police help,and he came back with police and arrested the mad man.

Going into the room rented to the soldiers she found the following furniture damaged:

1.Big wooden closet with mirror of old stile.
1 Honeymoon bed in wood.
1 Easy chair and two chairs and the door of the room.

From an estimation of the damages the prices are as follows:
For the closet with the mirror.....Lires 8,000
For the bed and other things..... " 4,000

Being that the undersigned has no means of leaving and considering that she has four children to support,she asks to be refounded for the ###### material and moral damages.

Sgnd. Galloni Elvira ved. Colanzi.
Rome 30 November 1944

4803

I wish to have Capt A.M. Johnson of The Loyal Edmonton Regiment defend me at my trial by Field General Court Martial.

1 Jan 45

J.E. Decoine

(J.E. Decoine) Pte M16099

4W-79.
Pte De Coste JRRF.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-75505 Pte Joseph Racine Roger Fred DE COSTE SDG Highrs 10 CBRBn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn b.)

At present under sentence for: ~~[illegible]~~ C.G.K. (beginning on date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 77 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under 62.)

Sentence Awarded by the Court: To undergo detention for a period of fifteen (15) months.

(Sgd) C.G.K. Judge-Advocate (if any). 17 Feb 45 Date awarded. (Sgd) C.G. King Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), AF I 20(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567 577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP I 20(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA I72 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

I ~~direct that the accused be~~ not committed to prison or detention barracks until further order.(1) (1. AA 57A. Delete if not used.)

(Sgd) (G.S.N. Goetling), Brigadier, Commanding 2 Cdn Base Rft Gp. Confirming Officer.

Date 19 Feb 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-75505 Pte Joseph Racine Roger Fred DE COSTE SD/G HIGHRS 10 CBRBn	1700 hrs 22 FEB 45	[illegible] Lt Adjt 10 CBRBn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 4W-79

RECEIVED JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFAQR (In lieu of AFAR) 40/P & D/1698 (H 44) 4/38B

Convened by Brigadier G.S.N. Goetling, ED Comd 2 CBRG dated 16 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-75505	Pte	Joseph Racine Roger Fred	DE COSTE	SD&G Highrs 10 CBR Bn

PROCEEDINGS REVIEWED

R.K. Lawley Capt

REVIEWING OFFICER, JAG BRANCH 24 Feb 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 17 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Questions do NOT include all relevant fmn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 34, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1105 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused is (are) to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to as interpreter? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C.G. KING	RCA	9 CBR Bn
Member	Major	E.V. PINKHAM	RHC	X-9 List 3 Cdn RETD
Member	Capt	D.L. MacJANET	RCASC	9 CBR Bn
~~Member~~ Judge-Advocate	Lieut	N.H. Chute	CHQ	10 CBR Bn
Prosecutor	Lieut	G.C. SCOTT	Tor Scots	10 CBR Bn
Defending Offr	LT	H.G. FOREST	FMR	10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused C-75505 Pte DE COSTE, J.R.R.F. before arraignment make(s) (no) (1) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 60(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and regmt. of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

* MAJ MACJANET WAS NOT AVAILABLE - PLACE TAKEN BY LT MEMBER

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 3 P. 112.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans no [5]
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part ... of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are arraigned on him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(1. *Under B5 such parts only of the Summary of Evidence are required to relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive of Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fir... Loose Sheets ; Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... [1]
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.[1]
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, 115.)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 40(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(1. *AA* 54(*J*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*J*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and deals with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1] Ans no
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*f*) (*g*) (*h*), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]
(1. *MFB 355 or AFB 296.* 2. *MFW 4.* 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans Yes, on mitigation [2]
(1. *RP* 37(*C*), 44(*2*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to adduce on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(1. *AA* 54(*b*), *RP* 120(*A*).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 99, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas RO* 3009, 2323, *MML p* 60, 737-738. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*c*) (*B*), 68(*1*), *KR Con* 564. 2. *RP* 50. *As to remove from account by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C75505 Pte Joseph Racine Roger Fred DE COSTE (SD&G High'rs) on the strength of 48 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas.

is charged with

FIRST CHARGE
A A Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field at 0800 hrs 5 Oct 44 absented himself without leave until arrested at MACON at 1600 hrs 1 Dec 44.

Total Absence:- 57 days 8 hrs.

In the field
11 Feb 45

(J Huncle) Lt-Col,
OC. 10 CBR Bn,

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(G.S.N. Gostling), Brigadier,
COMMANDER
2 Canadian Base Reinforcement Group.

In the Field
16 Feb 45

6 4/4

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/B or A/Appmt	Full Christian Names.	Surname.	Unit.
C-75505	Pte		Joseph Racine Roger Fred	DE COSTE	SD&G Highrs 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Feb 45 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate (name) the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	C.G. KING	RCA 9 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	E.V. PINKHAM	RHC X-9 List 3 Cdn MTD
Capt	D.L. McJANNET	RCASC 9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	N.H. CHATE	CH of O 10 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 16 Feb 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G.S.N. Gostling)
Commanding 2 CDN BASE RPT GP
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/3BA CFAMS (Tp Unit) (or AFAU) 40/F & S/1487 (A1)

Medical Officer's Certificate

I certify that I have this day examined C75 505 Pte DeCosti J.R. 10CBRBn and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 17 Feb 45

W D Macmillan
Medical Officer

10CBRBn
Unit

Plea in mitigation of punishment

RE J. R. DeCoste C75506

Mr President members of the court

I ask the court to be lament in the case of Pte DeCoste because he is of good characters, has a clean crime sheet, allways showed willingness in obeying orders.

He has been in action for aproximately two months, he landed on D day S.D.G. and keep it up until he got wounded in Falaise.

Pte DeCoste last leave was in August 1943 for some reasons or other his permissions were put aside, it gave Pte DeCoste the idea that he was mistreated in the army. For a strain of two months in action, he left not knowing the gravity of his act. I hope the court will consider these facts and bear in mind that Pte DeCoste can still serve his country by repaining his unit again. I am sure he could be of great use to day.

I Thank you

17 Feb 1945

H Forest Sto

C.G.H.

Ex "A"

SUMMARY OF EVIDENCE

In the case of C75505 Pte Joseph Racine Roger Fred DE COSTE (SD&G Highrs) on the strength of 48 Coy, 10 CBR Bn, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

DOCUMENTARY EVIDENCE EXHIBIT "A"

The declaration of a Court of Inquiry produced as documentary evidence, was read over to the accused, marked as exhibit "A", signed by me and attached hereto.

EXHIBIT "B"

The certificate of apprehension in accordance with A A Sec 163 (i) (j) produced as documentary evidence was read over to the accused, marked as exhibit "B", signed by me and attached hereto.

(J.W. Varty) Lieut.
Officer Detailed to take Summary of Evidence.

The accused having been cautioned as follows: "Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence." Declines to give evidence and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one (1) page was taken down by me in the presence and hearing of the accused.

I certify that R.P. 4 (c) (d) (e) and (f) have been complied with.

(J.W. Varty) Lieut.
Officer Detailed to take Summary of Evidence.

644

49 Coy

EXHIBIT "A" Jas Ulbertz Lt.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 30th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-75505 Pte Descoste T.R.R.F.

DECLARATION

The Court declare that No. C-75505 Pte Descoste T.R.R.F. - Infantry Drivers Section illegally absented himself without leave 0800 hrs. at In The Field on the 5th day of October 1944 and that he is still so absent and that on the 30 Oct 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

as per attached List

[signature] President

[signature] Member

Member

Signed at In The Field

this 6th day of Nov. 1944

Signature of Commanding Officer [signature] 6/44

(W.G. Denney) Lt. Col.
Comdr, RCOC,
Cdn Army Roadhead.

49 Coy

Mil. Bk. 65
1000 Bks.—4-41 (940)
H.Q. 1772-81-40

APPENDIX "A"

DEFICIENCY LIST OF KIT

of

C-75505 Pte. Descoste J.R.R.F.

Article	Quantity	Value	
Anklets, web, prs	1	.99	
Blouses, Battle-dress	2	10.50	
Boots, ankle, prs	2	10.92	
Berets, Khaki	1	1.00	
Drawers, cellular short prs	2	.86	
Greatcoat, drab	1	11.31	
Jersey, pullover	1	1.79	
Shirts, angola, drab	2	4.06	
Socks, prs	4	1.48	
Trousers, battle-dress, prs	2	10.78	
Badge, cap	1	.09	
Braces	1	.28	
Brush, clothes	1	.48	
Brush, hair	1	34	
Brush, shaving	1	.37	
Brush, shoe, polishing	1	.28	
Brush, tooth	1	.11	
Cap, comforter	1	.34	
Comb, hair	1	.04	
Disc, Identity, set with cord	1	.03	
Dressing, field	1	.24	
Fork, N.S. Table	1	.07	
Holdall	1	.19	
Housewife, complete	1	17	
Knife, clasp	1	.86	
Knife, table	1	.15	
Razor, safety with blade	1	.06	
Patches, distinguishing, prs	3	.09	
Spoon, N.S. Dessert	1	.07	
Vests, cotton gym	2	.72	
Towels, hand	2	.64	
Belt, waist	1	.67	
Bottle, water	1	.82	
Braces, W.E.	2	.60	
Carrier, waterbottle	1	.37	
Cover, breech, rifle	1	.32	
Frog, bayonet	1	.19	
Haversack	1	1.79	
Helmet, steel	1	1.50	
Net, helmet, camouflage	1	.15	
Pack	1	1.64	
Pouches, basic	2	2.38	
Straps, shoulder, haversack	2	.64	
Tins, mess, rect, sets	1	.35	
Respirator, anti-gas complete w/haversack		4.66	
Outfits, anti-dimming	1	.05	
Ointment, anti-gas, tins	2	.30	
Eyeshields, anti-gas (Pk of 6)	1	.45	
Detectors, anti-gas, individuals, prs	2	.12	
Capes, anti-gas	1	2.76	
Bayonet	1	2.46	
Bottle, oil	1	.06	
Scabbard, bayonet	1	.61	
Sheet, ground	1	2.94	
Mug, drinking	1	.13	
Blankets	4	12.28	
Straps, supporting web	2	.46	
		$98.01	100%
Rifle Mk.IV	1	$73.90	75%

IN LIEU OF A.F.O. 1617

EXHIBIT "B"

Jas W Varty Jr

Certificate in accordance with section 163 (1) (m) of the Army Act.

I certify that the person whose description is given below was arrested at MACON at 1600 on the 1st day of DEC, 1944
(place), (hour),

Regimental particulars of officer or soldier referred to above

(No. C.J. 75505
)Rank PFC
(Name DELOITE ROGERS
)Unit 1st CDN CAD

Signature of officer of police in charge of police station where the above-named person was taken, or placed in custody, or arrest or surrender

William F Alexander
1st Lt Inf
97 American Inf Regt

Folio 101

64R

ARMY Form B 200.

EX "B"

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C.75505	Pte.	DESOSTE, J.R.R.F.	C.I.C. 10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with the statement set out above, or its contents proved.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number or entries in the conduct sheets, production being given by the most senior officer in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Original MFM-6 not available times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. Nil

There are no entries in the conduct sheets of the accused. Nil

2. The accused has not been previously convicted, or Nil

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act and dispensations with trial under section 75 of the Army Act are set out in the schedule annexed to this statement. Nil

3. The accused is not under sentence at the present time. The accused at the present time is under sentence of Nil

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 7 7 days in military custody, making a total of 7 7 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 20 yrs

6. The date of his attestation specified in his record of service is 26 Feb 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 11 mths 12 dys.

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 11 mths 12 dys service.

9. The accused is entitled to reckon 2 yrs 11 mths 12 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award)) CVSM & Clasp.

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of Nil

12. (In the case of an officer.) The accused holds in the army the rank of Nil dated Nil and in his regiment (or corps or department) the rank of Nil dated Nil

(72500) W.L.24500/1750 20,000 10/42 A.A.F.W.Ltd. Gp.598
(25000) W.L.20004/1498 18,000 5/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

Cancel

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Fourteenth~~ Seventeenth day of February 1955

A.W. Arthurs Capt

---

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

MFM 6
(AFB 122)
40/PAS/136 (3438)

No C.75505 Name DECOSTE, J. R. Sqn, Battery, or Company Corps C. Inf. C. Date of enlistment GC Badges Service or Proficiency Pay Ex C Character

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET				6 Ft K	

CERTIFIED TRUE COPY

[signature]

Officer i/c of Regimental Books.

(PTO)

Date: 11 Feb 45

C.75505 Pte. DECOSTE, J.R.R.F.
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me 14 Feb 45.
(Date)

2. (a) ~~I request that [illegible] if available, be appointed. OR~~

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) Decoste J.R.R.F.
C.75505 Pte. DECOSTE, J.R.R.F.

I hereby certify that LT. HGG FOREST was appointed to defend C-75505 Pte. DECOSTE, J.R.R.F. at his forthcoming trial by Court Martial and that the same officer was notified that he was Defending Officer on 14 Feb 45
(Date)

[illegible]
Cons. (Adjutant)
10 Cdn. Base Rft. Tn.,

[illegible]

LIST OF WITNESSES

N I L

LIST OF EXHIBITS

EXHIBIT "A" The declaration of a Court of Inquiry.

EXHIBIT "B" The certificate of apprehension.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE CHARGE SHEET, SUMMARY OF EVIDENCE, LIST OF WITNESSES AND A LIST OF THE EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

Decoste J.R.R.F.
(J.R.R.F. DeCoste)C7550 5, Pte.

CGH

4W-79

FIELD GENERAL COURT-MARTIAL

CFA96 (in lieu of AFA31 40-P & B/1698 (6/07)) 4/388

Convened by Order of Brig G S N Gostling ED Comd 2 CBRG dated 16 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-75505	Pte	Joseph Racine Roger Fred	DE COSTE	SD&G Highrs 10 CBR Bn.

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 17 Feb 45 CGK

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/14.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order; CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53; RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] attached thereto. The Court is satisfied that it is properly convened and constituted;[2] accused is ~~not~~ amenable to military law, and each charge discloses an offence.[3] CGK CGK

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1105 hours trial commences. CGK CGK

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.[1] CGK

~~The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with summarily by the CO.[2]~~ CGK

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to~~ ~~be interpreter ? Ans:~~ CGK

~~The interpreter be sworn.(1) Do you object to~~ ~~or shorthand writer ? Ans:~~ CGK

~~The shorthand writer be sworn.(1)~~ CGK

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.[1] President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO [2]

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.[1] The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	C. G. King	RCA 9 CBR Bn
Member	Major	E. V. Pinkham	RHC X-9 List 3 Cdn NFLD
Member	Lieut	N. H. Chate	CH of O 10 CBR Bn
~~Judge-Advocate~~ CGK			
Prosecutor	Lieut	G. C. Scott	for Scots 10 CBR Bn
Defending Offr	Lieut	H. G. G. Forest	FMR 10 CBR Bn

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No [1]

(1. RP 2b, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See [illegible] p 31.)

A8. The accused C-75505 Pte DE COSTE J.R.R.F. before arraignment make(s) (no) plea. [1]

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if one, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.[1] The accused does ~~not~~ CGK object to any charge.[2] There is no amendment to be made to the Charge Sheet.[3] The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Capt McJannet not available - Place taken by M. Member
2 CBRG VOL 3 P 112

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-75505 Pte Joseph Racine Roger Fred DE COSTE SD&G Highrs 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under~~ sentence for ~~beginning on (date)~~ (1) cgk

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 77 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of fifteen (15) months.

(Sgd) ~~Judge-Advocate, if any~~ CGK " 17 Feb 45 " Date awarded. (Sgd) " C.G. King " Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be sent committed to prison or detention barracks until further orders.~~(1) CGK

(1. AA 57A. Delete if not used.)

(Sgd) " G S N Gostling " Brig

Date 19 Feb 45 Commanding 2 CDN BASE RFT GP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-75505 Pte Joseph Racine Roger Fred DE COSTE SD&G Highrs 10 CBR Bn.	1700 hrs, 22 Feb 45	" Jas W Varty " Lt Ass Adjt 10 CBR Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial

CHARGE SHEET

The accused C-75505 Pte Joseph Racine Roger Fred DE COSTE (SD&G Highrs) on the strength of 48 Coy, 10 CBR Bn, a soldier of the Cdn Army Overseas.

is charged with

FIRST CHARGE
AA Sec 15(1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field at 0800 hrs 5 Oct 44 absented himself without leave until arrested at MACON at 1600 hrs 1 Dec 44.

Total absence : - 57 days, 9 hours.

" J. Runcie "

(J. Runcie) Lt Col
OC. 10 CBR Bn.

In the Field
11 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

" G S N Gostling "

(G S N Gostling) Brigadier
Commander
2 Canadian Base Reinforcement Group.

In the Field
16 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-75505	Pte	Joseph Racine Roger Fred	DE COSTE	SD&G Highrs 10 CHR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Feb 45 endorsed by me, (~~or by an offr of my rank for such~~)." To be tried by Field General Court-Martial ". GSNG

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) GSNG

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. GSNG

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. GSNG

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder. GSNG

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	C. G. King		RCA 9 CHR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	E. V. Pinkham		RHC X-9 List 3 Cdn NETD
Capt	D. L. McJannet		RCASC 9 CHR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	N. H. Chate		CH of O 10 CHR Bn
	~~[illegible]~~		
(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 16 Feb 45

" G S N Gostling " (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding 2 CDN BASE RPT GP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (CPA20 12th Impn (of AFA3) 45/7 & 8/1867 (4000).)

MEDICAL OFFICERS CERTIFICATE

I certify that I have this day examined C-75505 Pte DE COSTE J.R.

10 CHR Bn and in my opinion he is fit to undergo trial by Court

Martial.

" W.O. MacNeill " Capt.
10 C. B. R. Bn.

Field
17 Feb 45

PLEA IN MITIGATION OF PUNISHMENT

RE: J. R. DE COSTE C-75505

Mr President, members of the Court.

I ask the Court to be lenient in the case of Pte DE COSTE because he is of good character, has a clean crime sheet, always showed willingness in obeying orders.

He has been in action for approximately two months, he landed on D day and keep it up until he got wounded in Falasie.

Pte DE COSTE last leave was in August 1943 for some reason or other his permissions were put aside, it gave Pte DE COSTE the idea that he was mistreated in the army. After a strain of two months in action, he left not knowing the gravity of his act. I hope the Court will consider these facts and bear in mind that Pte De Coste can still serve his country by rejoining his unit again. I am sure he could be of great use today.

I thank you

" H. Forest " Lt.

17 Feb 45.

LIST OF WITNESSES

NIL

LIST OF EXHIBITS

EXHIBIT "A" The declaration of a Court of Inquiry

EXHIBIT "B" The certificate of apprehension

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE CHARGE SHEET, SUMMARY OF EVIDENCE, LIST OF WITNESSES AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

" Decoste J R R F "
(J.R.R.F. DeCOSTE) C-75505, Pte

SUMMARY OF EVIDENCE

In the case of C-75505 Pte Joseph Racine Roger Fred DE COSTE (SD&G Highrs) on the strength of 48 Coy, 10 CBR Bn, a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer this evidence is taken on oath.

DOCUMENTARY EVIDENCE

EXHIBIT "A"

The declaration of a Court of Inquiry produced as documentary evidence was read over to the accused, marked as Exhibit "A", signed by me and attached hereto.

EXHIBIT "B"

The certificate of apprehension in accordance with A A Sec 163 (i) (j) produced as documentary evidence was read over to the accused, marked as exhibit "B", signed by me and attached hereto.

" J. W. Varty "

(J.W. Varty) Lieut.
Officer detailed to take
Summary of Evidence.

The accused having been cautioned as follows: " Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."
Declines to give evidence and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused.

I certify that R.P. 4 (C) (D) (E) (F) have been complied with.

" J.W. Varty "

(J.W. Varty) Lieut.
Officer detailed to take
Summary of Evidence

RECORD of the Declaration of a Court of Inquiry assembled at **In the Field** on the **30th** day of **October** 19 **44**, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. **C-75505 Pte Descoste J.R.R.F.**

DECLARATION

The Court declare that No. C-75505 Pte Descoste J.R.R.F. - Infantry Drivers Section illegally absented himself without leave 0800 hours at In the Field on the 5th day of October 1944 ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ that he is still so absent, and that on the 30 Oct 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
As per attached List.			

" E M Moore " Lt. President

" ?????????????? " Lt. Member

Member

Signed at In the Field

this 6 day of Nov 19 44

Signature of Commanding Officer "W.G. Denney" Lt Col, Comdr, RCOC, Cdn Army Roadhead.

Certified true copy

Signature of Officer having custody of original record

APPENDIX "A"

DEFICIENCY LIST OF KIT

of

C-75505 PTE DECOSTE J. R. R. F.

Article	Quantity	Value
Anklets web prs	1	.99
Blouses, Battle dress	2	10.50
Boots ankle prs	2	10.92
Berets khaki	1	1.00
Drawers Cellular short prs	2	.86
Greatcoat drab	1	11.31
Jersey pullover	1	1.79
Shirts, angola drab	2	4.06
socks, prs	4	1.48
Trousers, battle dress prs	2	10.78
Baige, cap	1	.09
Braces	1	.28
Brush, clothes	1	.48
Brush, hair	1	.34
Brush, shaving	1	.37
Brush, shoe, polishing	1	.28
Brush, tooth	1	.11
Cap, comforter	1	.34
Comb, hair	1	.04
Disc, Identity, set with cord	1	.03
Dressing Field	1	.24
Fork, N.S. Table	1	.07
Holdall	1	.19
Housewife, complete	1	.17
Knife, clasp	1	.86
Knife, table	1	.15
Razor, safety with blade	1	.06
Patches, distinguishing, prs	3	.09
Spoon, N.S. Dessert	2	.07
Vests, cotton gym	2	.72
Towls hand	1	.64
Belt, waist	1	.67
Bottle, water	2	.82
Braces, W.E.	1	.60
Carrier, waterbottle	1	.37
Cover, breech rifle	1	.32
Frog, bayonet	1	.59
Haversack	1	1.79
Helmet, steel	1	1.50
Net, helmet, camouflage	1	.15
Pack	1	1.84
Pouches, basic	2	2.38
Straps, shoulder, haversack	2	.64
Tins, mess, rect, sets	2	.35
Respirator, anti-gas complete w/haversack	1	4.66
Outfits, anti-dimming	1	.05
Ointment, anti-gas, tins	2	.30
Eyeshields, anti-gas (Pk of 6)	1	.45
Detectors, anti-gas, individuals, prs	1	.12
Capes, anti-gas	1	2.76
Bayonet	1	2.46
Bottle, Oil	1	.06
Scabbard, bayonet	1	.61
Sheet, ground	1	2.94
Mug, drinking	4	.13
Blankets,	2	12.28
Straps, supporting web		.26
		100 %
		$ [illegible]
		$ 73.50 75 %

Rifle [illegible] 1V

IN LIEUT OF A.F.O. 1617

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(1) OF THE ARMY

I certify that the person whose description is given below was arrested at MACON at 1600 hrs on the 1st day of DEC 1944.

Regimental particulars of Officer or soldier referred to above	C-75505 Pte DECOSTE Rogers 1st CDN ORD
Signature of officer of police in charge of police station where the above named person was taken, or placed in custody, or arrest or surrender.	" William F Alexander " 1st Lt 97 American Inf Regt.

---

11 Feb 45

C-75505 Pte DECOSTE J.R.R.F.

1. I hereby acknowledge receipt of one copy of CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE delivered to me 14 FEB 45.

2. (b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(SIGNED) Decoste J.R.R.F.
C-75505 Pte DECOSTE J.R.R.F.

I hereby certify that Lt. H.G.G. Forest was appointed to defend C-75505 Pte Decoste, J.R.R.F. at his forthcoming trial by Court Martial and that the ~~xxxx~~ said officer was notified that he was Defending Officer on 14 Feb 45.

"J W Varty " Lt
(J W Varty) Lt
Ass Adjutant
10 Cdn Base Rft ~~Sec~~

Ex 'B'

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
C.755505	Pte	DECOSTE, JHRF	CIC, 10 CBR Bn

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, preference being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

Original MF 365 not available

for ..... times

~~for .....~~ ~~times~~

~~for .....~~ ~~times~~

2. ~~Previous convictions of the accused by a court martial or civil court are set out in the schedule overleaf~~ Nil

3.* ~~The accused at the present time is under~~ Nil

~~sentence for .....~~

~~beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charge for Nil days in civil custody and for 77 days in military custody, making a total of ~~77~~ days ~~of which 77 days were spent in hospital~~.

5. The present age of the accused is ~~20 yrs~~.

6. The date of his attestation is ~~25-Feb-42~~

7. The service which the accused is allowed to reckon is 2 yrs 11 mos 12 days.

8.# The accused is in possession of

CUSM + CLASP

~~9. (If the accused is a warrant officer or NCO),~~ Nil

~~accused has served continuously, without reduction~~ Nil

~~to the present rank~~

~~Date of promotion~~ Nil

~~In the substantive rank of .....~~ Nil

~~In the war substantive rank of .....~~ Nil

~~In the other rank of .....~~ Nil

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

* Strike out if not applicable

State the military decorations (if any) held by accused.

Army Form B.296 (War)

CGK

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

None

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this Seventeenth day of February 1945

"C" Matthews Capt.

No. C-75505 Name DECOSTE J.R. Sqn, Battery, or Company — Corps C INF C — Date of enlistment — GC Badges — Service or Proficiency Pay — 3/17 MFM 6

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET					
				CERTIFIED TRUE COPY					
				" C M G Arthur " Capt					
				Officer i/c Regimental Books.					

YY-140

GNR DECOSTE R.L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Disobeying lawful Cd	Not Guilty	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... (beginning) (on) (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which 5 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

~~that he undergo~~ detention for a period of ninety days (90)

21/12/43 (Sgd) ..... President. (RP 45, 50.)

(Sgd) ..... Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 562-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 63. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offr : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I confirm the finding and sentence of the Court.

~~I direct that the accused be held in custody in prison or detention barracks until further orders.~~(1) N/A

(1. AA 57A. Delete if not used.)

(Sgd) ..... A/S Comm H Cd

Date 24 Dec 43 Commanding Comd'g H.Q. 5 CDN. ARMD. CORPS DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
F77901 Gnr. DaCosta. R.L.	28 Dec 43	A/O.C. 11 Cdn Fd Regt RCA (patient in 5 Cdn Gen Hospital)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

XY-140

B12

CFA96 (In lieu of AFA3) 40-P-G-S-(1608 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col. B.C. Leech. E.D. Comd 5 Cdn. Gen. Hosp. dated 19 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F77901	Gnr.	Raymond Lee	DeCoste	11 Cdn. Army Fld. Regt. RCA (patient in 5 Cdn. Gen. Hospital)

PROCEEDINGS REVIEWED

[illegible]

18 Jan 44

REVIEWING OFFICER, JAG BRANCH (CMHQ)

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Italy on (*date(s)*) 21/12/43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance as to procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, or AFs, for oaths and instrs on how to record addresses, evidence, etc, which asides are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 0930 hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....

~~The interpreter is sworn.(1)~~ ~~(As you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans N.O.T.A.(2) H.M.

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	MAGNUS SPENCE	#1 6 Cdn Fd Regt RCA
Member	CAPT.	W F HILLHAM	1 Cdn Tk Bde RASC
Member	CAPT	CHA WATERS	2 Cdn Gen Regt RASC
Judge-Advocate		MIL	
Prosecutor	MAJOR	AR TURNER	1 Cdn Gen Hosp
Defending Offr	LT	JE LOWE	11 Cdn Army Fld Regt RCA

Questions by President : Is the Prosecutor a lawyer ? Ans N.O.T.A. Is the Defending Offr a lawyer ? Ans NO (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 64 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment makes(s) ~~(has)~~ no plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit., the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF Afms to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 fn 3. 2. *MML p* 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)
President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 37(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charge(s) dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a subsequent sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~ (2) ~~The Court is closed, and considers the submission.~~ (3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~ (4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.
President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s) ~~(or if any of Not Guilty, and states to the accused that the findings)~~ of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later. (1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed by him and the JA, if any, recording the finding(s) on the charge(s) dealt with under Record Form D or C.)
(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB* ~~*or AFB*~~ *294.* 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 80, 737-738. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

F17901 Gnr. Raymond Leo DeCoste, R.C.A., 11 Canadian Army Field Regiment, and a patient in No.5. Canadian General Hospital, a soldier of the Canadian Army Overseas, is charged with:

When on Active Service Disobeying a Lawful Command given by his superior officer

in that he

While a patient in hospital on the 13th Dec 1943 did not put on Hospital Blue uniform when ordered to do so by L/Sgt. A.J. Evans, No.5. Canadian General Hospital.

(B.C.Leech) Colonel, RCAMC
Officer Commanding
No.5.Canadian General Hospital,
R.C.A.M.C.

In the Field
19 Dec 43

To be tried by Field General Court Martial

(B.C.Leech) Colonel, RCAMC
Officer Commanding
No.5.Canadian General Hospital,
R.C.A.M.C.

In the Field
19 Dec 43

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AF A3)
40/PAS/1607 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F77901	Gnr		Raymond Leo	DeCoste	11 Cdn.Army Fld.Regt RCA (Patient in 5 Cdn.Gen. Hospital)

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CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~xxx~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Dec 43 endorsed by me, ~~xxxxxxxxxxxxxxxxxx~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~xxxxxxxxxxxxxxxxx

No. 5 Canadian General Hospital, R.C.A.M.C.

Canadian Army Overseas (C.M.F.)

21 Dec 43.

I certify, that F77901 Pte. DeCoste, R.L., 11 C.A.F.R., R.C.A. is fit to undergo trial by Court-Martial.

B. W. Wade Capt

(Medical Officer)

Case of F-77901 DeCosta

1st Witness:- Nursing Sister Lucas M.S. R.C.A.M.C.
Attached to 5th Canadian General Hospital

At approximately 1000 hours on the 13-12-43 the accused returned from the office of Col. Leech and I asked him to put on his hospital blue uniform and he replied that he understood that he did not have to wear them.

Questioned by Pros. When the accused made this reply did you take any action.
Ans. I told the ward orderly.

2nd. Witness. Pte. R.C.A.M.C. attached 5th. Cdn Gen Hosp.
I am M-17264 Rosengren
My duties on the 13-12-43 I was ward orderly on Center 2;in the morning approximately 0900 hours where the accused was a patient He was ordered by Nursing Sister Lucas to take off his battle dress and put on his hospital blue uniform; this I heard and heard him refuse to do so [redacted]. Nursing Sister Lucas sent me to the R.S.M.'s office to inquire if the accused had been given permission not to wear his blues. This I did and the R.S.M. said that he was to wear the blue uniform, L/Sergt. Evans returned to the ward with me under orders from the R.S.M. L/Sergt. Evans ordered the accused to "Take off your battle dress and put on the hospital blues and give your battle dress to the orderly."
Gnr. DeCoste took the blue pants as if he were going to put them on but in a few minutes when I returned I found that he had not obeyed the order and that he was still in battle dress. I again ordered him to change but he refused to do so.
I then went down to L/Sergt. Evans and reported. L/Sergt. Evans returned and I heard him order the accused " Take off your battle dress and change into the blues or I shall arrest you right away".
The accused got up from the bed where he had been playing checkers and replied "That's what I've been waiting for".
L/Sergt Evans placed him under arrest and took him away

Pros.Q. When the accused replied to the last statement did he say anything else.
A. I did not hear anything else. Sir.
Q. How long was it between the orders given by L/Sergt Evans.
A. Six or Seven minuted Sir.
Def. Q. Were you presnt when Nursing Sister Lucas gave the order.
A. [redacted] Yes Sir.
Q. How far were you
A. About fifteen feet.
Q. Have you had trouble with the accused before over the same thing.
A. Yes Sir the day previous.

3rd. Witness.
I am R.S.M. Chipman, R.P. H-33005 R.C.A.M.C. 5th Cdn. Gen. Hosp.
I am in charge of discipline for the hospital.
On the morning of 13-12-43 at approximately 1030 hours Pte.Rosengren came to my office and asked if Col. Leech had given permission to Gnr. Decoste not to wear his hospital blue uniform; I answered that he definitally had not. The orderly stated that he was having trouble with the accused and getting him to don his blue uniform.
I detailed L/Sergt Evans to go with the orderly to Center 2 and to see that the ccused put on his blues or see that he was put under arrest
No Ques.

4th Witness.
I am H-33045 L/Sergt Evans A.J. R.C.A.M.C. 5th Cdn. Gen Hosp.
of 13-12-43 in the R.S.M.'s office when Pte.Rosengren,the
orderly from Ward Centre 2 came in to lodge a complaint against the
accused. I was ordered by the R.S.M. to go to the ward and look
into the matter.
The accused was pointed out to me and I asked him what his objections
were to wearing the Blue uniform and why he refused to comply with
the order; he replied that he had not been told to do so.
I told the accused that it was a hospital regulation and told his
to take off his battle dress and get into the blue uniform and
give his battle dress to the orderly. He got up off the chair
and took the pants as if he was about to change. I said that I
would return and then left the ward
I went back to the ward in about four minutes and found that the
accused had not changed into the hospital blues. I ordered him
again " Gnr. DeCoste get up and put on those blues immediately"
he replied " I have no intention of putting on the hospital blues"
so I placed him under arrest.
As we left the ward the accused remarked that the only time that he
would wear blues would be if someone put them on.

Pros. Q. Nil.
Def. Q. Did Gnr. DeCoste ask to be paraded before the C.O.
A. Yes Sir, after I had placed him under arrest.

Statement of the Accused:- On oath.
I am F-77901. Gnr. DeCoste R.L. 11th. Fld Regt.
I did not refuse to obey the order of
L/Sergt Evans. I did ask to be paraded before the C.O.
L/Sergt Evans said are you going to put on the hospital blues and
I again asked to be paraded before the C.O. L/Sergt. Evans ordered
me to pick up my kit and go with him to the guard room which I
immediately did.

Pros. Q. Nil.
Def. Q. What were your relations with Pte. Rosengren.
A. We were not on friendly terms.

Plea for the defense:-

Based on his condition on entering the hospital and
being of an unsettled mind due to unfriendly relations
between himself and Pte. Rosengren.

Exhibit C.

NO. 5 CANADIAN GENERAL HOSPITAL, R.C.A.M.C.

STANDING ORDERS FOR PATIENTS OTHER RANKS.

1. (a) Patients in Hospital will be under the command of the Officer Commanding the Hospital.

(b) Patients will obey the rules of the Hospital as issued by the O.C., also any instructions of the Nursing Sisters, R.C.O.s or Orderlies and if they consider that they have any cause for complaint, they will report to the Officer in charge of the ward or to the Orderly Officer.

2. Money or Valuables. All patients in Hospital are forbidden to have Money or valuables in their possession, except with the permission of the O.C. of the Hospital. Any Money or valuables in their possession on admission to hospital will be handed over to the Quartermaster and receipt given by him.

3. Duties. The Medical Officers may employ on general duties, without extra pay, patients whom they consider able to aid the Hospital Establishment.

4. Meal Hours. Breakfast.....0730 hours
Lunch.....1200 hours
Supper.....1700 hours

5. Medical Officers' Rounds. All patients who are able will stand at the foot of their beds when the Medical Officers make rounds. Silence will be observed at this time.

6. (a) Morning Routine. - No patients will rise at 0630 hours, shave, dress, and wash before breakfast.

(b) Bed patients will be instructed by the Nursing Sisters as to when they will wash and shave.

(c) Patients will not leave their wards until morning staff Rounds have been made, except when specially ordered to do so for fatigue duties, etc. They will be back on their wards by 1600 hours, and in the evenings by 1900 hours. Before leaving the Ward, patients will obtain permission from the Nursing Sister in Charge.

7. Lights Out. All patients will be in bed, and the lights out by 2030 hours. They will not carry on any conversation after this time, neither will they leave their beds, nor turn on the lights, except for unavoidable causes. This includes the fact that they are not allowed in the Ward kitchens or in the Telephone room after lights out.

8. Passes. Patients are not allowed outside Hospital Grounds.

9. Alcoholic Beverages. Not only is it contrary to Hospital regulations for Patients to purchase alcoholic beverages in public houses, or to bring into, or be in possession of such beverages in the Hospital itself, but it is an offence for Patients (except with the written authority from their Medical Officer) to consume alcoholic beverages either in the Hospital or whilst on pass. It will not be necessary to prove intoxication; the mere proof of consumption of the said beverages will be sufficient.

10. Fruits and Vegetables. Patients must not purchase fruit or vegetables from local vendors.

(P.T.O./

11. Smoking. Smoking is not allowed in any part of the Hospital (e.g.,corridors, entrance hall, etc.) except on the wards, and only there at the hours as laid down. Cigarette butts must not be thrown over balcony railings.

NOTE:- There will be no smoking on the wards after Lights Out.

12. Gambling. Gambling is strickly forbidden at all times in the Hospital.

13. Refuse. Throwing cigarette butts, empty cartons or other refuse out of the ward windows or over balcony railings is strictly forbidden. All refuse will be placed in the containers provide for that purpose.

14. Breakages. All breakages or damage and the responsibility of the individual concerned, and the cost of replacement may be charged against those so responsible.

15. Patients' Charts. The practice of patients reading their own charts is contrary to Hospital Regulations.

16. Addressing mail. It is strictly against all regulations for patients to give this hospital as a direct address for mail.

[illegible]

[illegible]

Summary of Evidence
in the Case of.

F 77901 Gnr De Coste, R.L., 11 Cdn Army Fld. Regt RCA a soldier of the Canadian Army Overseas, and a patient in No 5 Canadian General Hospital RCASMC.

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

Lieut (N/S) M.S. Lucas, RCASMC, attached to No 5 Cdn General Hospital having been duly sworn states: Shortly after his return from the Colonel's office, on 13th Dec. in ward C2 I asked Gnr De Coste to put his blues on and he said that he understood that he did not have to wear them.

The accused declines to question the witness

M. Lucas Lt. N/S

2nd Witness for the Prosecution

M 17264 Pte Rosengren H, RCASMC, No 5 Cdn General Hospital having been duly sworn states: On the morning of December 13th 1943 about 0930 hours Gnr De Coste was ordered by nursing sister Lucas to take his battle dress off and put on hospital blues. De Coste replied that he was told by the Colonel that he did not have to wear hospital blues and refused to take his battle dress off. I went down to the R.S.M.'s office to enquire if De Coste's statement was right. I was told by R.S.M. Chipman that De Coste was to wear hospital blues. R.S.M. Chipman ordered H/Sgt Evans to come with me to Ward Centre 2 and to see that Gnr De Coste did as he was told. H/Sgt Evans ordered De Coste to take off his battle dress and put on his blues. Gnr De Coste took the blue pants in his hands and H/Sgt Evans left the ward. About 10 minutes afterwards when I came in to the ward Gnr De Coste was still in his battle dress. Again I ordered him to take the battle dress off and dress in Hospital blues. Gnr De Coste refused to do so. I went to H/Sgt Evans and he came to the ward and ordered De Coste to take his battle dress off right away and dress in his blues or he would arrest him. Gnr De Coste refused to take his battle dress off and said "that's what I've been waiting for." H/Sgt Evans then put him under arrest and took him

away from the accused.

The accused questioned the witness as follows.

Question: "Did you actually hear me say that the Colonel had told me that I did not have to wear blues?"

Answer: "I did not actually hear you say that but Sister Lucas told me so and asked me to find out from the RSM if Gnr De Coste's statement was right."

L'Rosengren

3rd Witness for the Prosecution

H 33005 RSM Chipman R.P. RCASMC, No 5 Canadian General Hospital having been duly sworn states: At approximately 1030 hours on the morning of 13 Dec 43 Pte Rosengren came in to my office and asked me if the Colonel had given the accused permission to wear his Khaki. I said that he definitely did not. He stated that the accused had again refused to put on his blues so I detailed L/Sgt Evans to accompany Pte Rosengren back to his ward and see that the accused put his blues on or he would be put under close arrest.

The accused declines to cross examine the witness.

R Chipman RSM

4th Witness for the Prosecution

H 33045 L/Sgt Evans, A.J., RCASMC No 5 Can General Hospital having been duly sworn states: On Monday 13 Dec 43 at approximately 1030 hours I was on duty in the Sergeant Major's office when Pte Rosengren the orderly from Ward Centre 2 came in to the Sgt Major's office and lodged a complaint against a patient on Ward Centre 2 Gnr De Coste, by name. The Sgt Major ordered me to accompany Pte Rosengren to Ward C 2 and ascertain the nature of the trouble. On arriving there Pte Rosengren

pointed out Gnr De Coste to me stating that this patient had refused to wear hospital blues. I approached Gnr De Coste and told him to take off his serge and put on hospital blues and turn the serge over to the orderly. Gnr De Coste got up and approached his bed and picked up the hospital blue pants and acted as if he were about to put them on. Pte Rosengren then came to the corridor of the ward with me and I told him that if he had any further trouble with this patient to let me know immediately and that I would be back in a few minutes to check.

I came back to the ward in approximately 3 minutes time and found the blues lying on Gnr De Coste's bed and he was sitting at another bed playing cards or checkers. I then asked him why he had not put on his blues when ordered to do so and he said that he had no intentions of putting on hospital blues. I once more ordered him to put on his blues and he refused again saying "I won't put on no hospital blues and I want to be paraded to the O.C." I put him under close arrest and ordered him to the guard room. When I was taking Gnr De Coste from the ward I met the Sister in charge and told her that I had placed De Coste in close arrest and was taking him to the guard room because he had refused to put on his blues. Gnr De Coste said "I will not wear hospital blues and the only time I will wear them is when some body puts them on me." I then took him to the guard room.

The accused declines to question the witness.

A.J. Curran Sgt.

The accused was cautioned as follows:

"Do you wish to make a statement or to give evidence upon oath? You are not obliged to do so but any statement you make or any evidence you give upon oath will be taken down in writing and may be given in evidence."

The accused declines to make a statement or to give evidence upon oath.

I certify that the foregoing Summary of Evidence consisting of three and one half ~~patients~~ pages was taken down by me in writing in the presence and hearing of the accused and that Rules of Procedure 4 (c)(d)(e)(f) & (G) have been complied with.

[signature] Major
RCAMC

5 Cdn General Hospital
16 Dec 43

Exhibit B

No. F77901 Name DeCoste R.L. Sqn., Battery or Company 29 Bty Corps 11 C.A.F.R. Date of enlistment 8.4.41 G.C. Badges Service or Proficiency Pay Character

MFM 6 (A.F.B. 133)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No.

Main	Date of offence	Rank	Cause of punishment mess	BY OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	17.7.42	Gnr.		Awarded 14 days CB for AWL 10 hrs. Fts. 1 days pay(Extracted from MFM 4)		14 days C.B.	15 Jul 42	OC.11 AFR	
Field	11 Oct 42	Gnr.		WOAS (1) AA Sec.15(3). (2) AA. Sec.40.	Documentary	7 days C.B.	13 Nov 42	GT.Inch Lt. Col	
Field	3 Nov 42	Gnr.		WOAS AWL from 2200 hrs. 3 Nov 42 until apprehended at 1820 hrs. 10 Nov 42.(Absent 6 dys 20 hrs. 20 mins) AA. Sec 15(1)	L/B.Melvor Documentary	14 dys F.P. Cost of apprehension 7s 2d 14 dys pay.	13 Nov 42	GT.Inch Lt. Col	7 dys Fts 7 dys pay Total fts (21 dys pay)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ield	2 Nov 42	Gnr.		WOAS Absent without leave from 1830 hrs. 1 Nov 42 to 0210 hrs. 2 Nov 42 (Absent 7 hrs. 4 min) AA Sec 15(1).	(Extract Plastic Surgery	14 dys pay	Team Pt. II 39d/7 Nov 42)		Auto 1 dys pay. Total forf. 15 dys pay.
ield	28 Nov 42	Gnr		WOAS AWL from 2200 hrs. 28 Nov 42 until 1030 hrs. 29 Nov 42. (Absent 12 hrs. 30 mins.) AA Sec15(1).	Documentary L/B.McIvor	2 dys F.P. Fts. 2 dys pay.	30. Nov	G.T. Inch Lt.-Col.	Total fts 3 days pay.
ield	28.3.43	Gnr		AA Sec 15(1) WOAS AWL 2359 hrs. 28.3.43. to 0930 hrs. 29.3.43 (Absent 9 hrs. 31 mins)	Sjt.Macke	3 dys F.P. 3 dys pay AA 4c(2)(d)	31.3.43	DR.Corbet	Fts 3 dys pay FRI 149(2). Fts 1 dys pay FR1 149(1)(A) Total Fts 4 dys pay.
ield	7.10. 43	Gnr.		WOAS - AA Sec 40 in that he at 1500hrs. 7/10/43 did fire single rds from bren without permission.	Sjt.Peters	14 dys F.P. 14 dys Fts.pay	8 Oct 43	HE.Wright Lt-Col.	Fts. 14 dys pay FRAl 149(1)(a)

(CERTIFIED TRUE COPY FROM THE REGTL & BTY RECORDS IN MY POSSESSION) ..

Exhibit A 3

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

F 77901 Gnr De Coste RL of the 11 Cdn Army Fd Regt RCA

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

† See Para. 308, K.R., 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For AWL	one times	six times.
For Conduct sh (AA 4c)	one times	two times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~ OK

or,

~~There are no entries in the Conduct sheets of the accused.~~ OK

2. The accused has not been previously convicted,

or,

~~Previous convictions† of the accused by a court martial or a~~ civil court, summary awards under Section 47 ~~of the~~ Army Act, and dispensations with trial ~~under~~ Section 73 of the Army Act, are set out ~~in the Schedule annexed to this statement.~~

7B/PMEG/5/4.00 — 4/41.

Description of Court by which trial, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		N A OK		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this [illegible] day of December 1943

[illegible signature]

[illegible signature]

Adjt. 11th A. Fd. Regt. R.C.A.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ .....

~~imposing on the ..... days of~~

.....

4. The accused has been in confinement, awaiting trial on the present charges

for mil days in Civil Custody,

and ..... days in Military Custody.

Total 8 days.

Of which 8 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 19 yrs 6m

6. The date of his ~~record of service~~ attestation specified in his attestation paper is 8 Apr 41

7. ~~The service which the accused is allowed to reckon towards discharge or~~ ~~transfer to the reserve is~~ .....

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ ..... ~~years' service~~

9. ~~The accused is entitled to reckon~~ ..... years service for the purpose of determining his pension for

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of a medal for~~ .....]

~~11. [If the accused is a warrant officer.] The accused holds a first class certificate of education and has passed the qualifying examination for warrant officers.~~

~~12. [If the case is that of an officer.] The accused holds the following certificates of education:~~

~~(a) [If the accused has passed the prescribed examination in military topography, military law, and military administration, the fact is to be stated here.]~~

~~(b) The accused has passed the prescribed examination in military topography, military law, and military administration, but has not passed the prescribed examination in military history, military organization, and military duties in the field.~~

~~(c) The accused has passed the prescribed examination in military history, military organization, and military duties in the field, but has not passed the prescribed examination in military topography, military law, and military administration.~~

~~(d) The accused has not passed the prescribed examination in military topography, military law, military administration, military history, military organization, and military duties in the field.~~

~~Date of Promotion~~

~~to the rank of ....~~

~~to the rank of ....~~

~~to the rank of ....~~

~~to the rank of ....~~

(*Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name F 77901 Gnr De Cost R. L. of the 11 Cdn Army Tank Regt RCA

NOTE.—*A verbatim extract from the regimental books, stating their convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

NA

(continued overleaf.)

DD-2

PTE DECOSTE W.D.

Missing

5 X - 88

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

Pte Ale Coste, W.D.D.

Missing

1/14 CMHQ 40-1
40/P & S/52
(Strips of 4)

YYY-65

Rte Du M

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E11129 Pte Maurice DEE - 6 CIRU - CIC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	~~To undergo 60 Sixty Days~~ Detention Rme
2nd				Rme
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 713, and in loss of kit see RP 44 fn 6.)

~~At present service entered for~~ (beginning on date) (1) Rme

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: TO UNDERGO DETENTION FOR A PERIOD OF (60) SIXTY DAYS AND TO BE PUT UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF ONE POUND EIGHTEEN SHILLINGS AND ELEVEN PENCE (£1-18-11) BEING THE COST OF APPREHENTION.

(Sgd) Judge-Advocate, if any. 25 Sept 44 Date awarded. (Sgd) R M Campbell President (RP 45, 50 AA 54(2))

(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. ~~MINUTE WHERE CONFIRMATION RESERVED.~~ (AA 54(3), RP 120(F), MML p 740)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the sentence be carried into execution forthwith.~~

(1. AA 57A. Delete if not used.)

(Sgd) J Gavan Power Col

(J GAVAN POWER) A/Col

Date 25 Sep 44 Commanding T/Comd "A" Gp Con Rft Units CA(O)

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

E11129 Pte Maurice DEE 6 CIRU - CIC — 27 Sep 44 — D O - 229/44 — John Letherbarrow Capt. ADJT, 6 CDN. INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 777-65

RECEIVED 3 OCT 1944 CONVENING BRANCH CMHQ

CPA86 (To plea of AP A21 40-P-A 8-1698 (40/50) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of A/Col J GAVAN POWER Comd "A" GP CRU dated 23 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E11129	Pte.	Maurice	DEE	6 CIRU (CIC)

PROCEEDINGS REWEWED

J C Campbell major

6 Oct 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date) 25 SEPT. 44 Rme

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~as amended~~) attached thereto.(1) Rme

The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3) Rme

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1015 hours trial commences. Rme

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) Rme

~~Has undergone sentence. (The Court then ordered elected to be tried by court-martial instead of being dealt with summarily by the CO.)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to account. The (per) object to an interpreter / Ans~~ Rme

~~The (interpreter) is sworn. (1) The (per) object to an shorthand writer / Ans~~

~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R M Campbell	2 CIRU
Member	Capt	R T HOLROYD	6 CIRU
Member	Lt	J.A. GREGOIRE	6 CIRU
Judge-Advocate			
Prosecutor	CAPT	J H LABRIE	6 CIRU
Defending Offr	CAPT	J C PAMBRUN	6 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 2.)

A8. The accused E11129 Pte DEE, M before arraignment make(s) (no) (~~a~~) plea(s) Rme (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) Rme not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is advised and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The pro- Rme ceedings are continued on Record Form 6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be [illegible]* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be [illegible]* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be [illegible]* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn by Prosecutor for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *securing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO .....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. [illegible] (1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on FIRST charge(s). The accused is (are) so informed, [illegible] charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) to which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fin by [illegible] Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*B*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character [illegible], in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans .....

Do you intend to call witnesses on your behalf ?

Ans .....

Are they witnesses as to character only ? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 46 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order RP* 865. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 80(*C*). *Notice the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1) *Or*, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2) [illegible] are pleas of Guilty outstanding and dealt with under Record Forms B or C.)

(1. *AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, 117. *This alternative announcement is not applicable where there*

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)

(1. *MFB* 253 *or MFB* 296. 2. *MAM* 6. 3. *RP* 46, *KR Con* 158. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP* 77 (*2*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-564, *Overseas KO* 309, 1323, *MML p* 66, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see insets on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Rwc.

CHARGE SHEET

The accused, No E-11129 Private Maurice DEE, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas, is charged with;

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

FIRST CHARGE
SECTION 15(1)
ARMY ACT

in that he,

at Farnley Park Camp, Otley, Yorks, did absent himself without leave from 2300 hours on the 13th day of August 1944 until 0005 hours on the 5th day of September 1944. Cost of apprehension £1.18.11.
(Total absence 22 days 1 hour 5 minutes)

(G.F. Clingan) Lt.-Col
A/Commanding Officer
6 Cdn Inf Reinf Unit

In the Field
22 Sep 44

To be tried by Field General Court Martial.

(J GAVAN POWER) A/Col
T/Comd
"A" Gp Cdn Rft Units
CAO

Field
24 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names	Surname	Unit
E11129	Pte		Maurice	DEE	6 CIRU (CIC)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has(~~have~~) committed the offence(s) set forth in the Charge Sheet(X) attached and endorsed by me, ~~or by an offr of my staff for same~~, "To be tried by Field General Court-Martial".

(date) 23 SEP 1944

2. And whereas I am of opinion that it is not practicable that such offence(X) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(X), and to consist of the Offrs appointed or detailed hereunder.

4. ~~PLACE CASUALTY REPORTS AT HEADQUARTERS BOMBARDIER CORPS, GLADIOLUS or PARADISE (for the PARADISE Corps) CASUALTY REPORTS.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~PLACE MEMBERS AVAILABLE AT HEADQUARTERS BOMBARDIER CORPS, GLADIOLUS or PARADISE (for the PARADISE Corps) MEMBERS.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	R M Campbell (Must be named. RP 106.)	2 CIRU (Unit.)	

MEMBERS.

Captain	to be detailed by OC 6 CIRU		
Lieut (Rank.)	to be detailed by OC 6 CIRU (Named or detailed. RP 106.)	(Unit.)	

WAITING MEMBER.

Capt (Rank.)	to be detailed by OC 6 CIRU (Named or detailed, if any. RP 106.)	(Unit.)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)	

On Active Service in the Fd

in England (Country.)

Date 23 Sep 44

J Gavan Power Col (Rank.)

(Signed personally. RP 105 fn 2)

(J GAVAN POWER) A/COL

T/Commanding Gp Cdn Rft Units CA(C)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

4/38A (Replaces 4/3a Issue of A.F.A.M. No. 9 & A/1605 (Amdt.))

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: [illegible] (Rank)

[illegible] (Name) of [illegible] and in my opinion he is

fit to undergo trial by Court Martial.

Station

Date Sept-25-1944

SGD [illegible] (Medical Offr)

25 Sept 44

Mr. President,
Gentlemen of the Court,

Private Dee, M. has pleaded guilty to the offence as laid down in the charge, but there are a few points that, I think, should be brought out clearly before sentence is passed on him.

I) The accused has been in the army for a total of 4 years and 2 months.

II) The accused has been in action in France where he was wounded.

III) The accused wants to go back in action now.

IV) He was never in detention.

V) The accused has surrendered himself to the police.

VI) On his return from the hospital, the accused wanted to return to France immediately with a pletoon of his unit who were going back, but he was unable to do so because he had to be X-rayed. This I have checked with the M.O.

VII) I want to point out to the court that the accused hasn't had any letter nor parcel from his folks for 18 months though he is sending half his pay to them. That again, gentlemen, is not good for the morale of a man who has been in England for 3 yearsit certainly has something to do with his going A.W.L. I have checked this matter with the post office and found it to be correct.

VIII) His M.F.M. 6 shows that in 4 years he has been A.W.L. five times for one day only and once five days. Is this serious, gentlemen? Is this the case of a recidivist? I would say no, gentlemen. This is the case of any ordinary soldier.

Gentlemen, may I say this: The accused is fit and q ualified to go in action, he is anxious to go now or at any time that the army will send him; now I asked you, gentlemen, have you known many privates who have been in the army for 4 years who haven't had an accident of this kind, because I feel it is only an accident. Gentlemen are you going to punish a soldier, a man that has been doing his duty for 4 years, a man who has been wounded in action. Are you going to punish him severely or are you going to give him a chance to go backwardly and fight again for his country the way he wants to do. When this fighting soldier, gentlemen, will be able to fight again rest with the sentence you are going to pass on him.

J. Chamberlain Capt
Defending officer

Exhibit D

SUMMARY OF EVIDENCE

In the case of No M-11129 Private Maurice DEE, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

By direction of The Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution — D-56129 Cpl Brais, J.M., of The Cdn Inf Corps, on strength of No 6 C.I.R.U., having been duly sworn states as follows:

" I recognize the accused as M-11129 Pte Dee, M."

The accused declines to cross-examine this witness.

.....Cpl
(J.M. Brais)

Second Witness for the Prosecution — Lt W.A. Champ, of The Cdn Inf Corps, on strength of No 6 C.I.R.U., having been duly sworn states as follows:

"I am Assistant Adjutant of 6 C.I.R.U. I produce MFB 375; Record of the Declaration of a Court of Inquiry assembled on 6 Sep 44, relating to the accused."

"MFB 375 d 6 SEP 44 PRODUCED AND MARKED EXHIBIT "A"."

"I produce Army Form C.1617; Certificate of Surrender to Civil Police, relating to the accused."

"ARMY FORM C.1617, CERTIFICATE OF SURRENDER TO CIVIL POLICE, PRODUCED AND MARKED EXHIBIT "B"."

"I produce Expense Voucher relating to the accused, being a statement of expense of return of accused to his unit, in the sum of £1.16.11"

"EXPENSE VOUCHER PRODUCED AND MARKED EXHIBIT "C"."

The accused declines to cross-examine this witness.

.....Lt
(W.A. Champ)

The accused is then cautioned as follows: "Do you wish to make a statement or to give evidence on oath" "You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, and that rules of Procedure 4 (C),(D),(E),&(F) have been duly complied with.

.....Lt
Officer detailed to take the summary of evidence

In the Field
20 Sep 44

F. Ex LWT 'A' LHR

RWC

RECORD of the Declaration of a Court of Inquiry assembled at Algonquin Camp, Witley, Surrey on the 6th day of September 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E.11129 Pte Dec, M. Canadian Infantry Corps 6 Cdn Inf Rft Unit

DECLARATION

The Court declare that No. E.11129 Pte Dec M., Canadian Infantry Corps No. 6 Canadian Infantry Reinforcement Unit illegally absented himself without leave at 2300 hrs on the 13th day of August, 1944 that he is still so absent, and that on the 13th day of August, 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE TOGAR PRICE	ARTICLES	VALUE AFF VALUE
1 Battle Dress Blouse	5.25		4.20
2 Prs Boots	10.92		8.73
1 Field Service Cap	.56		.45
1 Blouse Denim	2.64		2.11
1 Shirt Angola Drab	2.03		1.62
2 Prs Socks	.74		.59
2 Battle Dress Trousers	10.78		8.62
1 Badge Cap	.09		.09
1 Pr Braces	.28		.23
1 Towel	.32		.26
1 Web Belt Waist	.74		.59
1 Mug	.15		.13
	34.48		27.62

Total in English money £6-3-6½

Capt D. Mc. McClymont President

Lieut R. Emmerson Member

Lieut. P.E. Monier Member

Signed at Algonquin Camp, Witley Surrey, this 6th day of September 1944

Signature of Commanding Officer sgd W.E. Morgan, Colonel.

Certified true copy [signature] CAPT. ADJT., 6 CDN. INF. RFT. UNIT

Signature of Officer having custody of original record

M.F.B. 275
A.F.B. 133
MM-6-43 (750)
H.Q. 1775-[illegible]

Rmc

I CERTIFY that the man whose personal description is given below surrendered himself to* Frank Morrell Pol 116 at Bradford City at (hour) 12.5 AM on the 5th day of September 1944 as being No. E. 11129 (Rank and Name) Pte Maurice Dee, a deserter (or absentee wtthout leave) from 6th C.R.R.U. (Canadian Army) and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 24 Height 5' Feet 6 Inches

Complexion Fresh Hair Light Brown

Eyes Blue

Marks None

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	25/7/1940. Gaspe. Conte Canada
Probable Date of Desertion or beginning of absence, and from what place	About 14th August 1944 Noon. From Farnley Park Ocley

R. Mathias Insp 138

Ex Lib B

Signature of Officer of Police Station

Date of Signature.

CITY OF BRADFORD POLICE 5 SEP 1944 DUTY OFFICE

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of he Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the _____ Police in the case of No. _____ who surrendered to the Police at _____ on _____

Payable to _____

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at _____

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† Note.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; e.g. each personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. [illegible])

W.[illegible] [illegible] N.G.P.C. [illegible]

Rwe

Expense Voucher Re—: E.L.I.J. "C" Ref: K.R. & O. (Can) 539

Reg. No. E11129 Rank Pte. Name Shee, M Unit 6 C I R U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Bradford

Date	Particulars (½ portion)		Amount		
8 Sept 44	Escorts return fare from LONDON To	Bradford		14	9
	Prisoners single fare to LONDON From	Bradford		14	9
	Prisoners fare from	To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			9	5
		Total £	1	18	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. E. Birch CAPT.
R. E. BIRCH, Capt.
ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 100055
40/P & S(4500287)

EXHIBIT E 87 P116

ARMY FORM [illegible]

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-11129	Pte	Doe, M.	6 Cdn Inf Reinf Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereinafter stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the returns for drunkenness or absence, as the case may be, should be stated separately. Any gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15(1) — 6 times.

For AA Sec 40 — 1 times.

For _____ — _____ times.

For _____ — _____ times.

Date of first entry in Field Conduct Sheet 29 Apr 42

Date of last entry in Field Conduct Sheet 7 Aug 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~3. The accused at the present time is under sentence for~~

~~beginning on the~~ _____ day of _____

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for _____ days in civil custody; and for 19 days in military custody, *i.e.*, N/C days in open arrest, 19 days in close arrest; of which N/C days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of his attestation is 26 Jul 40

calling up for military service

7. The service which the accused is allowed to reckon is 3 yrs 341 days

8. The accused is in possession of: CVSM & Clasp

†State the military decoration (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of _____	_____
In the war substantive rank of _____	_____
In the acting rank of _____	_____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1-3877/1-668 100,000 6/42 A & E W Ltd. Gp.686 Forms/F.2265(N.s)/2
(28439) W1-29934/1672 60,000 6/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of Sep 44

[signature]
officer having custody of CAPT. books
ADJT., 6 CDN. INF. RFT. U.[illegible]

EXHIBIT F

COMPILED FROM MFM 4 - ORIGINAL NOT AVAILABLE

No. E-11129 Name DEE, Maurice | Sqn, Battery, or Company | Corps Cdn Inf Corps | Date of enlistment | 25 Jul 4000 | Badges | N/A | Service or Proficiency Pay | N/A | 3/17 MFM 6 (AFB 122) 40(FRS/126 (1)

Date of last entry in Company Conduct Sheet | N/A | No. and date of last drunk | N/A | Period not reckoning towards freedom from extra fine | N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29-4-42	Pte		AA 15(1) AWL 1 day	Documentary	7 days pay	30 Apr 42	DO 23/42	forf 1 days pay for AWL
Field	14-3-43	Pte		AA 15(1) AWL 2 days	Documentary	14 days pay	16 Mar 43	DO 13/43	forf 2 days pay for AWL.
Field	12-5-43	Pte		AA Sec 40	Documentary	7 days pay	13 May 43	DO 22/43	forf 1 days pay for AWL
Field	27-6-43	Pte		AA 15 (1) AWL 1 day	Documentary ~~Admonished~~	7 days C.B. Admonished	28 Jun 43	DO 30/43	forf 1 days pay for AWL
Field	12-12-43	Pte		AA 15(1) AWL 1 day	Documentary	7 days C.B.	13 Dec 43	DO 51/43	forf 1 days pay for AWL
Field	1-2-44	Pte		AA 15(1) AWL 1 day	Documentary	10 days pay	1 Feb 43	DO11/44	forf 1 days pay for AWL
Field	7-8-44	Pte		AA 15(1) AWL 5 days	Documentary	14 days pay	11 Aug 44	DO 195/44	forf 5 days pay for AWL

certified true copy [signature] Office [illegible] custody of regtl books

ADJT, 6 CDN. INF. RFT. [illegible]

RWC

LIST OF WITNESSES

In the case of No E-11129 Private Maurice DEE, of The Cdn Inf Corps, on strength of of No 6 C.I.R.U., a soldier of The Canadian Army Overseas.

PROSECUTION

D-86129 Cpl Brais, J.M., of The Cdn Inf Corps, on strength of No 6 C.I.R.U.
Lt W.A. Champ, of The Cdn Inf Corps, on strength of No 6 C.I.R.U.

DEFENCE

NIL

In the Field
20 Sep 44

Rule

LIST OF EXHIBITS

In the case of No E-11139 Private Maurice DEM, of The Cdn Inf Corps, on strength of No 6 C.I.B.U., a soldier of The Canadian Army Overseas.

EXHIBIT "A" - MFB 375 d/6 Sep 44; Record of the Declaration of a Court of Inquiry.

EXHIBIT "B" - Army Form C.1617 Certificate of Surrender to Civil Police.

Exhibit "C" - CMHQ 1099;55; Expense Voucher d/8 Sep 44.

In the Field
30 Sep 44

RWC.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

Lieut Leblanc

if he is available.

In the Field
20 day of Sep 1944.

M. D. W.

The waiting member Capt
C. Major appeared at the
court was not required
and so was dismissed

R.W. Campbell Major.

25 Aug 44

F.G.C.M.
E 111 29 Pte Maurice Dee.
6 C.I.R.H.

SH-42

Gnv. Deegan, C.E.

RECORDED AT CMHQ IN AB 160 as Page ... (in lieu of AFA2) 54-42.

AF/P & S./1098 (Eng.) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened at CDN SEC 1 ESCH HQ on 15 FEB 45 by Maj-Gen E.L.M. BURNS Comd 21 ARMY GP dated 15 FEB 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F 77660	(L/Bdr)	ERNEST EDWARD	DEEGAN	2 IND. HEAVY AMB REGT. RCA

PROCEEDINGS REVIEWED

Ready Capt Mayhs

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 16 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~writing Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Crosses do NOT include all relevant fms RCN. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order. CF AFs. for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [are] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [are] brought before the Court. At 1515 hours trial commences(1) The accused is [are] fit to undergo trial by court-martial.(2)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (or Off Com).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A4. The Prosecutor produces a Medical Certificate that accused is [are] fit to undergo trial by court-martial.(1)

A5. President to accused: Do you object to MR EMILE HUYGENS as interpreter ? Ans NO

Do you object to N/A as shorthand writer ? Ans N/A

The Interpreter is sworn.(1) The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	D. MACKENZIE	ATT HQ 2 CBRG.
Member	CAPT	E.A. BAILLARGEON	1 CDN. DIS. CENTRE
Member	CAPT	E.B. VAN DINE	1 CDN. DIS. CENTRE
Judge-Advocate	N/A	N/A	N/A
Prosecutor	LT	J.J.H. CONNORS	CDN SEC HQ BRITISH GARRISON
Defending Offr	LT	J.G. THIVIERGE	R. de MAIS 10 C.B.R. Bn.

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 25, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See CI p 2.)

A8. The accused F77660 GNR (L/BDR) E.E. DEEGAN, before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is [are] arraigned (separately) on all charges in the charge sheet.(1) The accused does [does] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 89A to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~A10. The Court is cleared and considers the Notes on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.77660 GNR (L/BDR) ERNEST EDWARD DEEGAN

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 41	NOT GUILTY	GUILTY	
2nd	AA 41	NOT GUILTY	GUILTY	
3rd	AA 41	NOT GUILTY	GUILTY	
4th	AA 19	GUILTY	GUILTY	
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one year

(Sgd) N/A Judge-Advocate, if any. 16 Feb 45 Date awarded. (Sgd) Donald Mackenzie President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirm ~~but that the accused be not required to undergo the remainder of his further sentence~~ E.L.B

~~I direct that the accused be not required to undergo the remainder of his further sentence~~ (1. AA 57A. Delete if not used.)

(Sgd) E.L.M. Burns

Date Commanding 27 FEB 1945 Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
F.77660 Gnr DEEGAN, E.E.	27 Feb 45.	C.N. Barlow Maj

Cdn Sec HQ Brussels Grn CR No 87 dated 1 Mar 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no documents in addition to those attached hereto which should be forwarded to the Judge Advocate General in connection with the proceedings of the General Court-Martial held at Brussels from the 15th day of February 1945 for the trial of F.77660 Gnr DEEGAN, E.E.

Lt-Col
D.A.A.G. Cdn Sec HQ

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii)*, Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 paras 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on FOURTH charge(s). The accused is (~~are~~) so informed, ~~and his (their) plea(s)~~ of Guilty to charge(s) ~~his (their) plea(s) on~~ ~~charge(s)~~ is (are) changed. ~~Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him ~~again~~, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST, SECOND & THIRD charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on ~~the~~ FIRST, SECOND & THIRD charge(s), and ~~allowed~~ on the ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are)~~ found Not Guilty on ~~the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. NO

Do you intend to call witnesses on your behalf? Ans. NO

Are they witnesses as to character only? Ans. N/A
(1. RP 115. 2. RP 40(A), see 89(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 45(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(B).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIRST, SECOND & THIRD charge(s), being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and so to the relevant finding(s) on the charge(s) and that proceedings are accordingly terminated. Part I of the Schedule is deleted and marked "~~
(1. AA 54(3) (5), RP 45, 120(A). 2. to 5e(3), RP 45, 117. Two operative announcements is one opposite each finding are plea of Guilty recording and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. YES. CPL BEMENT G.H.V.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces ~~Particulars as to Character and Particulars of Service~~, and certified true copy ~~Statement~~ of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(2)
(1. MFB 255 or AFB 294. 2. MFM 8. 3. RP 46, KR Can 138. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES. THANK YOU. ~~PRESENTING~~ DEFENDING OFFICER(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 45. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Oversize RC 309, 2323, MML p 60, 752-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused No F-77660 Gnr (L/Bdr) Ernest Edward DEEGAN, 8th Bty 2nd Heavy A/A Regt, RCA, att Cdn Sec HQ Brussels Garrison, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 41
ARMY ACT

Whilst on active service, committing a civ offence, that is to say, common assault

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Lazlare, did assault Mr Viktor ZWELEN by pointing a loaded pistol at him.

SECOND CHARGE
SEC 41
ARMY ACT

Whilst on active service, committing a civ offence, that is to say, common assault

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Lazlare, did assault Mr Karel GOSSENS by pointing a loaded pistol at him.

THIRD CHARGE
SEC 41
ARMY ACT

Whilst on active service, committing a civ offence, that is to say, stealing

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Lazlare, did steal a bottle of Cognac, the property of Mr Karel GOSSENS.

FOURTH CHARGE
SEC 15
ARMY ACT

Whilst on active service, drunkenness

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Lazlare, was drunk.

(L F [illegible]) Lt-Col
Commanding Officer
Cdn Sec HQ Brussels Garrison

BRUSSELS
6 FEB 45

To be tried by Field General Court Martial.

(E.L.M. Burns) Maj-Gen
GO I/C
Cdn Sec 1 Ech - HQ 21 Army Group

In the Field
15 Feb 45.

Approved KR(Can)540

[illegible] Maj
DJA

FIELD GENERAL COURT-MARTIAL

CFA 95 (In Reo of AFAS) 40/PAS/1097 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-77660	Gnr	(L/Bdr)	Ernest Edward	DEEGAN	8th Bty 2nd Heavy A/A Regt RCA att Cdn Sec HQ Brussels Garrison

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [~~have~~] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Feb 45 endorsed by me, ~~[or proposed to be tried by Field General Court-Martial]~~, [To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [~~and whereas I am of opinion that it is not practicable that the trial of the accused should be postponed until the assembly of a General Court-Martial without injury to the service and discipline~~]. (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the offrs appointed or detailed hereunder.

4. ~~[The presidency of the Court is reserved to an officer of the rank of Colonel or above.]~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[The appointment of Judge Advocate is reserved to the Provost Marshal.]~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D. MacKenzie (Must be named. RP 106.)	Essex Scot (Unit.)

MEMBERS.

Captain (Rank.)	F.A. Baillargeon	1 Cdn Disciplinary Centre
Captain (Rank.)	E.B. Van Dine (Named or detailed. RP 106.)	1 Cdn Disciplinary Centre (Unit.)

WAITING MEMBER.

Lieut (Rank.)	(to be detailed by AA & QMG, Cdn Sec HQ Brussels Garrison.) (Named or detailed, if any. RP 106.)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 15 Feb 45

E.L.M. Burns (Signed personally. RP 105 fn 2.)

(E.L.M. Burns)

Maj-Gen (Rank.)

Commanding Cdn Sec 1 Ech HQ 21 Army Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Approved

Maj

DJA

DM

MEDICAL OFFICER'S CERTIFICATE

I certify that N o. F-77460 Gnr.(L/Bdr)DEEGAN M.N.....

.....5th Btr. 2nd Heavy A/A Regt. R.C.A.....Regiment

is..fit.....to undergo trial by Court Martial.

C. P. Pion Capt.

.....

Signature of the Medical Offr

16 Feb 45

F 77660 Gnr (A/Bdr Deegan E.E.
8th Bty 2 H.AA Regt R.C.A.

D3.
1st witness for the prosecution

H55248 Pte Beavis G. 2 Can L of C Pro Coy being duly sworn is examined by the prosecution.

On 1 Feb 45 about 1800 hrs I was on duty at Maple Leaf Club in company with A/C Bisonette a civilian came in and gave us certain information as a result of which we went with him to Rue St Lazare, Brussels. We pointed out a soldier walking up the street. We approached soldier and asked him for his pass. That soldier is the accused. I searched him and found a bottle of cognac on him and an automatic pistol in his right hand trouser pocket. I produce the pistol marked exhibit "A". The magazine is loaded and was at the time I took it from the accused. I produce the bottle of cognac taken from the accused marked exhibit "B". The accused had been drinking. He was placed under arrest by A/Cpl Bisonette and myself.

Cross-examination

In my opinion the accused was drunk. I checked pistol when I found it on the accused. There was no round in the chamber, I checked the accused's papers but not his wallet.

By the Court

Accused had bottle of cognac in front of his trousers.

The accused was 2 or 3 door up the street from cafe in question about 25 feet. from the entrance.

R.P. 83(8) complied with

2nd witness for the prosecution

Karel Goossens, farmer, 92 Rue de Legrand, Brussels being duly sworn is examined by the prosecution.

The soldier came in the cafe and was a little bit drunk. That soldier is the accused. I don't remember the date it was about 1800 hrs. The accused asked for a bottle of cognac. I always had a bottle of cognac from my father so I gave it to the soldier. Then he showed me his revolver. I called out to my friend. I saw revolver exhibit "A" with the soldier. "The witness demonstrates how the accused held the revolver in his right hand, under ~~his~~ left arm and muzzle pointing towards him After accused pointed pistol at me he slowly went backwards. My comrade was with me when soldier went backwards. My comrade came in Orlator. My comrade called a sgt. The sgt came and put his foot in front of the door. The accused and sgt spoke to each other but I did not understand what they said. I was behind the counter. The pistol was in his pocket when they were talking ~~I told the sgt to open~~. The together.

soldier told the sgt to open the door. The pistol was in the accused's hand then. They sgt then opened the door. The accused went out into the street. He went into the next cafe. The sgt and my comrade then went for the police. They came, and the accused was in the street when the police came. The police grabbed hold of the soldier. They asked accused to give them the bottle of cognac. He did not want to hand it over so they took it off him, and also took pistol from him.

Cross-examination

DB ~~I just want to cafe~~ My sister had gone out to do some shopping

DB and therefore I was ~~there~~ minding shop. My normal occupation while in Brussels is serving behind the counter. I had been in Brussels 3 weeks before accused came into cafe. I was employed in my sister's cafe. I cannot be too certain that exhibit "B" is the bottle of cognac I gave to accused. I gave the accused one bottle of cognac. I didn't have the time to ask accused for the money. My friend Viktor told the sgt that accused was stealing a bottle of cognac. I did not.

DB ~~I did not tell Viktor~~ Naturally I told Viktor he was stealing a bottle of cognac. The accused did not put the pistol in his pocket when he started backing towards the door.

Re-examination

CB

CB The accused pointed the pistol at Viktor, when he was at the counter and again at the door (The witness demonstrates to the court). I put the bottle of cognac on the counter I never handed it over to him. Before I gave him the bottle I told him the price. I did not give him permission to take the bottle out of the cafe

By the Court

The accused did not show or produce any money while he was in the "cafe". On the doorstep he put the pistol in his pocket. It took Viktor about 5 min to get the police. I did not see accused come out of cafe next door but somebody called me out from inside of cafe. I saw the police take the bottle and pistol from accused on the street. I don't know the sgt who was in my place. I think he was a Can soldier. I did not see him again

R.P. 83(B) complied with

Viktor Zetlin, witness who gave evidence at the summary of evidence is not now available and the defending officer does not require this witness for cross-examination.

Motion by the defending officer

I submit that the evidence submitted by the prosecution does not establish a prima facie case in any one of the

first three charges. The evidence indicates that accused was in such a state that he was incapable of forming an intent. There is no evidence of force used, nor is there any evidence of intent under the circumstances. I submit that the first three charges should be dismissed. (Defendon Affair referred to Chap VII MML p 104, 113, 118, sec 9, 34, 50.

Defending Officer Closing address

The prosecution did not prove that accused was in unlawful possession of this bottle of cognac. It cannot be identified by the owner. The charge of pointing a pistol it was not loaded, because it would have to have a round in the Chamber and ready to fire. The man was intoxicated with drink and does not remember anything that happened. I refer you to sec 78 p 25 MML as to defence and effect of drunkenness. There was no knowledge or intention, ~~[illegible]~~, on the part of the accused as far as his acts are concerned. He was unable to form an intent necessary to commit the crime of this condition. I ask you to find him not guilty on the first 3 charges.

Reply by Prosecution

(see attached page 9)

E1

H19018 Cpl Bement G.H.B. 2 Cdn L of C Pro Coy being duly sworn states.

The accused has been confined in the guard room from my own direct his arrest. In my capacity as N.C.O. i/c guard room, on a number of occasions, even at least, I had opportunity to observe the accused and his actions. I found him at all times to be a very willing worker, very steady and even though under arrest using all the means he could to keep the remaining soldiers in the guard room quiet and orderly. I found him by nature to be very quiet. On numerous other occasions outside of my duties I came in contact with him and on all these occasions I found him to be very willing, industrious and he tried in every way possible to assist us in the smooth running of maintenance of discipline in the guard room. He has been allowed a great deal of latitude in his movements during the course of working hours in the guard rooms, and at no time did he try in any way shape or form to escape or take advantage of this latitude.

RP 83(8) complied with

Accused under close arrest awaiting trial since 1 Feb 45.

E3

Plea in mitigation by the defending Officer

The accused soldier is a soldier of Can Army Active Force with 4 yrs service. He enlisted Mar 41 in Canada came O/S in Sep 41 with 2 H AA Regt He served in England in air defence of Gt Britain, against German bombings He has always well and truly served his country as his conduct sheet will show you, but for one minor offence, we can say that he has a clean sheet. In Jul 44 he came to continent with his unit and served with them as Fd Arty in Falaise Gap show and afterwards went with them to Dunkirk where he has been for the last few months At end Jan 45 he got his first leave since he has been here and came to Brussels. Like every soldier he wanted to celebrate his freedom and had a few drinks but he took a few too many and got intoxicated. In his drunkenness he did things that he regrets now and always will remember and he is always willing to start all over again on the right foot. He has told as the character witness has brought to your attention to prove that even though he has made one mistake he is still willing to be a good soldier and of course the

CAT

the channel to prove himself likewise
once more - he will once again behave
like a soldier should. I therefore 2
look to and count for clemency on
his behalf.

Deegan

9.

Prosecutor's Closing Address

Sirs, the Court has heard sufficient evidence I'm certain to prove these points on all charges; the place, date, & approx time. On the first charge it has been proven that the accused actually did point his pistol at the Mr Zetlin, & I might add that the demonstration witnessed by this Court, establishes this beyond any doubt.

On the Second charge, again Mr Gossens swore that the accused positively identified, pointed his pistol at him & he was frightened. It has been shown that there was a round in the pistol at the time of the offence, or at any rate there was when he was arrested. At any rate both Mr Zetlin & Mr Gossens assumed the pistol was loaded.

On the third charge it has been proven that the accused took a bottle of cognac & this was the property of Mr Karl Gossens & furthermore that it was taken without his permission & at the point of a pistol.

One of the witnesses, a provost swore that he removed this pistol Exhibit "A" from the accused on his arrest & also the bottle of cognac Exhibit "B". ~~[illegible]~~ the witness Mr. Gossens swore that this was the pistol which the accused pointed at him.

[illegible] Lt.
Recd.

Donald Maclenzie
Mgr.

Exc

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F77660 Gnr (L/Bdr) DEEGAN, Ernest Edward, 8th Bty 2nd Heavy A/A Regiment RCA attached Canadian Section HQ Brussels Garrison a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

First Witness: M Viktor ZETLIN (chauffeur) 57 rue Longue Vie, BRUSSELS having been duly sworn states:

"On the 1st of FEB 1945 a little before 6:00 PM I was in my friend's Cafe at 92 rue St Lazlare, BRUSSELS. This soldier I now see here and recognize came in and asked me for a bottle of cognac he asked to see how large the bottle would be. The boss went for a bottle of cognac to another part of the Cafe. I retired to a corner then and didn't pay any further attention to the soldier. A few minutes later the boss returned and allof a sudden I heard him calling "Viktor come here". I went to the bar and I couldn't understand what was wrong because I saw the boss standing in the corner and this soldier standing in front of the bar. The boss said "this soldier must not leave because he has not paid". He didn't say for what and I didn't know. I saw the soldier was drunk. He had this pistol I now see here and recognize, in his right hand and was pointing it in my direction. No one else could see the pistol I'm sure because his body hid it from anyone else's view. I then told him it would be best if he put his pistol away. He did not do so however until he had got to the door. As he went to the door he backed up, always facing me with his pistol still in his hand. There was a Sergeant there and I appealled to him. He got between the soldier and the door, but the soldier turned in his direction and held his right hand as if he were pointing his pistol at him. I didn't see the pistol at this time because his body was shielding his hand. The Sergeant stepped to one side and the soldier left. I went for the Canadian Provost and so did the Sergeant. I got two Provost and when we returned we saw this soldier going up the street I took the Provost to him. The Provost took this bottle of cognac I now see here and recognize from the inside of this soldier's jacket. As I did not see him get the bottle in the first place I am not in a position to say definitely it's the Cafe's, but I believe it is.".

Accused declines to cross-examine.

(SGD) VIKTOR ZETLIN.

The pistol (Exhibit "A") and the bottle of cognac (Exhibit "B") referred to in the evidence of the above witness are attached hereto as Exhibits as shown.

2)

Second Witness: M Karel GOSSENS (Cafe Manager) 92 rue St Laziare, BRUSSELS having been duly sworn states:

"About four or five days ago before 6:00 PM I was in my Cafe at my home address and this soldier I now see here and recognize was too. He told me he wanted a bottle of cognac. I asked him if he wanted a big or small bottle. He said "Let me look at a bottle". I went to the kitchen and got a bottle of cognac and placed it on the counter. This soldier then took the bottle and put it in his jacket. This does NOT look like the bottle, I now see here. As he put the bottle in this jacket he took this pistol (Exhibit "A") I now see here and recognize from his pocket and pointed it at me. I hollered for my friend. The soldier kept pointing the pistol towards my friend Viktor and me and as he backed up towards the door he kept saying "OK Boss." Then the Sergeant came in and he said to the soldier "Pay for the cognac and put that pistol away". The soldier pointed the pistol at the Sergeant then and said "Open the door". The soldier then left. My friend went for the Provost Police and when he got back with them, they took this soldier in the street. The soldier was drunk."

Accused declines to cross-examine.

(SGD) KAREL GOSSENS.

Third Witness: A55248 Pte BEAVIS, G., No 2 Cdn L of C Pro Coy having been duly sworn states:

"Sir on 1 FEB45 at approximately 1800 hrs I was on duty at the Maple Leaf Club in company with L/Cpl SIBBONNETTE. A civilian came in and told us that a Canadian soldier had held up his Cafe and taken a bottle of cognac. We went with him to rue St Laziare and he pointed out the soldier going up the street. We arrested this soldier I now see here and recognize. We searched him andfound this pistol with one round in the magazine (Exhibit "A") and this bottle of cognac (Exhibit "B") on his person. He had been drinking. We took him to the Maple Leaf Club where we turned him over to L/Cpl DUHAMEL".

Accused declines to cross-examine.

(SGD) G BEAVIS)

The accused was cautioned as follows:

Q: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A: "I don't want to say anything because there isn't much I can say as I don't remember anything."

(SGD) E E DEEGAN.

3)

The accused does not wish to call witnesses.

I certify that the foregoing Summary of Evidence, consisting of five pages, was taken down by me in the presence of the accused and that RP 4 (c), (d), (e) & (f) have been complied with.

(J J H CONNORS) LT RCAMC
Officer Detailed to take the Summary.

In the Field
5 FEB 45

REQUEST FOR DEFENDING OFFICER

I want an officer to defend me.
I'd like to have Major Wilson, 8th Bty 2nd Heavy A/A Regt RCA defend me.

(SGD) E S DEEGAN.

In the Field
5 FEB 45

LIST OF WITNESSES FOR THE PROSECUTION

1. M Viktor ZEITLIN (Chauffeur) 67 rue Longue Vie, BRUSSELS.
2. M Karel GOSSENS (Cafe manager) 92 rue St Lazaire, BRUSSELS.
3. A65248 Pte BEAVIS, G., No 2 Cdn L of C Pro Coy.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A" - Pistol #128215
Exhibit "B" - Bottle of Cognac.

In the Field
5 FEB 45

(J J H CONNORS) LT
RCAMC

Third Witness: A-55248 Pte. Beanis G., No. 2 Cdn. F. of C. Prov. Coy. having been duly sworn states:

"Sir on 1 Feb 45 at approx 1800 hrs. I was on duty at the Maple Leaf Club in company c̄ L/cpl. Bissonnette. A civilian came in & told us that a Cdn. soldier had held up his cafe & taken a bottle of ~~cog~~ cognac. We went c̄ him to Rue St. Lazare & he pointed the soldier going up the street. We arrested this soldier I now see here & recognize. We searched him & found this pistol c̄ one round in the magazine (Exhibit "A") & this bottle of cognac (Exhibit "B") on his person. He had been drinking. We took him to ~~our guard room~~ the Maple Leaf Club where we turned him over to L/cpl. Duhamel"

Accused declines to cross-examine

L. Beanis

~~Witness: G-33960 L/cpl. Bissonnette R., No. 2 Cdn. F. of C. Prov. Coy. having been duly sworn states:~~

The accused was cautioned as follows:

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing & may be given in evidence.

A. I don't want to say anything because there isn't much I can say, as I don't remember anything.

E. Deegan.

Summary of Evidence

Summary of Evidence in the case of F-77660 Gnr. (L/Bdr) DEEGAN Ernest Edward, 8th Bty. 2nd Heavy A/A Regt. R.C.A. attached Cdn. Sec. H.Q. Brussels Garrison a soldier of the Cdn. Army Overseas.

The Commanding Officer directs that the evidence shall be given on oath.

First Witness: Mr. Viktor ZETLIN (chauffeur) 57 Rue Longue Vie, Brussels having been duly sworn states:

"On the 1st of Feb 1945 a little before 6.00 p.m. I was in my friend's cafe at 92 Rue St. Lazare, Brussels. This soldier I now see here & recognize came in & asked me for a bottle of cognac & he asked to see how large the bottle would be. The boss went for a bottle of cognac to another part of the cafe. I retired to a corner then & did'nt pay any further attention to the soldier. A few minutes later the boss returned & all of a sudden I heard him calling "Viktor come here". I went to the bar & I could'nt understand what was wrong because I saw the boss standing in the corner & this soldier standing in front of the bar. The boss said "this soldier must not leave because he has not paid". He did'nt say for what & I did'nt know. I saw the soldier was drunk. He had the pistol I now see here & recognize, in his right hand & was pointing it in my direction. No one else could see the pistol I'm sure because his body hid it from anyone else's view. I then told him it would be best if he put his pistol

away. He did not do so however until he had got to the door. As he went to the door he backed up, always facing me c̄ his pistol still in his hand. There was a Sergeant there & I appealed to him. He got between the soldier & the door, but the soldier turned in his direction & held his rt. hand as if he were pointing his pistol at him. I did'nt see the pistol at this time because his body was shielding his hand. The Sgt. stepped to one side & the soldier left. I went for the Cdn. Provost & so did the Sgt. I got two Provost & when we returned we saw this soldier going up the street. I took the Provost to him. ~~They made him give the bottle of cognac back.~~ The Provost took this bottle of cognac I now see here & recognize from the inside of this soldier's Jacket. As I did not see him get the bottle in the first place I am not in a position to say definitely it's the cafe's, but I believe it is".

1.8

Accused declines to cross-examine.

Victor Dellin

~~The pistol referred to & the~~

The pistol (Exhibit "A") & the bottle of cognac (Exhibit "B") referred to in the evidence of the above witness are attached hereto as Exhibits as shown.

Second Witness: Mr. Karel GOOSSENS (cafe manager) 92 Rue St. Lazare, Brussels. having been duly sworn states.

"About four or five days ago before 6.00 p.m. I was in my cafe at my home address & this soldier I now see here & recognize was too. He told me he wanted a bottle of cognac. I asked him if he wanted a big or small bottle. He said "Let me look at a bottle". I went to the kitchen & got a bottle of cognac & placed it on the counter. This soldier then took the bottle & put it in his ~~ba~~ Jacket. This does not look like the bottle, I now see here. As he put the bottle in his Jacket he took this pistol (Exhibit) I now see here & recognize from his pocket & pointed it to me. I hollared for my friend. The soldier kept pointing the pistol toward my friend Viktor & me & as he backed up toward the door he kept saying "O.K. Boss". Then the Sgt. came in & he said to this soldier "Pay for the cognac & put that pistol away". The soldier pointed the pistol at the Sgt. then & said "Open the door". The soldier then left. My friend went for the Provost Police & when he got back c̄ them, they took this soldier in the street. The soldier was drunk".

Accused declines to cross-examine.

Sous Karel
Goossens

The accused does not wish to call witnesses.

I certify that the foregoing Summary of Evidence, consisting of five pages, was taken down by me in the presence of the accused, & that R.P. 4 (C), (D), (E), & (F) have been complied c̄.

In the Field
5 Feb 45

M S Cummins Lt. Reame
Officer Detailed to take the Summary.

Request for Defending Officer

I want an officer to defend me.
I'd like to have Major Wilson, 8th Bty. 2nd Heavy A/A Regt. R.C.A. defend me.

In the Field
5 Feb 45

E. Dugan

List of Witnesses for the Prosecution

1. Mr. Victor Tetlin (chauffeur) 57 Rue Longue Vie, Brussels
2. Mr. Karel Goossens (cafe manager) 12 Rue St. Lazaire "
3. A-55248 Pte. Beenis G., No. 2 Cdn. T. of C. Bros. Coy.

List of Witnesses for the Defence

Nil

List of Exhibits

Exhibit "A" — Pistol # 128215
" "B" — Bottle of Cognac

In the Field
5 Feb 45

M S Cummins Lt.
Reame

MFM 6
(AFB 122)
40/PAS/156 (3429)

No. F77660 Name DEEGAN E E | Sqn, Battery, or Company RCA | Corps | Date of enlistment 10 MAR 41 | CC Badges 1 | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 3DEC42 | No and date of last drunk 1: 3DEC42 | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	3DEC42	Gnr		Off under AA 19 (1st Offence)		Admonished	3DEC42	[illegible]	

Duplicate created from MFM 4 - 3 FEB 45 Record of conduct in Canada not available.

[illegible] Capt
Officer i/c Records

Cdn Sec 2 Ech HEADQUARTERS 21 A Gp.

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F77660 Gnr (L/Bdr) Ernest Edward Deegan

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Not Guilty	Guilty	
3rd	Not Guilty	Guilty	
4th	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 8.)

At present under sentence for N/A beginning on (date) N/A (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labor for one year "DM"

(Sgd) N/A — Judge-Advocate, if any. 16 Feb 45 — Date awarded. (Sgd) "Donald Mackenzie" Major — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Mitigation of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: RP 53, MML p 65. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

As to the findings and sentence set forth in Part I is:

Confirm

I direct that the accused be not committed to prison or detention barracks until further order (1) - "E1AB"
(1. AA 57A. Delete if not used.)

Date 24 Feb 1945 — Commanding 21 Army Gp — (Sgd) "E L M Burns" Major General GO i/c Cdn Sec 1 Echelon HQ — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. 27 Feb 45 Signature of Offr. "A H Botwin" Major

F77660 Gnr DEEGAN E E
Cdn Sec HQ Brussels Grn CP No 87 dated 1 Mar 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2711-42

CPA86 (In lieu of AFA81) 40/F & B/1698 (6/44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Maj-Gen ELM Burns Comd 21 Army Gp dated 15 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F77660 Gnr	(L/Bdr)	Ernest Edward	Deegan	8th Bty 2nd LY AA Regt RCA att Cdn Sec HQ Brussels Garrison

CERTIFIED TRUE COPY
[signature illegible]
D J A.
Cdn Sec 1 Echelon HQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 16 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

22/130

A1. The President, Members, ~~waiting Member, Jth, if any, and Offrs under instr, if any~~, assemble, and the Court is closed. "DM"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns BOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) "DM"
The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1515 hours trial commences. "DM"

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) "DM"
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Emile Buysens as interpreter? Ans No
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D MacKenzie	Essex Scot att HQ 2 CBRD
Member	Capt	F A Baillargeon	1 Cdn Disc Centre
Member	Capt	E B Van Dine	1 Cdn Disc Centre
Judge-Advocate		N/A	
Prosecutor	Lt	J J H Connors	Cdn Sec HQ Brussels Garrison
Defending Offr	Lt	E G THIVIERGE	R de Mais 10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused F77660 Gnr (L/Bdr) E E Deegan before arraignment makes(s) (no) ~~and plea~~. "DM"(1)
12May45
jwb
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) "DM" not object to any charge.(2) There is no amendment to be made to the Charge Sheet. The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is cleared and, considering the matter of Procedure after Arraignment at top of p 2. "DM" deleted in error "DM"

Proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A Vol III p 31

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : 'The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your pleas. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your pleas and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (~~three~~) plea(s) of Guilty to Not Guilty on Fourth charge(s). The accused is (~~are~~) so informed, ~~and he (they)~~ (~~three~~) plea(s) of Guilty to Not Guilty on ~~charge(s)~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~ ~~charge(s) his (~~three~~) plea(s) on~~ (1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (~~three~~) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pl[illegible] Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*). *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ~~first~~ second + third charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on ~~the~~ all three charge(s), ~~and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. No

Do you intend to call witnesses on your behalf ?

Ans. No

Are they witnesses as to character only ? Ans. N/A

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first, second + third charge(s), being subject to confirmation, will be promulgated later (1). Or, ~~The President announces that the accused is found Not Guilty on all charges save~~ and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Yes, Cpl Bemont, G.H.V.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(1) (g) (h), and (ii) they purport to refer to (a) soldier(3) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex respectively.(3)

(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes THRO' MY Defending OFFICER (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 308, 2323, *MML p* 60, 757-759. *As to sentences consigned for civil offences to the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(7) (*b*), 68(7), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"DM"

CHARGE SHEET

The Accused No F-77660 Gnr (T/L/Bdr) Ernest Edward DEEGAN, 8th Bty 2nd Heavy A/A/ Regt RCA, att Cdn Sec HQ Brussels Garrison, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SEC 41 A A

Whilst on active service, committing a civ. offence, that is to say, common assault.

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Laziare, did assault Mr Viktor ZETLIN by pointing a loaded pistol at him.

SECOND CHARGE
SEC 41 AA

Whilst on active service, committing a civ offence, that is to say, common assault

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Laziare, did assault Mr Karel GOSSENS by pointing a loaded pistol at him.

THIRD CHARGE
SEC 41 A A

Whilst on active service, committing a civ offence, that is to say, stealing

in that he

In BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Laziare, did steal a bottle of Cognac, the property of Mr Karel GOSSENS.

FOURTH CHARGE
SEC 19 A A

Whilst on active service, drunkenness

in that he

in BRUSSELS at approx 1800 hrs on 1 Feb 45, in a Cafe at 92 Rue St Laziare, was drunk.

"L P Payan" Lt-Col
(L P Payan) Lt-Col
Commanding Officer
Cdn Sec HQ Brussels Garrison

Approved KR(Can)540
"J W Howard" Maj. DJA
BRUSSELS
6 Feb 45

To be tried by Field General Court Martial.

"E L M Burns"
(E L M Burns) Maj-Gen
CO I/C
Cdn Sec 1 SOth HQ 21 Army Group

In the Field
15 Feb 45

"B"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets RP 87(B).

As to two or more accused charged jointly see RP 16, 109. As to separate trial on charges in the same charge sheet see RP 108. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-77660	Gnr	(L/Bdr)	Ernest Edward	DEEGAN	8th Bty 2nd Hevy AA Regt RCA att 2dn Sec HQ Brussels Garrison

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Feb 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". "SIGD"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) "SIGD"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint the three Offrs to form the Court, the Fd Offr or President for the reasons I have attached hereto.~~ "SIGD"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ "SIGD"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	D Mackenzie		Essex Scot

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	F A Bellingeon		1 Cdn Disciplinary Centre
Captain	E B Van Dine		1 Cdn Disciplinary Centre

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	(to be detailed by AA & QMG, Cdn Sec HQ Brussels Garrison)		

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Dat 15 Feb 45

"E L M Burns" (Signed personally. RP 105 fn 2.)
(E L M Burns)
Commanding

Major Gen (Rank.)
Cdn Sec 1 Echn HQ 21 Army Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40-5-A D/1697 (5143)

(See overleaf for oaths and notes for use on trial.)

Approved
"E V Howard" Maj
DJA

8th Bty 2nd Heavy A/A Regt RCA

Date 16 Feb 45

"J" Flight Capt

D3

First Witness for the prosecution

A55248 Pte Beavis G, 2 Cdn LofC Pro Coy being duly sworn is examined by the prosecutor.

On 1 Feb 45 approx 1800 hrs I was on duty at Maple Leaf Club in company with L/C Bisonette a civilian came in and gave us certain information as a result of which we went with him to Rue St Lazaire, Brussels. He pointed out a soldier walking up the street. We approached soldier and asked him for his pass. That soldier is the accused. I searched him and found a bottle of cognac on him and on automatic pistol in his right hand trouser pocket. I produce the pistol marked exhibit "A". The magazine is loaded and was at the time I took it from the accused. I produce the bottle of cognac taken from the accused marked exhibit "B". The accused had been drinking. He was placed under arrest by L/Cpl Bisonnette and myself.

Cross examination: In my opinion the accused was drunk. I checked pistol when I found it on the accused. There was no round in the chamber. I checked accused's papers but not his wallet.

By the court: Accused had bottle of cognac in front of his tunic. The accused was 2 or 3 doors up the street from cafe in question about 25 feet from the entrance.

RF 83 (b) complied with.

2nd Witness for prosecution:

Karel Gossens, farmer, 92 Rue St Lazaire, Brussels being duly sworn is examined by the prosecutor.

The soldier came in the cafe and was a little bit drunk. That soldier is the accused. I don't remember the date it was about 1800 hrs. The accused asked for a bottle of cognac. I always had a bottle of cognac from my father so I gave it to the soldier. Then he showed me his revolver. I called out to my friend. I saw revolver exhibit "A" with the soldier. (The witness demonstrates how the accused held the revolver in his right hand, under folded left arm and muzzle pointing towards him.) After accused pointed pistol at me he slowly went backwards. My comrade was with me when soldier went backwards. My comrade's name is Vilstor. My comrade called a sgt. The sgt. came and put his foot in front of the door. The accused and sgt. spoke to each other but I did not understand what they said. I was behind the counter. The pistol was in his pocket when they were talking together. The soldier told the sgt to open the door. The pistol was in the accused's hand then. The sgt. Then opened the door. The accused went out into the street. He went into the next cafe. The sgt and my comrade then went for the police. They came, and the accused was in the street when the police came. The police grabbed hold of the soldier. They asked accused to give them the bottle of cognac. He did not want to hand it over so they took it off him and also took pistol from him.

Cross examination: My sister had gone out to do some shopping and therefore I was minding shop. My normal occupation while in Brussels is serving behind the counter. I had been in Brussels3 weeks before accused came into cafe. I was employed in my sister's cafe. I cannot be too certain that exhibit "B" is the bottle of cognac I gave to accused. I gave the accused one bottle of cognac. I didn't have the time to ask accused for the money. My friend Vilstor told the sgt that accused was stealing a bottle of cognac. I did not. Naturally I told Vilstor he was stealing a bottle of cognac. The accused did not put the pistol in his pocket when he started backing towards the door.

Re-examination:
The accused pointed the pistol at Vikator when he was at the counter and again at the door. (The witness demonstrates to the court) I put the bottle of cognac on the counter I never handed it over to him. Before I gave him the bottle I told him the price. I did not give him permission to take the bottle out of the cafe.

By the Court: The accused did not show or produce any money while he was in the cafe. On the doorstep he put the pistol in his pocket. It took Vikator about 5 min to get the police. I did not see accused come out of cafe next door but somebody called me out from inside the cafe. I saw the police take the bottle and pistol from accused in the street. I don't know the sgt who was in my place. I think he was a Cdn soldier. I did not see him again.

RP 83 (B) complied with.

Viktor Matlik, witness who gave evidence at the summary of evidence is not now available and the defending officer does not require this witness for cross examination.

Motion by the defending officer: I submit that the evidence submitted by the prosecution does not establish a prima facie case in any one of the first three charges. The evidence indicates that accused was in such a state that he was incapable of forming an intent. There is no evidence of force used, nor is there any evidence of intent under the circumstances I submit that the first three charges should be dismissed. (Defending officer referred to Chap VII MML p 106, 113, 118, sec 9,34,50.

Defending Officer Closing address: The prosecution did not prove that accused was in unlawful possession of this bottle of cognac. It cannot be identified by the owner. The charges on pointing a pistol. It was not loaded, because it would have to have a round in the chamber and ready to fire. The man was intoxicated with drink and does not remember anything that happened. I refer you to sec. 48 p 25 MML as to defence and effect of drunkenness. There was no knowledge or intention, on the part of the accused as far as his acts are concerned. He was unable to form an intent necessary to convict because of his condition. I ask you to find him not guilty on the first 3 charges.

Reply by prosecutor: (see attached page 9)

E 1 H19018 Cpl Bennent G H B 2 Cdn LofC Pro Coy being duly sworn states:

The accused has been confined in the guard room of my unit since his arrest. In my capacity as NCO i/c guard room, on a number of occasions, seven at least, I had opportunity to observe the accused and his actions. I found him at all times to be a very willing worker, very steady and even though under arrest using all the means he could to keep the remaining soldiers in the guard room quiet and orderly I found him by nature to a very quiet. On numerous other occasions outside of my duties I came in contact with him and on all these occasions I found him to be very willing, industrious and he tried in every way possible to assist us in xxxxxxxxx the smooth running of maintenance of discipline in the guard room. He has been allowed a great deal of latitude in his movements during the course of working hours in the guard room and at no time did he try in any way shape or form to escape or take advantage of this latitude.
RP 83 (B) complied with.
Accused under close arrest awaiting trial since 1 Feb 45.

Plea in mitigation by the defending officer.

Plea in mitigation by the defending officer:

The accused soldier is a soldier of Cdn Army Active Force with 4 yrs service. He enlisted Mar 41 in Canada came O/S in Sep 41 with 2 HAA Regt. He served in England in air defence of Gt Britain, against german bombings. He has always well and truly served his country as his conduct sheet will show you, but for one minor offence, we can say that he has a clean sheet. In July 44 he came to continent with his unit and served with them as Fd Arty in Falaise Ger show and afterwards went with them to Dunkirk where he has been for the last few months. At end Jan 45 he got his first leave since he has been here and came to Brussels. Like every soldier he wanted to celebrate his freedom and had a few drinks but he took a fewtoo many and became intoxicated. In his drunkenness he did things that he regrets now and always will remember and he is always willing to start all over again on the right foot. He has tried as the character witness has brought to your attention to prove that even though he has made one mistake he is still willing to be a good soldier and given the chance to prove himself likewise once more he will once again behave like a soldier should. Therefore I wish to ask Court for clemency on his behalf.

Prosecutor's Closing Address

Sir, the Court has heard sufficient evidence I'm certain to prove the e points on all charges; the place, date, and approx time. On the first charge it has been proven that the accused actually did point his pistol at a Cotlin, and I might add that the demonstration witnessed by this court establishes this b yond any doubt. On the second charge, again M Gosseen swore that the accused positively identified, pointed his pistol at him and he was frightened. It has been shown that there was a round in the pistol at the time of the offence, or at any rate there was when he was arrested. At any rate both Mr Catlin and Mr Gossens assumed the pistol was loaded. On the third charge it has been proven that the accused took a bottle of cognac and this was the property of Mr Raoul Gosseen and furthermore that he was taken without his permission and at the point of a pistol. He removed this pistol exhibit "A" from the accused on his arrest and also this bottle of cognac exhibit "B". The witness Mr Gosseen swore that this was the pistol which the accused pointed at him.

"J J H Connors" Lt

"Donald Mackenzie" Major

No F 77668 Name DERGAN E E Sqn. Battery or Company 1 RCA Corps Date of enlistment 10 Mar [illegible] Badges 1 Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in 3 Dec 42 No. and date of last drunk 3 Dec 42 Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3Dec42	Gnr		Off under AA 19 (1st Offence)		Admonished	3 Dec 42	2HAA Regt	

Duplicate created from MFM 4 - 3 Feb 45 Record of conduct in Canada not available.

"R B Fullerton" Capt
Officer i/c Records "B"
Cdn Sec 2 Con HEADQUARTERS 21 A Gp

(PTO

47-31

Pte. Dugan J. F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-82303 Pte John Francis DEEGAN - CIC - 3 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(2)	GUILTY	GUILTY	
2nd AA Sec 40	GUILTY	GUILTY	
3rd AA Sec 40	GUILTY	GUILTY	
4th AA Sec 40	GUILTY	GUILTY	
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in loss of kit see AP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date).~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 43 days, of which 40 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for a period of forty five (45) days.

(Sgd) ..... Judge-Advocate, if any. 10 Feb 45 Date awarded. ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(7), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~Remitted for the consideration of the Court.~~ (1. AA 57A. Delete if not used.)

Date 14 Feb 45 (Sgd) ..... Brig Commanding Comd 18 Cdn Ind Inf Bde

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
D-82303 Private DEEGAN, John Francis	Promulgated 14 Feb 45. Extract D.O. 43 dated 15 Feb 45	(E.T. Stewart) Capt. & Adjt. 3 Cdn. Inf. Depot Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ACCUSED AT CMHQ IN AP 1685 4T-31

CFA06 (In lieu of AFW40) 40/1 & B/1698 (E 643) 4/3 BB

FIELD GENERAL COURT-MARTIAL

RECEIVED 28 FEB 1945 AHQ BRANCH C.M.H.Q.

Convened by Order of Brigadier K G Blackader DSO, MC, ED Comd 13 CITB dated 7 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82303	Pte	John Francis	DEEGAN	CIC 3 CITR

Charged with having deserted Capt. while on active service, contrary to AA sec 15(2) and 2 others as per charge sheet.

PROCEEDINGS OF TRIAL.

Held in the [illegible] (Country) England on (date(s)) 10 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member~~, JA, ~~if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[s] attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial instead of being dealt with ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(1)

(1. KR Con 557. 2. AA 46(B), RP 90 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused :~~ ~~Do you object to~~ ..... ~~as interpreter~~ ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 90(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	DL REDMAN VD	MR CMHQ
Member	CAPT	WF FRASER	3 CITR
Member	LT	ED McTAVISH	1 CITR
~~Judge-Advocate~~			
Prosecutor	LT	RB McPHERSON	3 CITR
Defending Offr	LT	RF BOYCE	3 CITR

Questions by President : Is the Prosecutor a lawyer ? Ans N/c Is the Defending Offr a lawyer ? Ans N/c (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1, p 3.)

A8. The accused ..... before arraignment make(s) (no[t]) (a[n]) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 117), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in (1a) to RoP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence,* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of J A see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or Jdv, if nsvr~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(1. *RP* 27(*B*). 2. *RP* 27(*D*) *fn* 4. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 27(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 50(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans..... Do you intend to call witnesses on your behalf ?
Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 8*a*(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*R*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*7*) (*d*), *RP* 43, 120(*A*). 2. *AA* 54(*7*), *RP* 43, *117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Have Submitted NOTE-AI5
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NO - SIR (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J A, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas NO* 309, 2323, *MML p* 165, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(*5*), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44*A*(*1*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 562. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D62303 Private John Francis DEEGAN, Black Watch (RHR) of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Absenting himself without leave,

Section 15 (1) Army Act — in that he,

In the Field, absented himself without leave whilst undergoing Field Punishment, from 2230 hours 22 December 1944 until 2130 hours 23 December 1944. Total absence 23 hours.

SECOND CHARGE — WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

Section 40 Army Act — in that he,

In the Field, did NOT report on Defaulters Parade at 1245 hours 24 December 1944.

THIRD CHARGE — WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

Section 40 Army Act — in that he,

In the Field, did NOT report on Defaulters Parade at 1200 hours 25 December 1944.

FOURTH CHARGE — WHILE ON ACTIVE SERVICE, Conduct to the Prejudice of Good Order and Military Discipline,

Section 40 Army Act — in that he,

In the Field, did not report on Defaulters Parade at 1800 hours 25 December 1944 and 2130 hours 25 December 1944.

(S. Thomson) Colonel,
Commander,
No 3 Cdn Inf Trg Regt.

IN THE FIELD
26 December 1944

To be tried by Field General Court Martial.

(K Blackader) Brig
Comd
12 Cdn Inf Trg Bde

In the Field
7 Feb 45

CFA95 (In lieu of AFA3)
40/P&S/1697 (2803)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82303	Pte		John Francis	DEEGAN	CIC 3 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Feb 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr;)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint: (a) three Offrs to form the Court; (b) a Fd Offr as President, for the reasons I have attached herein.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	EQ CBU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	3 CITR
Lieutenant	to be detailed by Commanding Officer	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	3 CITR

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 7 Feb 45

K G Blackader (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding (K G Blackader) 13 Cdn Inf Trg Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Ce
K.R. (Can.), para 557

I certify that I have this morning examined No. D..
....Pt. Dugan ....J..... of..J.C.I.T.R.....
and in my opinion, he is....fit.... to undergo trial by C
station...Field.....
Date..[illegible] Feb. 1945..... (Sgd.)....G.D. Lau
(Medical Officer
(Canadian Reinforcement units Routine Order No. 3, para 27,

CASE OF DEEGAN. JF. 3 CITR

D.82803 Pte

E-1 STATEMENT BY ACCUSED
(on oath)

I was wounded overseas in the hips and back by shrapnel and I was sent back to hospital her in England. I was wounded on 25 Jul and I got out of hospital on 25 Nov. About the 15 Dec I was given special POW leave of 7 days which was stopped by the Pro Corps in London due to circumstances beyond my control and the evidence came up when I was brought back to the HU. The Col. i/c satisfied himself I should have been given my leave and in the meantime I went AWL for 3 days. It was rather stupid of me to do it but I was annoyed at being stopped by the Provost in London. For that I was awarded 28 days field punishment of which I completed 4 days and it was about then that this shrapnel infection began and on the night of 22 Dec instead of reporting at 2230 hrs I was late getting in. I reported to the Cpl of the guard at 0300 hrs and he unlocked the hut and let me in. The next morning I was unable to get up at 0500 hrs.On the 23 Dec at 0800 hrs I reported to my Coy which was the HU Coy on the regular parade and was detailed for picquet on night of 23rd. After being detailed for picquet that night I didn't do any work that day although I put in my time that morning working in the wood shed. I was later informed by the Cpl that being on field punishment meant I was not elligible for fire picquet that night and it was that after-noon at about 12 o'clock I received a parcel which contained a bottle of rum and I was so surprized in getting it I continued to drink. On 25 Dec at about 1100 hrs I spoke to the CSM of R.A.S.C. Coy and he informed me that I had been report of my absence on 22 Dec and that there was some mistake about me being posted from R.A.S.C. In the course of 24 hrs I was posted three times. I was posted from R.A.S.C. Coy to a trg coy and the HU transferred me back and the CSM says there was some mistake about this. I was given a specific mess hall to eat in.On 26 Dec it was approximately 1.45 P.m. before Christmas Dinner was over and I took it more or less for granted I didn't have to be on the defaulters parade. On 26 Dec I was placed under close arrest and was later informed that the defaulters who went up for missing that parade were dismissed because Xmas Dinner was not over in time. I went to hospital on 27 Dec on account of the condition of the shrapnel and remained there until 5 Feb. While in hospital I had some shrapnel removed. I should not lose my pay for the 40 days I was in hospital, as I was not in hospital for any account of my own. I am unmarried and 35 years of age. I am category "A". I still think I should be re-boarded, but I don't think it will affect my category. I don't want my category lowered.

PLEA IN MITIGATION

The Dfg Offr said he could not add anything further to what the accused had already said.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D82303 Private John Francis DEEGAN, Black Watch (RHR) of Canada, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath.

FIRST WITNESS — Capt. J.T. Stewart, General List, on the strength of No 3 Cdn Inf Trg Regt, an Officer of the Canadian Army Overseas, having been duly sworn, states:

For the Prosecution

I am Capt. J.T. Stewart, and am Adjutant of No 3 Cdn Inf Depot Bn, 3 Cdn Inf Trg Regt. I hereby present, marked Exhibit "A", Certified True Extract from 3 Cdn Inf Trg Regt Part II Daily Order No 43 dated 21 Dec 44, which shows that the accused, D82303 Pte Deegan, J.F., whom I now recognize, was awarded 28 days Field Punishment on 18 Dec 44.

(J.T. Stewart) Capt.

The accused declines to cross-examine this witness.

SECOND WITNESS — F60293 Sgt. Gourley, W.R., Cdn Inf Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn, states:

For the Prosecution

I am F60293 Sgt. Gourley, W.R. and am Orderly Sergeant of Holding Unit, 3 Cdn Inf Trg Regt. The accused, D82303, Pte Deegan, J.F., whom I now recognize, was absent from his quarters at 2230 hours 22 Dec 44 and failed to report on Defaulters Parade at 0500 hours 23 Dec 44. The accused had previously failed to report on Defaulters Parade at 1245 hours 22 December 1944.

(F60293 Sgt. Gourley, W.R.)

The accused declines to cross-examine this witness.

THIRD WITNESS — D82463 Sgt. Nelson, A.M., Cdn Inf Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn, states:

For the Prosecution

I am D82463 Sgt. Nelson, A.M., and am Orderly Sergeant of R & D Wing, 3 Cdn Inf Trg Regt. The accused, D82303, Pte Deegan, J.F., whom I now recognize, reported to me at 2130 hours 23 Dec 44.

D-82463 Sgt Nels-A.M.

(D82463 Sgt. Nelson, A.M.)

The accused declines to cross-examine this witness.

FOURTH WITNESS — C65070 L/Cpl. Wilkinson, G., Cdn Inf Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn, states:

For the Prosecution

I am C65070 L/Cpl. Wilkinson, G., and am employed on the Regimental Police of No 3 Cdn Inf Trg Regt. I was on duty at Defaulters Parade at 1300 hours 25 Dec 44 and called the roll. The accused, D82303, Pte Deegan, J.F. whom I now recognize, was not present on this parade.

C65070 L/Cpl Wilkinson S.

(C65070 L/Cpl Wilkinson, G.)

The accused declines to cross-examine this witness.

FIFTH WITNESS

For the Prosecution

G1213 L/Cpl. Mitchell, G.A., Cdn Inf Corps, on the strength of No 3 Canadian Infantry Regiment, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am G1213 L/Cpl. Mitchell, G.A. and am employed on the Regimental Police of No 3 Cdn Inf Trg Regt. I was on Duty at Defaulters Parades at 1800 hrs and 2130 hrs 25 Dec 44 and called the roll. The accused, D82303, Pte Deegan, J.F., whom I now recognize, was not present on these parades.

G1213 L/Cpl Mitchell G.A.

(G1213 L/Cpl Mitchell, G.A.)

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing summary of evidence consisting of TWO pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), and (f) have been complied with.

W.J. Atkin Lt.

(W.J. Atkin) Lieut
Officer Detailed to take Summary

IN THE FIELD
28 December 1944

EX A

EX "A" 1

NO. 3 CANADIAN INFANTRY TRAINING REGIMENT C A (S)

LAST ORDER NO 42	PART II DAILY ORDERS Issued by	THIS ORDER NO 43
20 DEC 44	A/COL J B WEIR, OBE, ED, Commander	21 DEC 44

17. (b) On 18 Dec 44, awarded 28 days F P and a forf of 28 days pay for an offence under AA Sec 40
Forf 28 days pay under FR&I 149 (2)
Total forf of 28 days pay
D 82303 PTE DEEGAN J F "RHC"

Signed ...P.V. Chiasson, Lieut....
for(J B Weir) A/Col,
Commander,
No 3 Can Inf Trg Regt CA (S)

CERTIFIED THIS EXTRACT 28/2/47

.....
Officer having custody of Original Record.

Ex "A"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number. *Rank.* *Name.* *Regiment (or as the case may be).*

D82303 Private John Francis DEEGAN, Black Watch (RHR) of Canada No 3 C.I.T.R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) 18 times.

For A.A. Sec 40 5 times.

~~For~~ ~~times~~

~~For~~ ~~times~~

Date of first entry in Field Conduct Sheet 18 Oct 40

Date of last entry in Field Conduct Sheet 11 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for 28 Days F.P. beginning on the 18th day of December 1944

4. The accused has been awaiting trial on the present charges for days in civil custody; and for 45 days in military custody, *i.e.*, NIL days in open arrest, 5 days in close arrest; of which ~~[illegible]~~ 40 days were spent in hospital.

5. The present age of the accused is 34 yrs.

6. The date of his attestation ~~[illegible]~~ is 5 June 1940

7. The service which the accused is allowed to reckon is 3 yrs 5 mos.

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ C.V.S.M. & Clasp

~~(a) (If the accused is a serviceman of N.C.O.). The accused has served continuously without reduction, to the present date.~~

~~Date of Promotion~~

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~In the acting rank of~~

E x B

MN

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) Wt.8670/668 100,000 4/42 A.& E.W.Ltd. Gp.696
(22436) Wt.29236/1873 60,000 9/42 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	26 Feb 42 Field	A.A. Sec 15 (1)	90 Days Detn. Forf 106 days Pay.	
F.G.C.M.	3 Jul 42 Field	A.A. Sec 15 (1) AWL from 30 May 42 until 18 Jun 42	1 Yr Detention Forf 273 days pay.	Commuted to 8 Months.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~28th~~ 10 ach day of ~~December 1944.~~ January 1945

[illegible signature]

No. 082303 Name DELGAN J.F. | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5423)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No /. | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	18.10.40	Pte		A.W.L.		admonished	25.10.40		FORF of 1 days Pay.
U.K.	18.10.40	Pte		A.W.L. AA 15 (1)		120 hrs detention	4.12.40		FORF 14 days Pay.
U.K.	4.12.40	Pte		A.W.L.		11 days detention	9.12.40		FORF of 11 days Pay.
U.K.	23.6.41	Pte		A.W.L.		7 days C.B.	9.7.41		FORF of 1 days Pay.
U.K.	19.7.41	Pte		A.W.L. AA SEC. 40		14 days J.P.	16.8.41		FORF of 11 days Pay.
U.K.	4.8.41	Pte		A.W.L.		7 days C.B.	15.8.41		FORF of 7 days Pay
U.K.	15.9.41	Pte		A.W.L.		14 days J.P.	26.9.41		FORF of 30 days Pay
U.K.	22.12.41	Pte		A.W.L.		27 days detention	23.12.41		FORF. 27 days Pay.

Exc MY

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	5.2.42	Pte		A.W.L.		5 days detention	6.2.42		11 days Pay
U.K.	26.2.42	Pte		A.W.L. AA 15 M		90 days det.	10.3.42	F.G.C.M.	106 days Pay
U.K.	27.4.42	Pte		A.W.L.		3 days C.B.	27.4.42		1 days Pay
U.K.	22.5.42	Pte		A.W.L. AASEC 40		10 days C.B.	28.5.42		30 days Pay
U.K.	3.7.42	Pte		A.W.L. 30 MAY 42 to 18 JUNE 42		1 yr detention commuted to 1 mon.	7.7.42	F.G.C.M.	273 days Pay
U.K.	21.7.42	Pte		A.W.L.		14 days C.B.	4.8.42		9 days Pay
U.K.	10.1.42	Pte		A.W.L.		7 days A.P.	11.1.43		9 days Pay
U.K.	2 Nov 43	Pte		A.W.L.		27 days det.	21 Aug 43		32 days Pay
U.K.	18.1.44	Pte		A.W.L. AA SEC 40		14 days C.B.	2.2.44		14 days Pay

No. 082303 Name DEEGAN J F | Sqn. Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	12 MAY 44	Pte		A.W.L. AA SEC 40		21 days J.P.	29 MAY 44		FORF. 30 days Pay.
U.K.	[illegible] 44	Pte		A.W.L.		admonished	11 NOV 44		FORF. 1 days Pay.
FIELD	[illegible] 44	Pte		1. Created and caused disturbance and property damage to amount of £2-10-0 2. AA SEC 15 [illegible] A.W.L. while under open arrest from [illegible] 14 DEC 44 to [illegible] 44.	C.P.C. PROP OF SPO. RESTR	28 days J.P. 28 " Pay STOPPAGES £2-10-0	18 DEC 44	[illegible]	Total FORF of 32 days Pay & STOPPAGES £2-10-0

Certified True Copy 28 Dec 44

J. E. Willey [illegible] Capt [illegible] Dept.

Officer Having Custody of Regimental Service

(PTO)

LIST OF WITNESSES

In the case of D82303 Pte Deegan, J.F., Black Watch (RHR) of Canada, on the strength of No 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1.	Capt. E.T. Stewart	No 3 Cdn Inf Trg Regt.
2.	F60293 Sgt. Courley, W.R.	No 3 Cdn Inf Trg Regt.
3.	D82483 Sgt. Nelson, A.M.	No 3 Cdn Inf Trg Regt.
4.	C65070 L/Cpl. Wilkinson, G.	No 3 Cdn Inf Trg Regt.
5.	G1213 L/Cpl. Mitchell, G.A.	No 3 Cdn Inf Trg Regt.

FOR THE DEFENCE NIL.

LIST OF EXHIBITS

In the case of D82303 Pte Deegan, J.F., Black Watch (RHR) of Canada, on the strength of No 3 Cdn Inf Trg Regt.

EXHIBIT "A" - Certified True Extract from 3 Cdn Inf Trg Regt Part II Daily Order No 43 dated 21 Dec 44.

20 December 1944

This is to acknowledge that I have received free of charge, the following papers in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Witnesses
1 List of Exhibits.

John F. Deegan
D82303 Pte Deegan, J.F.

---

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.O) 3D/11

I, No. D82303 (Rank) Pte Deegan, J.F. (Name) wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of Any Officer if he is available.

(Sgd.) John F. Deegan

12 F - Pte Deegan Jas. (1st case)

See 118 F for 2nd case

O. H. M. S.

M. F. B. 270

D-82303 Pte. Deegan, J.F.
2 C.D.I.R.U.

Orig

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 24th day of February, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[I am unable to appoint~~—

*~~(1. Three Officers to form the Court)~~

*~~(2. A Field Officer as President)~~

*~~(3. Three Officers having more than one year's service)~~

~~[or the following reasons namely:]~~

PROCEEDINGS REVIEWED.

[signature] Rangoon Officer (Jag) [illegible] 21 Mar 42

President.

Rank.	Name.	Regiment.
Major	W.O. Wetmore	No.1 Cdn Arm'd Corps R.U.

Members.

Rank.	Name.	Regiment.
Captain	J.G. Cummings	3 Cdn Div Inf Reinf Unit
Lieutenant	R.R. Kelly	No.1 Cdn Gen Reinf Unit
Lieutenant	D.W. Creelman	3 Cdn Div Inf Reinf Unit

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-82303 PTE. DEEGAN, J.F. 2 Cdn Div Inf Reinf Unit.	First Charge A.A. sec 15(1)	Guilty	Guilty	
	Second Charge A.A. sec 15(1)	Guilty	Guilty	
	See charge sheet attached.		TO UNDERGO DETENTION FOR NINETY (90) DAYS, AND TO BE PLACED UNDER STOPPAGES OF PAY UNTIL HE HAS MADE GOOD THE SUM OF $4.16.0 IN RESPECT OF COSTS OF APPREHENSION.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) A.D. Nelson Brigadier (Signed) Wosvetmore Major

Commanding Cdn Reinforcement Units, 1 C.A.C.R.U. *President.*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of February, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter) The shorthand writer
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable

Signed this 26th day of February, 1942.

Wosvetmore Major
President of the Court Martial.

C. Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1949

I certify that the terms of *A.A. s. 57 of 1935 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*I direct that the soldier named in the charge do not undergo detention

Signed this 4th day of March 1942

A.D. Nelson Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of D82303 Pte DEEGAN J.F. DO "58

(a) (Dated) 10 March 42 (Signed) H.C. Pentney Lt-Col C.O. 1 R.D.
of 5th

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

147750 W1—9/42—3M 20-9 (1) P.R. G.

CHARGE SHEET

The accused, D82303 Private John Francis DEEGAN, The Black Watch Company, 5th Brigade Training Wing, No. 2 C.D.I.R.U., a soldier of the Canadian Army (Overseas) is charged with:

First charge section 15(1) Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Laurentide Camp, Witley, Surrey, absented himself without leave from Tattoo Roll Call on 7th February 1942 till 22.40 hours on the same day.

(Total absence 40 minutes)

Second charge section 15(1) Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Laurentide Camp, Witley, Surrey, absented himself without leave from Tattoo Roll Call on 8 February 1942, until apprehended by the Military Police at Edinburgh at 16.15 hours on 14-2-42, thereby causing expenses to the amount of £4-16-0 for his apprehension and return.

(Total absence 5 days 18 hours 15 minutes)

(R.C.A. HERVEY) Lieut-Col.
O.C.
5th Brigade Training Wing
2 C.D.I.R.U.

Laurentide Camp
Witley, Surrey
18 February 1942

To be tried by Field General Court Martial

(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.

Farnborough, Hants
This 24th day of Feb 42.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT BRAMSHOT ON THE 26th DAY OF FEB 42.

TRIAL OF:- No. D-[illegible], Pte DEEGAN J.F., No 2 CDIRU.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt M.J. Chilton (Unit) No 2 CIRU.

Defending Officer:- (Name) Lt. D. Croll, (Unit) No 2 CDIRU.

At 0930 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1-No, sir.

The President, members and Judge-Advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to Sgt. T. Pyburn acting as shorthand writer?

A2.- No, sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(b) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.-No, sir.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.-No, sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

PROSECUTOR, sworn, produced AF B296 and copy of MFM-6.

DEFENDING OFFICER refers to trivial nature of charges, neither length of absence being of serious nature. Accused formerly good soldier; in Marines for 6 yrs; served 3 yrs Shanghai. His C.O. requested his services on three occasions, once when hospitalized and twice when AWL. Studied 2 yrs at Univ of Michigan and 2 yrs Univ of California. Suffers from wanderlust and has to "let off steam" occasionally from sheer boredom. Does not think heavy punishment will help and requests leniency.

[signature] Major

President of Court Martial.

SUMMARY OF EVIDENCE
in the case of

D82303 Private John Francis DEEGAN, The Black Watch Company, 5th Brigade Training Wing, No. 2 C.D.I. .U., a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of the Commanding Officer.

FIRST WITNESS PROSECUTION — D81222 Sgt. O'Brien W.J.A. The Black Watch Company, 5th Brigade Training Wing, 2 C.D.I.R.U., having been duly sworn states:

"On 7th February 1942, I was the Company Orderly Sergeant for the Black Watch Company. I called the roll at 22.00 hours on that day, and the accused Pte. J.F. Deegan was absent. He reported to me at about 22.40 hours on the same day. On 8th February 1942, I took the Roll Call at 22.00 hours and the accused was absent. I did not see him again until 16th February 1942. He did not attend any parades or answer any Roll Calls during the rest of my time as Company Orderly Sergeant. He was absent.

Wm. O'Brien. Sgt.

The accused declines to cross-examine this witness.

SECOND WITNESS PROSECUTION — F40547 L/Cpl Hayden, M.E. Canadian Provost Corps, Edinburgh. A written statement of this witnesses evidence purporting to be signed by him has been read to the accused, and is included in this Summary of Evidence as follows:

"STATEMENT OF EVIDENCE IN THE CASE OF

D82303 Pte Deegan, J.F.
2nd Cdn Div. Inf. Reinf. Unit.

Sir:

At Edinburgh at about 16.15 hours on the 14 Feb 42, I was on duty on Waterloo Place, in company with L/Cpl. Connery, where I saw the a/m soldier. He was not carrying his respirator A.G. and was wearing a balaclava instead of his F.S. cap. I approached him and asked him for his pass. He could not produce one. He was A.W.L.

I placed him under arrest and conducted him to Detachment H/Qrs where he was detained until proceeding under escort to his unit at 22.00 hrs.

Edinburgh
14 Feb -42 (Signed) M.E. HAYDEN L/Cpl F40547

Having regard to the expense and loss of time involved, the attendance of this witness cannot in my opinion be readily procured.
The accused does not require the attendance of this witness for cross-examination.

THIRD WITNESS PROSECUTION M-11956 L/Cpl. Connery, L.W. Canadian Provost Corps, Edinburgh
A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence as follows:

"STATEMENT OF EVIDENCE IN THE CASE OF
D-82303 Pte Deegan, J.F.
2nd Cdn.Div. Inf. Reinf. Unit
Sir: I have read over and corroborate the above statement.
Edinburgh
14-Feb-42 (Signed) L.W. Connery L/Cpl M11956

Having regard to the expense and loss of time involved, the attendance of this witness cannot in my opinion be readily procured.
The accused does not require the attendance of this witness for cross-examination.

FOURTH WITNESS PROSECUTION Lieutenant F.D. Bourcier Assistant Records Officer, No. 2 C.B.I.R.U. having been duly sworn, states:

"I am Assistant Records Officer No. 2 C.B.I.R.U. I produce the certificate of the Accused's apprehension, and an expense voucher relative to the accused's apprehension and return.

F.D. Bourcier Lieut.
F.D. BOURCIER

The accused having been duly warned under R.P. 4 (e) reserves his defence.

Certified that the Rules of Procedure 4 (c) (d) (e) (f) and (g) have been duly complied with.
Taken down by me in the presence and hearing of the Accused this 18th day of February 1942 at Laurentide Camp, Witley, Surrey.

J.W. Beveridge Captain
(J.W. Beveridge) (R.C.H.C.)
Officer detailed by O.C. 5th Cdn. Inf. Brigade Training Wing to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
18 February 1942

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined NO D82303.....

Pte.J.F.Deegan of No.2 C.D.I.R.U. and in my opinion he

is fit to undergo trial by Court Martial.

Lucy Ostrey ~~Capt~~ Eng.
(Medical Officer)

Laurentide Camp
26th February 1942

Wasuetmore Major
Pres.

26-2-42

Certificate in accordance with the Army Act Section 163 (1) (JJ).

I certify that REG'T NO. D-82303 RANK Pte. NAME Deegan, J.F.

UNIT 1st Bn. Black Watch 2nd Cdn. Div. Inf. Reinf. Unit PLACE Edinburgh

at HOUR 1615 DATE 14-Feb-42 and that the time of his arrest

he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken inarrest

Lieut
O. i/c Detention Room
No. 6 Provost Company.

Statement of **EVIDENCE** in the case of

D-82303 Pte.Deegan,J.F.
2nd.Cdn.Div.Inf.Reinf.Unit.

Sir:

At Edinburgh at about 16.15 hrs,on the 14-Feb-42, I was on duty on Waterloo Place,in company with L/Cpl.Connery,where I saw the a/m soldier.He was not carrying his respirator a.g and was wearing a balaclava instead of his F.S.Cap. I approached him and asked him for his pass.He could not produce one. He was A.W.L. I placed him under arrest and conducted him to Detachment H/Qrs.where he was detained until proceeding under escort to his unit at 22.00 hrs.

Edinburgh
14-Feb-42.

W.G. Hayden ...L/Cpl.
(F-40547 Hayden,W.G.)

Sir:

I have read over and corroborate the above statement.

Edinburgh
14-Feb-42.

L.W. Connery ...L/Cpl.
(M-11956 Connery,L.W.)

Adjutant. P.L.O.

Army Form B 252
(See King's Regulations)

CHARGE

1st.Bn.Black Watch (R.H.R.) Coy Regiment

2nd.Cdn.Div.Inf.Reinf.Unit. Battery / Squadron / Troop or Company

CHARGE against No. D-82303 Rank Pte.

Name Deegan,J.F.

Place Edinburgh Date of Offence 14-Feb-42.

OFFENCE W.O.A.S.Absent without leave from 22.00 hrs 8-2-42 ..until apprehended by the Cdn.Provost Corps on Waterloo Place at about 16.15 hrs,on the 14-Feb-42. (2)Improperly dressed,at the same time,date and place.

Names of Witnesses :— O. i/c Detention Room No. 6 Provost Company Lieut.

L/Cpl.Hayden,M.E. Cdn.Provost Corps.

L/Cpl.Connery,L.W. Cdn.Provost Corps.

Signature of O.C. ~~Battery~~, ~~Squadron~~, ~~Troop~~ or Company. remanded to CO [illegible]

Punishment Awarded

By whom Awarded

Expense Voucher Ref: K.R.& O.(C-n.)539

Regt.No. 2-82303 Rank Pte Name Deegan, J.F.
Unit 2nd Edn. Div. Inf. Reinf. Unit Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit~~ London from Edinburgh

Date	Particulars	To	Amount £	s	d
	Escorts return fare from London	Edinburgh	£ 3	0	8
15 Feb 42	Prisoners Single fare to LONDON from	Edinburgh	£ 1	10	4
	Prisoners Single fare from LONDON to				
	Escorts & Prisoners expenses for ~~incl~~, Meals, bus fares				6
	TOTAL		£ 4	16	0

I certify that the above statement of Expenses is Correct and that the amounts are fair and just.

M. E. Byers Lieut.

Officer Issuing Railway Warrant and Expense Monies

Regt. No. _____ Ref: K.R.& O.(Can.)539

Rank _____

Name _____

Unit: _____

The following expenses were incurred in apprehending and returning the A/W soldier to his unit from _____

DATE	PARTICULARS	AMOUNT
	Escort return fare from to	

M.F.M. 6
A.F.B. 1.22
500M—6-39 (1792)
H.Q. 1772-40-49

No. D82303 Name Deegan, J.F. Sqn., Battery, or Company } 1st. Regimental Depot Corps The Black Watch (RHR) of Canada Date of enlistment } 5-6-40 G.C. Badges } Service or Proficiency Pay }

Date of last entry in Company Conduct Sheet } No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 1. Signature O.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Aldershot Hants	15-10-40	Pte		W.O.A.S. AWL from 2359 hrs. 15-10-40 to 1100 hrs. 16-10-40. A.A. Sec. 15 (1).	D81820 L/S Jackson, J.R.	Admonished	19-10-40	A. Weir Wright, Major.	Forfeits 1 day pay for absenc
Aldershot Hants	14-11-40	Pte		W.O.A.S. AWL from 2359 hrs 14-11-40 until surrendering at 1045 hrs 16-11-40. (absent 34 hrs 46 min) In close arrest from 1045 hrs 16-11-40 until 1200 hrs 18-11-40 A.A. Sec. 15 (1).	D81184 Cpl. Wilson, JB	120 hrs detn forfeits 5 days ord. pay underFR&I 149-1-6	18-11-40	I.L. Ibbotson Major.	Forfeits 2 days pay for absence FR&I 149-1-4. 3 days ord. pay while in detn. FR&I 149-2-2. Total forfeiture 9 days pay.

(F.D.G.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot Ha	30-11-40	Pte.		W.O.A.S. AWL from 2359 hrs 30-11-40 to 1715 hrs 1-12-40 when apprehended in London. Absent 17 hrs 16 mins In close arrest from 1715 hrs 1-12-40 to 1200 hrs 4-12-40 A.A. Sec 15 (1).	L/C Ayres, S.L. C.P.C. Sgt. Marenger C.P.C.	11 days detn. forfeits 11 days pay FRAI 149-1-b	4-12-40	I.L. Ibbetson Major.	Forfeits 1 days pay for absence FRAI 149-1-a. 3 days pay whilst under close arrest FRAI 149-1-c. Total forfeiture 15 days
Lewes Sussex	31-1-41	Pte.		W.O.A.S. AWL from duty allotted to him by his C.O. from 0930 hrs to 1200 hrs 31-1-41 Abs. 2hrs 30 mins. A.A. Sec 15 (1).	D51569 Sgt. Bolton, C.W.	Admonished	1-2-41	A. Weir Wright. Major.	Forfeits 1 days pay. FRAI 1[illegible]-b
Aldershot Hants.	21-6-41	Pte.		W.O.A.S. AWL from 2300 hrs 21-6-41 to 0630 hrs 22-6-41 abs 7 hrs 30 mins A.A. Sec 15-1	D-01648 Sgt Law, R.H. D-	7 days C.B.	23-6-41	J.W. Knox. Capt.	Forfeits 1 days pay. FRAI 149-1-a.

No. Name

Date of last entry in Company Conduct Sheet

Sqn., Battery, or Company

No. and date of last drunk

Corps

Period not reckoning towards freedom from extra fine

Date of enlistment

Sheet No.

G.C. Badges

Signature O.C. Company, etc.

Service or Proficiency Pay

Character

M.F.M. 6
C.F.B. 122
50036—40-38 (1703)
H.Q. 3772-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot Hants	28-6-41	Pte.		W.O.A.S. AWL Did not answer defaulters call from 1330 hrs to 2200 hrs. 28-6-41 D81636	D-81648 Sit Law, R.H. CplMacDougall	14 days F.P. and forfeiture of 14 days pay	19-7-41	J.K.Blackader Lt.Col.	Forfeits 1 day pay by FRI 149-1-a. Total forfeiture 15 days pay.
	29-6-41	Pte.		W.O.A.S. Neglect to the prejudice of good order and military.	D-81809 Cpl Downey, J.A. D-81090 Pte. Morrison, H.				
Eastbourne Sussex	2-8-41	Pte.		W.O.A.S. AWL from 2300 hrs 2-8-41 to 0145 hrs 4-8-41 Absent 26 hrs 45 mins. A.A. Sec. 15 (1).	D-81869 Sit Bolton, C.W. D-81641 Cpl Sundberg, T.	7 days C.B. forfeits 9 days pay.	4-8-41	J.W.Knox Capt.	Forfeits 9 day pay for absence Total forfeiture 7 days pay.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tweseldown Camp.	30-8-41	Pte.		W.O.A.W. AWL from 0600 hrs 30-8-41 until apprehended by M.P. Sgt Blackwell Gabe at 1515 hrs 6-9-41 (Absent 6days 7 hrs 15 min) A.A. Sec. 15 (1).	Documentary Evidence	14 days F.P. and forfeiture of 14 days ord pay. Awarded cost of escort £1-16-10½.	15-9-41	K.J.Blackader Lt.Col.	Forfeits 10day pay by ENSI 149-1-a and 14 days pay 149-1-b. 6 days pay by 149-1-a. Total forfeiture 30 days pay.
Lacrentide Camp.	26-11-41	Pte.		W.O.A.W. Neglect to the prejudice of good order and Military discipline in that he, at 2000 hrs on the 26-11-41 when ordered report to the Coy. Orderly Sgt at Coy. Office neglected to do so. A.A. Sec. 40	6-81232 Sgt. O'Brien, W.J. 6-81362 L/C Mitchell,T	5 days C.B.	27-11-41	J.C.Routledge Major.	

M.F.M. 6
A.F.B. 122
[illegible]
H.Q. 177-43-13

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dissenting with trial	By whom awarded	Remarks
Laurentide Camp	29-11-41	Pte.		W.O.A.S. AWL in that he, having been duly warned for draft, absented himself without leave from 1430 hrs 29-11-41 until surrendering himself at the guard room of the 18th Coy Gdn. Pro'y Corps. Seaulyeu Inverness at 1730 hrs 6-12-41 thus incurring expenses for his return to the extent of £6-7-6. (absent 7days 3 hrs.) A.A.Sec 13-1	DB2155 Cpl Duplessis DB1222 Sit. O'Brien, W.J. Documentary Evidence Att'd.	27 days detn. Fined £6-7-6.	22-12-41	Lt-Col. Redman,	Forfeits 8 days pay for absence under FRAI 149-1-a Total forfeitu 35 days pay.

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Laurentide Camp	31-1 42.	Pte.		W.O.A.S. AWL from 0630 hrs 31-1-42 until apprehended by the Civil Police at St.Johns Shelter Broadway, Stratford, at about 0320 hrs, on the ;-2-42. (Absent 20 hrs, 50 mins) A.A. Sec 15(1). (In close arrest 4 days 8 hrs. 10 mins)	D81325 Sjt Ablet, R.A. Documentary Evidence Att'd.	5 days detn.	5-2-42	Lt-Col.D. Redman.	L.Forfeits 1 days pay for absence under FRAI 149-1-a.

THIS AND THE FOREGOING SUBJECTS
CERTIFIED TRUE COPY

Jas Tantledge Major

Wm Watson Major
ICAC RU
Pres.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D82303	PRIVATE	John Francis DEEGAN	The Black Watch Company 5th Brigade Training Wing 2 C.D.I.R.U

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15(1)	6 times	10 times.
For A.A. Section 40	2 times	2 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

There are no entries in the conduct sheets of the accused

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, the nil entry being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness note the entries for drunkenness must be stated separately and dated.

2. The accused has not been previously convicted, or

The accused has not been previously convicted

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 12 days in military custody, making a total of 12 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 31 yrs 4 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 5 June 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 8 months

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr - 8 months service.

9. The accused is entitled to reckon 1 yr 8 months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~or is in possession of a~~ ~~decoration or award~~).

11. ~~If the accused is a warrant officer.~~ The accused before he was made a warrant officer had held the substantive rank of XXXXXXXXXXXXXX

12. ~~(In the case of an officer.)~~ The accused holds in the army the rank of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX and in his regiment, corps or department the rank of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

(*1940) W1.X3344/1022 75,000 12/40 A.S.R.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D82303 Rank Private Name John Francis DEEGAN of The Black Watch Coy 5th Bde Training Wing 2 CDIRU Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

NIL

Wavetmore Major
1 CACRU
Pres
26-2-42

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of February

J. W. Leveridge Captain
(J. W. LEVERIDGE) A/Adjutant
5th Brigade Training Wing 2 C.D.I.R.U.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of - - - - - - - - - - - years.

In the rank of - - - - - - - - - - - years.

In the rank of - - - - - - - - - - - years.

(Intervention.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

4H-94.

te. Deer. A. G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M 31562 Pte Arnold Grant DEER

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 0 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer field punishment No 1 for period of 90 days and to forfeit 90 ordinary pays in 90 days

(Sgd) ..... Judge-Advocate, if any. 24 Nov 44 Date awarded. (Sgd) ..... President (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court.

~~I direct that the accused be not committed for trial or detention hereafter until further review.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Brigadier

Date 26 Nov 44 Commanding C.R.A. 2 CDN. DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

M 31562 CRA 213 d/27 Nov 44

PE 2nd RG 29 Nov 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5 44-94

RECEIVED 18 DEC 1944 Judge Advocate General's Branch C.M.H.Q.

FIELD GENERAL COURT-MARTIAL (CFA96 (In lieu of AF B3) (CFA 96 (In lieu of AF B3))

Convened by Brig J D Lea CRA Com 2 Can Inf Bde dated 23 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/B or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 31562	Pte	Arnold Grant	Deer	Regt

M 31562 RECORDS REVIEWED 19 Dec 44 Jde Advocate

REVIEWING OFFICER, JA'S STAFF (CANADA)

PROCEEDINGS REVIEWED Date 24 Nov 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 24 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 1474

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn KOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 118, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1124 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~to interpreter: Ans~~ ~~to shorthand writer: Ans~~

~~The interpreter is sworn.(1) Do you object to~~ The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

And the Court.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	K Cleary	4 Can Fd Regt RCA
Member	Capt	J D Bagg	3 Can LAA Regt RCA
Member	Lieut	J M Ross	3 Can LAA Regt RCA
Judge-Advocate			
Prosecutor	Capt	John Grange	4 Can Fd Regt RCA
Defending Offr	Lieut	H Cleary	4 Can Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans ..... Is the Defending Offr a lawyer? Ans ..... (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment makes(s) (two) (a) plea. (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP (a, 70), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 mark and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused disres (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of insts p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is cleared and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Red-ink D Form 6

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accusd see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. (Guilty to words in Summary first)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) to (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....
Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 101(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(a).* 2. *RP 44(A).* See Notes in Part I of Schedule.)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are any pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes.
(1. *Evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *AFB 253 or AFB 296.* 2. *MFM 6.* 2. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46–50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 309, 2323, MML p 46, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. M31562 Pte Arnold Garnet Deer, 2 Cdn Fd Bty., 4 Cdn Fd Regt RCA, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
in that he,
In the Field, absented himself without leave from 0730 hrs 2 Nov 44 until 1245 hrs 4 Nov 44. Absent 2 days 6 hrs 45 mins.

(McG. Young) Lt-Col.,
Comd., 4 Field Regt RCA

In the Field
13 Nov 44

In the Field
21 Nov 44
To be tried by FGCM

(F D Lace) Brig
CRA 2 Cdn Inf Div

CFA95 (In lieu of AFA2)
40/P&S/1697 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M31562	Pte		Arnold Garnet	DEER	4 Cdn Fd Regt

R E Lucy Mj
President

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(X) named above as the accused, being subject to military law, has ~~[illegible]~~ committed the offence(X) set forth in the Charge Sheet(X) attached and on (date) 21 Nov 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(X) should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(X), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R E Lucy	6 Cdn Fd Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J H Buck	3 Cdn LAA Regt
Lieut	J F M Ross	3 Cdn LAA Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	L E Ross	6 Cdn Fd Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Date 21 Nov 44

[signature] (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding CRA 2 Cdn Inf Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R.(Can) Para 557

I certify that I have this morning examined No. M31562 Pte. Deer, A.G. of 2 Bty - 4 Fd Regt RCA and in my opinion he is fit to undergo trial by court-martial.

Capt

Medical Officer
4 Fd Regt RCA

Station: In the Field
Date: 24 Nov 44

Character Witness. D46970 Pte Schade
A.b. sworn states:

Pte Deer is an efficient cook and very good to work with. Is quite reliable.

Questioned by Court

Q Were you ~~[illegible]~~ in ~~the [illegible]~~ incharge of the kitchen

A ~~[illegible]~~ Yes, it a troop [illegible]

Statement in mitigation by the accused

When I left on 2 Nov I had intention of coming back to work next morning. If I knew then what I know now I would not have been in this trouble. Because instead of reporting to a provost I thought I would be better off by reporting back on my own, which I did, only with more difficulty ~~that~~ than I had anticipated.

Summary of Evidence in the case of M31862 Pte Deer A.G., 2 Cdn Fd Bty, 4 Cdn Fd Regt RCA, CAO, charged with Absence Without Leave (AA Sec 15(1)).

By direction of the Commanding Officer, the evidence is taken on oath;

First Witness

D46930 Pte Schade A.G., 2 Cdn Fd Bty, 4 Cdn Fd Regt RCA, sworn, states:-

"Sir, I am a cook in the 2 Cdn Fd Bty, 4 Cdn Fd Regt RCA. On the morning of 2 Nov 44 at approx 0730 hrs I was on duty in the cookhouse and noticing that the accused, Pte Deer, whom I recognize, was not around, inquired of him and not knowing his whereabouts reported the fact to Sjt Johnson."

Cross-examined by the Officer taking the Summary.

Q When did you next see the accused?
A Just after 1900 hrs on the 4 Nov 44

The accused declines to cross-examine the witness.

(A.G.Schade) Pte.,
2 Bty, 4 Cdn Regt RCA

Second Witness

A17144 Sjt Johnson W.H., 2 Cdn Fd Bty, 4 Cdn Fd Regt RCA, sworn, states:-

"Sir, I am WO 1/c BHQ 2 Fd Bty, 4 Cdn Fd Regt RCA. On the morning of 2 Nov 44 Pte Schade reported the absence of Pte Deer to me. I reported the same to the Bty Comm nd Post. On 4 Nov 44 Pte Deer returned at approx 1245 hrs properly dressed and sober."

The accused declines to cross-examine the witness.

(W.H. Johnson) Sjt.,
2 Bty., 4 Cdn Fd Regt RCA

The accused does not call any witnesses.

The accused was cautioned as follows:-

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
A I would like to give evidence on oath, Sir".

The accused, sworn, states:-
"I am M31862 Pte Deer A G. I work in the 2nd Bty cookhouse, 4 Fd Regt RCA. The morning of 2 Nov 44 being my day off, I thought I was going to Ghent to see some people I knew there. I knew I had to be back in time for work next morning so I left Ghent in time to make it but I got on wrong roads and lost my way. I looked around that day for the right way and made enquiries but it got me nowhere. I ended up in Bruges. It was getting dark by then so I looked for a place to sleep and next morning I headed for

the nearest water point. I went to one water point but none of our vehicles were there for water so I asked a chap in the Armoured Corps the location of another point and I went to that point and met a fellow with a water wagon from the 6 Fd Regt RCA. I asked him if he knew where the 4 Fd Regt RCA was and he told me yes, he was going up that way he would give me a lift. He took me to within one mile of one battery and I walked the rest of the way".

(A.J. Deer) Pte.,
2 Bty, 4 Fd Regt RCA

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) and (G) have been complied with.

(S.G.M. Grange) Capt.,
4 Field Regiment RCA

In the Field
13 Nov 44

(Substitute for MFB [illegible])
of MFB [illegible]

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

NO. M31562 NAME Deer, A.G. UNIT 4 Cdn Fd Regt RCA

AGE 22 MARRIED OR SINGLE S NO OF DEPENDENTS none

DATE OF ATTESTATION 7 Oct 40

NO OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL _____ MILITARY _____ HOSPITAL _____ TOTAL Nil

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATIONS OF RANK, IF ANY

A CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

[signature] Capt

Dated at Tulo

this 24 day of Nov 1944

(To be dated and signed as of date of trial)

M.F.M. 6

No. M31562 Name Deer, A.G. Sqn., Battery, or Company n.a. Corps R.C.A.S.C. Date of enlistment 17.10.40 G.C. Badges n.a. Service or Proficiency Pay n.a.

Date of last entry in Company Conduct Sheet n.a. No. and date of last drunk n.a. Period not reckoning towards freedom from extra fine n.a. Sheet No. 1 Signature O.C. Company, etc. H.E. Kelly Lt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29Jun 41	Pte		AWL from 0735 hrs 29Jun41 until 0045 hrs 11Jul41 (11 days 23 hrs 10 mins)	Sjt Bowles Documentary	14 days CB	11Jul41	Lt-Col Strachan	Forf 12 days pay FR&I 149 (1)(a)
Field	16Feb 42	A/Cpl		AWL from 0700 hrs 15Feb42 until 0800 hrs 16Feb42(1 day 1 hr) A.A. Sec 15(1)	A/cpl Starchuk A/cpl Wilson Sjt Clercoux	Reduced to permanent grade of Pte.	16Feb42	Maj N. Kingsmith	Forf 2 days pay FR&I 149(1)(a)
Field	60ct42	Pte		AA Sec 15(1)AWL from 1200 hrs 50ct42 to 1740 hrs 60ct42 (TTA 29 hrs 40 mins)	Documentary	10 days CB	70ct42	Capt R.H. Jenner	Forf 2 day pay FR&I 149(1)(a)
Field	160ct42	Pte		AA Sec 15(1)AWL from 0600 hrs until 1000 hrs 160ct42 whilst a defaulter (TTA 4 hrs.)	Documentary Sjt Morrison	7 days CB	170ct42	Capt RH Jenner	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19Oct 42	Pte		(1) AA Sec 10(4) Breaking out of barracks whilst a defaulter (2) AA Sec 11 Neglecting to obey camp standing orders	Documentary	14 days CB Forf 14 days pay FR&I 149(2)	20Oct42	Maj N. Kingsmill	
Field	14Dec 42	Pte		AA Sec 40 Neglect, etc. in that he neglected to sleep in company tents.	Lcpl Allan, M.P.	4 days CB	14Dec42	Lt JL Harper	
Field	6Feb44	Pte		AA Sec 15(1) AWL from 2359 hrs 6Feb44 until 0846 hrs 7Feb44. (8 hrs 46 mins)	Documentary	Forf 1 days pay FR&I 149(1)a 4 days CB	7Feb44	Maj JG Wren	
Field	24Apr 44	Pte		AA Sec 40 Neglect, etc was found to have in his possession a dirty rifle	RQMS Firth, F.	7 days CB 7 days forf of pay FR&I 149(2)	25Apr44	Maj G.C. Savage	

Certified true copy of original

(S.G.M. Grange) Capt
Adjt, 4 Cdn Fd Regt RCA

SF 24.

Pte. De Gagne, A.

RECORDED AT CMHQ IN AB 160 5F-24

FIELD GENERAL COURT-MARTIAL

CFAMS (To lieu of AFAS) 40/P & R/1608 (H.Q.) 4/38B

Convened by Order of Brig G S N Gostling Comd 2 CBRG dated 20 JAN 45

1 MAY 1945 JAG BRANCH C.M.H.Q.

ACCUSED.

As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 187, 183, fns, KR Con 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-143325	Pte	Andre	DE GAGNE	R de Chaud, 10 CBR Bn

PROCEEDINGS REVIEWED

Jacques de Billy Capt
1 May 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) on (date(s)) 23, 24, 27 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

23/17

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~Yes~~

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ as shorthand writer? Ans ~~Yes~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans ~~Yes~~ .(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G G MacKENZIE, M.C.	FGH	X-9 List att 3 Cdn Inf Bde NETD
Member	Capt	J.C. Moss	CIC	11 CBR Bn
Member	LIEUT	J.J. Moss	RCIC	9 CBRB KBN
Judge-Advocate				
Prosecutor	Lieut	J. W. Varty	CIC	10 CBR Bn
Defending Offr	Lieut	L.R. Wilson	CIC	10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused D-143325 Pte DE GAGNE A. before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG 16 160 Vol III p. 33

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-143325 Pte Andre DE GAGNE, R de Chaud, 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 51 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo one year detention
To be discharged with ignominy from His Majesty's Service

(Sgd) Judge-Advocate, if any. 27 Jan 45 Date awarded. (Sgd) President. (RP 45, 50.)

The Deputy Judge Advocate General, Cdn Section 1 Echelon Headquarters 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused D-143325 Pte Delagne, A. to undergo detention for one year, such sentence to be effective as if passed by the Court Martial on 27 Jan 45.

In the Field
17 Feb 45.

E.L.M. Burns Maj-Gen
GO I/C
Cdn Sec 1 Ech - HQ 21 Army Gp

~~I direct that the accused be not committed to prison or detention barracks, but remit further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd)

Date 29 Jan 45 Commanding 2 C.B.R.G. Confirming Officer.

I certify that the direction of the GO IC Cdn Sec 1 Ech HQ 21 Army G dated 17 Feb 45 at Part III above was promulgated to the accused, D-143325 Pte DE GAGNE A, in the field, on the 2[illegible] day of Feb 45 and that extracts were taken and CR No. R 2[illegible] rendered the same date.

(C M G Arthurs) Capt
Adjt, 10 CBR Bn
Officer in charge of documents.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto; or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*), (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*E*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) like case of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*C*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B6 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix into Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*F*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Do you intend to call witnesses on your behalf?
Ans.....
Ans..... Are they witnesses as to character only? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This directive announcement is not applicable when there are pleas of Guilty outstanding one dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 44 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. F respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MAM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Nil.
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(3), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Con* 308, 330, 563-564. *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MAML p* 130. *When accused commits under sentence of imprisonment or detention see AA* 44(1)(*B*), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-143325 Pte Andre DE GAGNE, R de Chaud, 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	not guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 51 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo one year detention
to be discharged with ignominy from this majesty's lewis

(Sgd) ..... Judge-Advocate, if any. 27 Jan 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

~~PART II. MINUTE WHERE CONFIRMATION RESERVED.~~ (AA 54(5), RP 120(F), MML p 760.)

~~Date ..... (Sgd) ..... Commanding .....~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed & to be promulgated on parade

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 29 Jan 45 Commanding 2 C.B.R.G. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-143325 Pte Andre De Gagne R de Chaud, 10 CBR Bn,	1330 hrs 1 Feb 45 on a 10 CBR Bn parade	[signature] Ass Adj 1 C B R Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

R.V.

CHARGE SHEET

The accused, D143325 Pte Andre, DE GAGNE, (R de Chaud) on the strength of 43 Coy, 10 Cdn Base Rft Bn, a soldier of the Canadian Army Overseas

is charged with

FIRST CHARGE
A.A. Sec 12 (1)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTYS SERVICE

in that he

in the field, at 0740 hrs 7 Dec 44, after having been duly warned to proceed with a draft to 46 Coy, 13 Cdn Base Rft Bn, with intent to avoid so proceeding, absented himself from the draft parade until apprehended by Sgt SIROIS G at 1000 hrs 7 Dec 44.

(Total absence 2 hrs 20 mins)

(J.L. BLUE) Major
A/C.O., 10 C.B.R. Bn.

In the Field
13 Dec 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G S N Gostling) Brig
Comd
2 Cdn Base Rft Gp

In the Field
20 JAN 45

RM.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-143325	Pte		Andre	DE GAGNE	R de Chaud, 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G G. MACKENZIE ~~R G YOUNG~~ ~~G L LALONDE~~	F.G.H X-9 LIST ATT 3 CDN. NET D ~~CBR~~ ~~11 CBR Bn~~

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	OC WATT. to be detailed by OC 11 CBR Bn	11 CBR Bn
Lieut	45 MOES to be detailed by OC ~~11~~ 9 CBR Bn	~~11~~ 9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 11 CBR Bn	11 CBR Bn

~~JUDGE-ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)

(G S N Goskling)

Brigadier (Rank.)

Date 20 JAN 45

Commanding 2 CDN BASE RFT GP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FA95 (In lieu of AFA3) 45/P & S/1697 (4951))

Medical Officers Certificate

I certify that I have this day examined D143325 Pte Degagne A. 10CBRBn and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 23 Jan 45

[illegible]

[illegible] Maxwell Capt
Medical Officer

10 CBRBn
Unit

Medical Officers Certificate

I certify that I have this day examined D143325 Pte Degagne A 10CBRBn and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station Field

Date 24 Jan 45

W Moenuth Capt
Medical Officer

10 CBRBn
Unit

a.r.

Medical Officers Certificate

I certify that I have this day examined [illegible] Pte

[illegible] and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station [illegible]

Date [illegible]

[illegible]
Medical Officer

[illegible]
Unit

In the case of D-143325 Pte. Andre de Gagne, R. de Chaud; the accused requests an adjournment on the grounds that he has not had time to prepare his defence. The reasons of the defence being that the accused is awaiting an examination by a psychiatrist and that the psychiatric report is deemed essential in the defence of the accused.

Question by Court

Q. What reasons or evidence can you supply to warrant such an adjournment.

A. The defence, having consulted an M.O in regards to the condition of the accused was told that due to the nervous shell shocked condition of the accused prior to the committal of the crime, that the accused should definitely undergo a psychiatric examination.

Q. How long has the accused been awaiting his examination

A. Two days.

The Court accepts the request for adjournment and the Court adjourns until 0930 hrs. Friday 26th Jan 45.

The court re-opens at 1000 hrs, Sat ~~26th~~ 27th Jan 45.

First Witness for Prosecution.

E-4032 C.S.M. Sirois. G. R. de Chaud.

1p C.B.R. Bn. sworn states.

On the 5 Dec 44 at approx 1330 hrs I called the names in French for the draft to R. de Chaud. This was a muster parade to warn the draft. Pte De Gagne answered

to his name and I told them in French that they were going on a special duty I told them that the exact time of departure would be told them later. On the 6th Dec I called the roll once again & again Pte de Cagna answered his name. I also warned them that their time of parade was 0930 0740 the 7th Dec 44 & that their failure to appear on that parade would constitute desertion. I then had them sign that the draft warning was understood & Pte de Cagna signed his name before two witnesses. On the 7th Dec 44 at 0740 I mustered the draft for R de Chaud and Pte de Cagna failed to answer to his name. I then went through the Company lines to find the accused. I then reported to the officer in charge of the draft that Pte de Cagna could not be found in the lines. I then went to the room by and with the draft & on my return at 1000 hrs 7th Dec 44 I came back to the R. de Chaud but & found Pte de Cagna on his bed & immediately place him under close arrest. I heard Pte de Cagna At two different times I heard Pte de Cagna say that he did not want to go back to the front because he was afraid..

* I also warned them on the 6th Dec 44 that the draft would leave between 0800 hrs and 0830 hrs.

By Prosecutor:

Q. How do you know the accused answered his name.

A. I called the roll at 1330 5th Dec 44

Q. Did you read anything to them on parade.

A. Yes I read the draft warning order (ex 'A') in French and Sgt. McGuire read it aloud in English.

Q. Did you see the accused sign this paper (ex 'B').

A. I did not actualy see the accused sign but did check to see that all personnel had signed & they had.

Q. At 0740 hrs 7 Dec 44 how do you know Pte De Gagne didnt answer his name.

A. Because I called the roll.

Cross exam:

Q. To whom did you hear Pte de Gagne make those alleged statements.

A. To Capt Roberts, OC. 43 Coy. also to Col. Mitchell OC. 10 Bn. His exact words were "I am afraid to go back to the front. I've had enough Sir."

Q. Was he asked why he was afraid.

A. No I dont think he was.

Re-exam -

Q. Can you identify the accused in this room.

A. Yes sir (accused pointed out)

Exam By Court - none.

Second Witness for Prosecution

A 3165 Sgt. McGuire H. A. Black Watch.

sworn states:

I am A 3165 Sgt. McGuire H. A.

at 1330 hrs on 4 5 Dec 44 I mustered the draft. I had the roll called by Sgt Sirois who was in charge of the French units, the accused was present. I then read the draft warning to the draft in English, Sgt (now C.S.M) Sirois read the same warning in French to French speaking personnel. I have submitted a copy of signatures on which the name of the accused appears stating that he had heard & understood the draft warning. I recognize ex 'A' as the draft warning also ex 'B' as certified true copy of the signatures. At 1330 hrs 6 Dec 44 I once again mustered my draft, the accused was present, having answered his name and we gave out the warning regarding time of leaving in English by myself & in French by Sgt Sirois. On the 7th Dec 44, 0740 hrs I mustered my draft in preparation to moving off, Sgt Sirois called the roll of French speaking personnel, I was a witness, the accused was absent, He did not move off with the draft when it moved off at 0830 hrs. At 1000 hrs 7th Dec 44 I was with Sgt Sirois when he found the accused in his room, Sgt Sirois placed the accused under close arrest.

By Prosecutor.

Q. What was the effect of the draft warning order ~~as~~ read out on 6 Dec 44.

A. It stated that they would leave parade at 0740 hrs 7th Dec to leave for 46 Coy 13 Bn.

Cross exam

Q. Were you in the orderly Room when the accused was in for orders.

A. Yes sir

Q. Did the accused show any physical signs of strain.

A. I would say there was no sign of nervous strain, no physical signs.

Re exam

Q. Can you point out the accused in court

A. Yes sir (accused pointed out)

Exam by Court none.

Third witness for Prosecution not called & Prosecution closed.

First Witness for Defence

B-143325 Pte. de Bagne A. R. de Chaud

10 C.B.R.Bn sworn states:-

On the 4th Dec 44 I was called for a draft to the unit & I missed the draft because I was too nervous to carry on with my friends. I didn't intend to miss the draft because I didn't go on the loose & I signed all the papers, so the morning of the draft I was willing to carry on, when, in one moment some thing cracked out in my mind & I couldn't force myself to go.

The accused then gave a detailed and lengthly description of the causes & reasons for his nervous condition.

The court heard for consideration

Cross exam

Q. When were you in Antwerp

A. 2 Dec 44.

Q. When were you wounded.

A. 25 Sept 44.

Q Do you admit that you were afraid to go on draft.

A. I was nervous and afraid.

Re-exam

Q. Did you intend to go to the front again if your nerves were better.

A. Yes sir.

Q. Did you get a proper examination from the M.O.

A. No sir.

Prosecutor objects to the foregoing questions of re-exam on the grounds that they were leading questions & the answers were put in the mouth of the accused.

The Court grants the objection

Summary by Defending Officer.

It is evident that this man has not had a fair chance; after being wounded & returned to England & then returning to his unit on the 15 Nov 44, the M.O saw fit to send him back to hospital due to his nervous condition from there he was sent back to 2 C.B.R.D. still suffering from this condition. He was then put on draft back to his unit. It is apparent that it would be useless to go back to

the front again as he would be of no help to his comrades in arms in his present condition. He did not attempt to hide when the draft was called which the court will note is necessary to prove desertion, nor did he leave the barracks but he attempted to see the M.O. & failing this the padre. About 1½ months later the man was examined by a psychiatrist and is found to be shell-suffering from a nervous condition. The psychiatrist states that to me that if he escapes should be an S-3 or 4 & he considered him unfit for front line duty. His condition existed from then even now at the time the draft was called. Therefore it is not the accused fault but because he has not had proper medical examination. Therefore I say the accused is not guilty of wilfull desertion. His wish was to get a medical exam & have opportunity to recover from his extreme nervous condition & returning to the front. I submit ex 'C' in corroboration of my statement regarding the dawn grading of the accused

The prosecuting officer sums up and presents a written copy of his summary. Court accepts and mark ex 'D'.

The court closed to consider the findings.

Court re opens.

Plea of Mitigation

That the court should take into con-

sideration the fact that the accused has served his country faithfully in action approx 1½ months until he was wounded as a result of wounds. Also that he has been declared a case for a psychiatrist & that he wished to be M. boarded and given time to recover from his nervous condition before returning to action. The court should also consider the fact that he has committed no crimes in the army up to this time. Also the fact that he enlisted when he became of age and voluntarily served in action.

F. Wilson Lieut.

The preceding notes consisting of 8 pages were taken down by me in the presence of the accused to the best of my ability.

Watt Capt.

4 D

The Prosecution sums up as follows.

Mr President, members of the court.

Witness Sgt (now CSM) Sirois G. has established that the accused was present on a draft warning parade at 1330 hrs 5 Dec 44 & that he both heard & understood the draft warning & that he was to proceed to 46 fwd coy 13 CBA Bn at 0830 hrs 7 Dec 44 & that he signed his name to that effect. Has also established, that when the draft was formed up at 0740 hrs the 7 Dec 44 the accused was absent and could not be found in the coy lines, and was absent when the draft moved off at 0830 hrs 7 Dec 44. Also that the accused was apprehended at 1000 hrs 7 Dec 44

Witness Sgt Maguire corroborates everything the CSM Sirois has established

Therefore the accused was warned for draft, he both heard & understood the draft warning. He absented himself from the draft parade & did not proceed with the draft, and on his own admission absented himself with intent to avoid proceeding in the draft because he was nervous or afraid to go forward again.

Therefore in summing up I believe the court will agree that the accused has committed the offence as charged & should be punished for same.

Jas W Nutty Lt.
FORNE SCOTS
13 CBA Bn

10 CANADIAN BASE REINFORCEMENT BATTALION

10 Bn/6-2-1
28 Aug 44.

EXHIBIT "A"

CERTIFIED TRUE COPY

Warning for drafts

You have been selected to proceed on draft for the performance of a special duty, and you are now warned that you must be present and ready to go when the draft is sent off.

Any unauthorized failure on your part to go with the draft when it leaves will result in your being charged with desertion on Active Service.

Similarly any unauthorized absence on your part while the darft is in transit or at any intermediate point before its final destination will result in your being charged with desertion on Active Service.

If you are convicted of desertion the Court has the power to sentence you to a maximum sentence of penal servetude for life.

If any of the members of the draft do not completely understand English, say so now.

The last parade for this draft before proceeding forward will be at 0740 hrs, 7 Dec 44. You must be present on that parade or face a charge of desertion.

The draft will proceed to 46 Coy 13 CBR Bn at 0830 hrs 7 Dec 44, consider yourself duly warned.

The members of this draft is C.R. until the draft proceeds from 10 CBR Bn.

(Signed) (F. [illegible]) Capt.,
Adjt., 10 CBR Bn.

(signed) (F. [illegible] Robert) Capt
OC 43 Coy 10 CBR Bn

CERTIFIED TRUE COPY

43 Coy, 10 CBR Bn
5 Dec 44

EXHIBIT "B"

THIS IS TO CERTIFY THAT ON THE 5th DEC 44, I HEARD THE DRAFT WARNING, UNDERSTAND IT CLEARLY, AND REALIZE THAT IF I AM NOT ON THE DRAFT MUSTER PARADE OR PRESENT WHEN THE DRAFT MOVES OFF AT 0830 HRS, 7 DEC 44, I WILL BE CHARGED WITH DESERTION.

B. Billette
R. Bilodeau
C. Boudreau
E.J. Boudreau
E. Daigle
E. Dubois
H. Nolan
C. Levesque
G. Farriers
A. Fournier
J.J. Groulx
G. Guertin
Y. Langes
A. DeGagne
C. Dilotte
M. Smith
P. Savoie
P.E. St. Denis
Cpl. P. Ouimet
E. Doyle

Sgt. Tanguay, L.M.
P. Veriet
T. Wood
L. Desrosiers, Cpl.
G. Maurais
E. Jean
F.P. Falardeau
E.J. Doucette
E.J. Daigle
J.A. Van Tassell
J.L. Blouin
Tremblay, A
H.E. Doucette
R. Trudeau
A. Ranger
Y. Gibeault
A.E. Bailly
L. Fortier
Shaunessay

CERTIFIED TRUE COPY OF ORIGINAL LIST OF SIGNATURES NOW HELD IN MY POSSESSION.

I have compared this document with original. Certified original signed Draft notice submitted to court.

[illegible signature]

G.G. MacIntosh

(G.G. MacIntosh) C.S.M.
43 Coy, 10 CBR Bn

No. EA C

DEPARTMENT OF NEUROPSYCHIATRY - 1 Cdn.

No. D143325 Rank Pte Name DEGAGNÉ, A Unit R de C (10 Bn CBR

REPORT:— Age: 19 Single. Eng: 29 Oct 43 U.K: 18 Jun 44 France: 18 Jul 44. DATE 25 Jan 45

Referred by MO 10 CBR Bn.
The man is under arrest awaiting trial by Court-martial charged with desertion.

Fam. Hist negative. Slupwalked but no other marked signs of instability in childhood: afraid of dark and heights. In Grade XI age 15: no failures. Avoided rough sports & fights. Fairly good work record — no unemployment. Health always good.

Called up. Denies crimes. In hosp. for scabies & tonsils. Fair stamina in Trg.

To France as Rft.: to unit & into action 20 Jul as Rifleman. Continuous service to 25 Sep when wounded in left arm — left EYE. To unit again end of November & evacuated the following day.

Denies symptoms of undue tension until time of wound & friend killed. After that diff. in sluping, nightmares etc., feeling so tense fear. "Heart pressing in chest". Improved for when sent up to unit it was preparing for attack. Felt he couldn't go on, told pl. sgt he was going to MO. Went to MO & was evacuated. In 8 CGH in Antwerp. States not in 1 Cdn NP wing there & not seen by psychiatrist. States that MO. there decided he was fit for return to his unit. Was more upset in Antwerp by V.'s.

Returned to 2 CBRG: was warned for draft 7 Dec 44: becoming shaking & trembling: felt he couldn't go forward: was not on the draft.

Still feels apprehensive: sluping lightly.

Specialist, RCAMC

Opinion:

In my opinion these men are responsible for missing the draft - was well aware of what was involved and responsible for his behaviour.

In my opinion he is fit to stand trial.

He is suffering from a mild chronic anxiety state and following disciplinary disposal should be referred to Neuropsychiatrist - Again for downgrading.

T. A. Fraser Capt.

87 F

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*		*Regiment (or as the case may be).*
D.143325	Pte	[redacted]	Andre	10 C.B.R. Bn.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Criminal M.F.M. 6 not available times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
Number of instances of gallantry or distinguished conduct		
There are no entries in the conduct sheets of the accused		

2. The accused has not been previously convicted

3. Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act and dispensations with trial under section 53 of the Army Act, are set out in the schedule annexed to this statement.

4. The accused is not under sentence at the present time, or the accused at the present time is under sentence of

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 9 days in military custody, making a total of 9 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 19 yrs 6 mths 12 days

6. The date of his attestation specified in his record of service is 27 Oct 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 1 mth 19

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 1 mth 19 days service.

9. The accused is entitled to reckon 1 yr 1 mth 19 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of, or entitled to (state any military decoration or award)).

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of dated

12. (In the case of an officer.) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated

(75000) W.L.24000/1720 20,000 10/42 A.& E.W.Ltd. Gp.698
(30000) W.L.24014/1499 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions nd dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~nineteenth~~ day of December 1941

27 January 1945

[signature]

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion
In the rank of	years,	
In the rank of	years	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above five straphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No D143325 Name DE GAGNE, A

Sqn, Battery, or Company } TOS w.e.f. 3 Dec 44

Corps

Date of enlistment } 27 Oct 43

GC Badges }

Service or Proficiency Pay }

MFM 6 Ex E.

(AFB 122)

40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet }

No and date of last drunk }

Period not reckoning towards freedom from extra fine }

Sheet No

Signature OC Company, etc }

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET ONLY					
				[signature] Cyt					

(PTO)

SUMMARY OF EVIDENCE

In the case of D143325 Pte De Gagne, Andre, (R de Chaud) on the strength of 43 Coy 10 C.B.R.Bn, a soldier of the Canadian Army Overseas

By direction of the Commanding Officer this evidence is taken on oath.

FIRST WITNESS
Prosecution

E4032 Sgt SIROIS G on the strength of 43 Coy 10 C.B.R.Bn having been duly sworn, states:
I am E4032 Sgt SIROIS G of 43 coy 10 C.B.R.Bn. At 1330 hrs 5 Dec 44 I called the roll of a warning for draft parade. The accused answered his name and was present. Sgt MAGUIRE read the draft warning in my presence. I read the draft warning in French for the benefit of all those who could not understand English. The accused signed his name as having heard and understood the draft warning.
On the 6 Dec 44 at 1330 hrs I called the roll of a draft parade. The accused was present. Sgt MAGUIRE read the warning order to the draft which was to proceed to 46 Coy 13 C.B.R.Bn at 0830 hrs 7 Dec 44. I read the warning order in French for the benefit of all those who did not understand English.
On the 7 Dec 44 at 0740 hrs I mustered the R de Chaud draft and called the roll Pte De GAGNE failed to answer his name when I called the roll. I searched his room and barracks calling his name. He could not be found an was still absent when the draft moved off at 0830 hrs. I proceeded with the draft to the assembly area and when I returned a couple of hours later I found the accused sitting on his bed at approximately 1000 hrs 7 Dec 44. I placed the accused under close arrest.

(G SIROIS) Sgt.

The accused declined to cross-examine the witness.

R P 83 (b) complied with

SWORN WITNESS
Prosecution

A3165 Sgt MAGUIRE HA, on the strength of 43 coy 10 C.B.R.Bn, having been duly sworn, states:
I am A3165 Sgt MAGUIRE H A, 43 coy 10 C.B.R.Bn. On the 5 Dec 44 at 1330 hrs I mustered a parade for draft warning. Sgt SIROIS called the roll in my presence. The accused answered to his name and was present. I read the draft warning in English and Sgt SIROIS then read the warning in French for the benefit of the French speaking personnel. The accused heard and understood the warning and signed his name to that effect. I herewith submit a copy of the draft warning and a certified true copy of the roll of signatures of the draft, wherein the accused's name appears as having heard and understood the draft warning.
On the 6 Dec 44 at 1330 hrs I mustered the draft. Sgt SIROIS called the roll. The accused was present. I read out the warning order to the draft in English, Sgt SIROIS read it in French, to the effect that the draft would be proceeding at 0830 hrs 7 Dec 44 to 46 coy 13 C.B.R.Bn.
On the 7 Dec 44 at 0740 hrs I was present when Sgt SIROIS mustered the draft. He called the roll. The accused was absent and was still absent when the draft moved off at 0830 hrs 7 Dec 44.
I was also present with Sgt SIROIS when he found the accused in his quarters at 1000 hrs 7 Dec 44 and Sgt SIROIS placed the accused under close arrest.

H A Maguire
(H A MAGUIRE) Sgt

SUMMARY OF EVIDENCE

The accused declined to cross-examine the witness.

R P 83 (b) complied with.

Copy of draft warning accepted as evidence and marked Exhibit "A".

Certified True Copy of roll of draft signatures accepted as evidence and marked Exhibit "B".

THIRD WITNESS
Prosecution

C21138 Sgt REED A S C on the strength of 43 coy 10 C.B. R.Bn, having been duly sworn, states:
I am C21138 Sgt REED A S C 43 coy 10 C.B.R.Bn. On the 5 Dec 44 at 1330 hrs the accused, Pte De GAGNE A was present at a draft warning parade as he had answered to his name when the roll was called. The draft warning was read out by Sgt SIROIS, in French, and by Sgt MAGUIRE in English. The accused heard and understood the draft warning as he signed his name to this effect. I saw him do this.
On the 6 Dec 44 at 1350 hrs Pte De GAGNE A was warned on a parade that he would be leaving 0830 hrs on 7 Dec 44 by Sgt MAGUIRE and Sgt SIROIS and that the parade would be formed up at 0740 hrs.
On 7 Dec 44 at 0740 hrs the parade was formed up. Sgt SIROIS called the roll. Pte De GAGNE failed to answer his name and was absent, and did not proceed with the draft when it moved off at 0830 hrs.

Sgt A S C Reed (M M)
(A S C REED) Sgt

The accused declined to cross-examine this witness.

R P 83 (b) complied with.

The accused having been cautioned as follows: "Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence." Declines to give any evidence and reserves his defence.

I certify that the foregoing summary of evidence, consisting of two (2) pages, was taken down by me in the presence and hearing of the accused.

I certify that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

(J. E. VARTY) Lieut.,
Lorne Scots, 10 C.B.R.Bn,
Officer Detailed to take
Summary of Evidence.

SUMMARY OF EVIDENCE

LIST OF WITNESSES

FOR THE PROSECUTION

24052	Sgt	SIBOIS G	43 Coy 10 C.B.R.Bn
A3165	Sgt	MAGUIRE H A	43 Coy 10 C.B.R.Bn
C21136	Sgt	REED A S C	43 Coy 10 C.B.R.Bn

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

EXHIBIT "A" - Copy of Draft Warning
EXHIBIT "B" - Certified True copy of Roll of draft signatures.

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE CHARGE SHEET, THE SUMMARY OF EVIDENCE, THE LIST OF WITNESSES AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

A De Gagne.

(A De GAGNE) Pte D143525

240 A Pte Degagne R. 10/D/3751
R. 22e Rgt.

240 A Pte Degagne R. 10/D/3751
R. 22e Rgt.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 24th day of March, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[XXXX

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4129 PTE. DEGAGNE, R. (R 22e R reinforcement) No.2 Cdn Inf Hldg Unit.	First Charge A.A. Sec 15 (1) as per charge sheet	Guilty	To undergo detention for a period of Nine months and to undergo doppages of pay until he has made good the amount of sixteen shillings being costs of apprehension	I confirm the finding & sentence of the Court but remit Three months of the sentence P
	Second Charge A.A. Sec 40 as per charge sheet	Guilty		
	Third Charge A.A. Sec 15 (1) as per charge sheet	Guilty		
	Fourth Charge A.A. Sec 15 (1) as per charge sheet	Guilty		
	Fifth Charge A.A. Sec 19 as per charge sheet	Not Guilty	Guilty 1st offense of Drunkenness	
	Sixth Charge A.A. Sec 40 as per charge sheet	Guilty		
	1st charge		Guilty	
	2nd "		Guilty	
	3rd charge		Guilty	
	4th "		Guilty	
	5th "		Guilty	
	6th "		Guilty	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No

Answer (to be recorded on separate sheet if necessary):—

(Signed) L. F. Page Brigadier (Signed) A S Dixon Major

Commanding Canadian Base Units, Cdn Army President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of March 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(~~4. The officers under instruction~~)

were duly sworn.

* Omit if not applicable

Signed this 25th day of March 1941

A S Dixon Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

* See footnote (b) on page 752 M.M.L. 1929.

Signed this day of 19

N/A
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

✓ ~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ ✓ P

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 31st day of March 1941

L. F. Page Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of E-4129 Pte Degagné R., R22eRgt (2 C.I.H.O).

(a) (Dated) Fourth day of April 1941 (Signed) [signature] Lieut. Col. Officer Commanding No. 2 Cdn. Inf. Holding Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. E-4129, Pte. Roland Degag
Canadian Infantry Holding Unit, a soldie
(Overseas) is charged with:

First charge When on active service, abs
Sec. 15(1) in that h
Army Act.

at Louisburg Barracks, Bordon, Ha
absented himself without leave unt
Canadian Provost Corps at London, a

Second charge When on active service, conduct to
Sec. 40 order and military discipline,
Army Act.

in that he,

at London on 24 Nov 41 when arrested by the
Corps, was wearing civilian clothes.

Third Charge When on active service, absenting himself witho
Sec. 15-1 in that he,
Army Act.

at Bordon Camp, when in arrest, on Dec. 28 1940, abs
himself without leave until he surrendered to the Mil
Police in London at about 0015 hours 27 Jan. 41.

Fourth Charge When on active service, absenting himself without leave,
Sec. 15-1 in that he,
Army Act.

at 5th Canadian General Hospital on 6th Feb. 41 absented
himself without leave, until apprehended by the C.M. Police
on 22 Feb. 41 at Reading, thereby incurring costs of
apprehension in the amount of 16 shillings.

Fifth Charge When on active service, drunkenness,
Sec 19 in that he,
Army Act.

at Reading on 22 Feb. 41 was drunk.

Sixth Charge When on active service, conduct to the prejudice of good order
Sec. 40 and military discipline,
Army Act.

in that he,

at Reading, on 22 Feb. 41, made use of a document purporting
to be a genuine pass, well knowing that it was not genuine.

(F.S. MATHESON) Lt.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit

Camp 102
Witley, Surrey
15 March 1941

To be tried by Field General Court
Martial

.....Brigadier
Commanding Cdn Base Units

Bordon, Hants
This 24th day of March 41.

24 Mar 41

President
F.G.C.M.

CHARGE SHEET

The accused, No. E-4129, Pte. Roland Degagne (R 22e R) No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

First charge Sec. 15(1) Army Act. When on active service, absenting himself without leave,

in that he,

at Louisburg Barracks, Bordon, Hants, on 19th Oct. 40 absented himself without leave until apprehended by then Canadian Provost Corps at London, at about 0130 hours 24 Nov 40.

Second charge Sec. 40 Army Act. When on active service, conduct to the prejudice of good order and military discipline,

in that he,

at London on 24 Nov 41 when arrested by the Canadian Provost Corps, was wearing civilian clothes.

Third Charge Sec. 15-1 Army Act. When on active service, absenting himself without leave,

in that he,

at Bordon Camp, when in arrest, on Dec. 28 1940, absented himself without leave until he surrendered to the Military Police in London at about 0815 hours 27 Jan. 41.

Fourth Charge Sec 15-1 Army Act. When on active service, absenting himself without leave,

in that he,

at 5th Canadian General Hospital on 6th Feb. 41 absented himself without leave, until apprehended by the C.M. Police on 22 Feb. 41 at Reading, thereby incurring costs of apprehension in the amount of 16 shillings.

Fifth Charge Sec 19 Army Act. When on active service, drunkenness,

in that he,

at Reading on 22 Feb. 41 was drunk.

Sixth Charge Sec. 40 Army Act. When on active service, conduct to the prejudice of good order and military discipline,

in that he,

at Reading, on 22 Feb. 41, made use of a document purporting to be a genuine pass, well knowing that it was not genuine.

F.S. Mathewson

(F.S. MATHEWSON) Lt.-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit

Camp 102
Witley, Surrey
15 March 1941

To be tried by Field General Court Martial

[signature] ....Brigadier
Commanding Cdn Base Units

Bordon, Hants
This 24th day of March 41.

24 Mar 41

Ass. Dir. Mass
President
F.G.C.M.

MEDICAL OFFICER'S CERTIFICATE

I certify that No...E.4129..Rank...Pte.....

Name...Degagne R.....Regiment..R 22 R Coy.....

is...Fit.....

to undergo trial by Court-Martial.

Date..25-3-41.....

.....
M.O.Signature.

E-4129; Pte. Degagne, R., No. 2 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 25th day of March, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. L. Canon
Defending Officer - Lieut. G.F. Chicoine

At 1000 hours the trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?
A3 - Guilty, sir.
Q4 - Are you guilty or not guilty of the second charge against you, which you have heard read?
A4 - Guilty, sir.
Q5 - Are you guilty or not guilty of the third charge against you, which you have heard read?
A5 - Guilty, sir.
Q6 - Are you guilty or not guilty of the fourth charge against you, which you have heard read?
A6 - Guilty, sir.
Q7 - Are you guilty or not guilty of the fifth charge against you, which you have heard read?
A7 - Not guilty, sir.
Q8 - Are you guilty or not guilty of the sixth charge against you, which you have heard read?
A8 - Guilty, sir.

R.P. 35(B) is complied with by the Court in connection with the first, second, third, fourth and sixth charges.

The Prosecutor proceeds to call witness in connection with the fifth charge.

First witness for the prosecution, No. 6337752, L/Cpl. Hayes, A., Corps of Military Police, being duly sworn, is examined by the prosecutor.

Q9 - Cpl. Hayes, in the first place do you recognize the accused?
A9 - Yes, sir.
Q10 - Would you tell the Court in what condition you found the accused in Reading on the 22nd February, 1941?
A10 - On the 22nd of last month in response to a telephone message from the Y.M.C.A. at about 2359 hours reporting a man being drunk and causing a disturbance, I proceeded to the Y.M.C.A. and asked this man for his pass and pay book and as he had none I took him to the civil police station to be detained.
Q11 - When you arrested the accused did he give a false name?
A11 - He gave the name of Merret.
Q12 - Did he give you his correct regimental number?
A12 - Yes, sir. E-4129.

Cross-examination by the defending officer.

Q13 - You just said the man had been causing a disturbance?
A13 - Yes, sir.
Q14 - Did you see that actually?
A14 - No, sir.
Q15 - Did he give you any trouble?
A15 - No, sir, he came quietly.
Q16 - Did you carry him away?
A16 - Pretty well carried him, sir.
Q17 - In what manner?
A17 - Between another L/Cpl. and myself.
Q18 - Was he dragging his feet?
A18 - Attempting to walk.
Q19 - His feet were dragging on the ground and you were pulling him?
A19 - We were assisting him to walk.

Questions by the President.

Q20 - At the time you were called to the building in question and you were brought before the accused, how could you tell the accused was in a drunken condition?
A20 - He was unsteady on his feet and his breath smelled strongly of spirits.
Q21 - Did you, at the time, tell the accused he was drunk?
A21 - No, sir.
Q22 - You didn't question him except to ask him for his name and number?
A22 - No, sir. He kept making a statementabout being a free Frenchman.
Q23 - Was he supporting himself when you saw him first?
A23 - He had been causing a disturbance but he was quiet enough when we got there.
Q24 - Could he get out on his own accord?
A24 - Not safely, no, sir.

Questions by the Court.

Q25 - Will you tell the Court whether you felt quite sure in your own mind that the accused couldn't understand what you said because he was intoxicated or because he ordinarily speaks in French and you didn't understand?
A25 - He gave me the impression he was a Frenchman but I couldn't understand a word he said.
Q26 - Do you speak French?
A26 - No, sir.
Q27 - Could you tell the difference between a man talking normally or drunkenly in French?
A27 - I think so, sir.
Q28 - What would you say was the condition of the accused in the light of that? in
A28 - He was/a confused condition due to drink.
Q29 - When you arrived at the Y.M.C.A. was he handed over to you?
A29 - He was pointed out to me by the manager.
Q30 - What was he doing then?
A30 - Swaying on his feet and swinging his arms about.
Q31 - At that time you didn't think he was causing a disturbance?
A31 - No, sir.

Defending Officer -- I would like to say that the evidence given by the lance-corporal to the effect that the accused was causing a disturbance cannot be proved; it is hearsay. As forthe charge of being drunk, we have one witness who states the man was drunk but it is not his business to state whether a man is drunk, but to apprehend him and I do not think his evidence can be admitted as evidence against the accused.

Prosecutor -- The prosecution would just like to say in answer to the defending officer's last remark that the witness for the prosecution is a competent witness to judge ~~xxxx~~ whether the man was drunk when apprehended as it is his business to deal with these cases continually and I do not think there should be any doubt cast on the evidence of the lance-corporal in this case.

The Court is cosed for the consideration of the finding.

Lieut. L. Canon, No. 2 Cdn. Inf. Holding Unit, is duly sworn.

Q32 - Have you any evidence to produce as to the character and particulars of service of the accused?
A32 - I produce A.F.B. 296 and M.F.M. 6.
Q33 - Is the accused the person named in the statement which you have heard read?
A33 - Yes, sir.
Q34 - Have you compared the contents of the above statement with the regimental books?
A34 - Yes, sir.
Q35 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A35 - Yes, sir.

The accused declines to cross-examine.

Q36 - Do you wish to address the Court?
A36 - (Defending Officer) I would ask the Court to take into consideration the record of the accused. Before this the record of the accused has been very good.

The Court is closed for the consideration of the sentence.

Description of Court by which tried, or in respect of which Trial was dispensed with.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25th day of ~~December 1940~~ March 1941

J. W. Lewandyk Adjutant, ~~Lieut.~~ ~~Adjutant~~
No. 2 Inf. Holding Unit, (C.A.S.F.)
No. 2 Cdn Inf Holding Unit.

Exhibit A

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

No. B-4129, Pte. DEGAGNE Roland of the No. 2 Cdn Inf Holding Unit(R 22 R Reinforc)

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

†See Para. 666, K.R. 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For Absence without leave	3 times	3 times
For Failing to appear at place of parade appointed by his Commanding Officer.	1 times	1 times
For Breaking out of Barracks	1 times	1 times
For	times	times

Number of instances of gallantry or distinguished conduct,

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted, by Court Martial or Civil Court,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

3. **The accused is not under sentence at the present time,**

or,

The accused at the present time is under sentence for .....

beginning on the ..... **day of** .....

4. The accused has been in confinement, awaiting trial on the present charges

for ..... days in Civil Custody,

and 32 75 days in Military Custody.

Total 32 75 days.

Of which --- 8 days were spent in hospital.

5. The present age of the accused according to his [illegible] attestation paper is 25 yrs.

6. The date of his [illegible] attestation specified in his [illegible] attestation paper is 15 Sep 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 15 mos.

8. The accused is entitled to deferred pay or gratuity in respect of 15 mos. years' service.

9. The accused is entitled to reckon 15 mos. years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or is in possession of or entitled to* .....]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., and in his regiment (*or corps or department*) the rank of ..... dated .....

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years. .....

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraphs must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ....., signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name ..... of the .....

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(*Continued overleaf.*

Army Form B.122

No. E 4129 Name Degagne, R. Squ., Batty., or Company "B" Corps R 22 R. Date of enlistment 15-9-39 Sheet No. 2 MFM 6.

Date of last entry in Company Conduct Sheet 18-5-40 No. and date of last drunk G.C. Badges Long Service and G.C. Pay Signature O.C. Company, etc. P.E. Bernatchey Maj.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or [illegible]	By whom awarded	Remarks
Odiham	14-8-40	Pte.		W.O.A.S. A.W.L. from 2230 hrs 14-8-40 until 0700 hrs 15-8-40 (Absent 8½ hrs)	L/Cpl. Rivard.	7 dys. C.B.	16-8-40	A.J. Scott Lieut.	To forfeit 1 dys pay
Odiham	29-8-40	"		W.O.A.S.T. A.W.L. from 1100 hrs to 1200 hrs. (Absent ½ hrs) II Failing to appear at the place of parade appointed by his commanding Officer. III Breaking out of Barracks	Sgt. Geray. C.S.M. Rhodenizer.	120 hrs. Detention	29-8-40	Major Matthews	Forfeits 1 dys pay
Louisburg	7-9-40	-		W.O.A.S. absent W.L. since 0815 hrs 7-9-40 until 1600 hrs. 24-9-40 when he reported himself. total absence 17 dys. 7 hrs 45 min.	Sgt. Mirette Sgt. Roy Sgt. Begin.	Forfeits 18 dys pay 28 dys Detention	25-9-40	Maj. Matthewson	

True Copy
[illegible]

Exhibit AA

Summary of evidence in the case of
E-4129-Pte Degagne R (R 22eR1) no 2 Cdn
Inf: Hldg Unit.

The commanding officer directs that the evidence shall be taken on oath.

First witness. Lt J.H. McIntosh no 2 Cdn Inf. Hldg Unit, being duly sworn states.

I am acting Records officer no 2 Cdn Inf Hldg Unit and as such produce the following documents referring to the accused.

(1). Record of declaration of court of Inquiry showing the accused went absent without leave 19 Oct 1940

(2). Statement from C.P.C. dated 24 Nov 40

(3). Statement from C.P.C dated 27 Jan 41.

(4). Statement of L/Cpl Hayes dated 23 Feb 41.

(5). Statement of Cpl Monks, dated 23 Feb 41.

(6). Statement of expenses in connection with the apprehension of the accused

(7) Statement of Major R. H. Cooper dated 6 Feb 41.

H McIntosh Lieut.

The accused declines to cross-examine this witness.

Second Witness:- M45401 Sgt Allen E.W.
Provost Sgt. No 2 Can Inf. Hldg
Unit. being duly sworn states.
When I was acting as Provost
Sgt on Dec 28th, 1940, just before
midnight I received a report
in my quarters that some
prisoners had made an escape
from detention. I went immediately
to the detention room + found
some prisoners missing, including
the accused. I notified H7 Provost
Corps and asked them to notify
all police units, obtained the
loan of a truck to make a search,
but did not find the accused
nor see him until brought to
Witley late in January by the
C.P.C.
A few days later the accused reported
sick and on the M.O.'s instructions
was sent to the 5th General
Hospital.

E.W. Allen
Prov Sgt

The accused declines to cross-examine
this witness.

The accused is duly cautioned
(M.M.L. R.P. 4(e)) and makes the following
statement:-
The first time I was arrested in
London, was about 2100 - 2130 hours
on Nov 24, 1940 and not at 01.30 hours.
I was in 5th General Hospital from
Jan 29th 1941 until I escaped on Feb 6th
1941.

Compliance with R.P. 4(c)(d) + (e) hereby certified.
H Corrigan Lt.
Witley - Surrey Mar 14/41.

E 4129. Pte Degagne R.

List of Witnesses.

Prosecution.

(1). Lt. I.H. McIntosh. — No 2 Cdn. Inf. Hldg. Unit.
(2). G 45401. Sgt. Allen E.W. "

Defence. Nil.

List of Exhibits.

(1). Declaration of Court of Inquiry.
(2). Statement of C.P.C. dated 24 Nov 40.
(3). Statement of C.P.C. dated 27 JAN 41.
(4). Statement of L/Cpl Hayes dated 23 Feb 41.
(5). Statement of Cpl Monks dated 23 Feb 41.
(6). Statement of Expenses.
(7). Statement of Major R.H. Cooper. dated 6 Feb 41.

A.J.P.

RECORD OF THE DECLARATION OF A COURT OF INQUIRY ON THE ILLEGAL ABSENCE OF A SOLD IER.

Record of the Declaration of a Court of Inquiry assembled at Louisburg Barracks, Bordon, Camp, Hants, England, on the 12th November, 1940, for the purpose of invesvigating and recording the absence, without leave, from his duty, and deficiency, if any, in the arms, Ammunition, Equipment, Instruments, Regimental Necessaries, or Clothing of No. E-4129, Pte. Roland Degagne, (R. 22e R.) No. 2 Cdn Inf Holding Unit, C.A.S.F.

DECLARATION

The Court declare that No. E-4129, Pte. Roland Degagne, R. 22e R, No. 2 Cdn Inf Holding Unit, illegally absented himself without leave from the 19th October, 1940. On that date he failed to answer his name at Tattoo and has been absent, and is still absent, and that on the 11th day of November, 1940, he was deficient of the following articles:-

		£ 0. 3.11
1	Anklets web prs	
1	Badges cap R.22e R (Cdn price)	0. 0. 7½
2	Shoulder badges	0. 5. 3
1	Kit Bag	1. 2. 6.
1	Blouse battle dress	1. 0. 6
1	Trousers Battle dress	1. 2. 6
1	Boots ankle prs - each	1. 2. 6
		0. 1. 6
1	Braces prs	0. 0. 8½
1	Brushes Boot Blacking	0. 2. 1
1	Brushes polishing	0. 1. 2
1	Brushes shaving	0. 0. 5½
1	Brushes tooth	0. 1. 3
1	Cap comforter	0. 2. 6.
1	Cap field service	2. 5. 6.
1	Greatcoat drab	0. 0. 2
1	Comb hair	0. 0. 1
2	Drawers woolen prs each	0. 6. 3
		0. 1. 2
1	Dressing first field	0. 0. 4
1	Fork table	0. 1. 8
1	Glaves woolen drab	0. 0.11
1	Holdall	0. 0. 6
1	Housewives	0. 5. 7
1	Jacket sweater	0. 2.11½
1	Knife clasp & lanyard	0. 0. 8½
1	Knife table	0. 4. 8
2	Trousers service each	0. 4. 6
		0.12. 9
1	Blouse Denim	0.11. 9
1	Trousers Denim	0. 0. 5½
1	Razor set	0. 7.10
2	Flannel shirts khaki each	0. 7.10
		0. 2.11
2	Shirts service each	0. 2.11
		0. 6. 6.
2	Shirts woolen each	0. 6. 6.
		0. 2. 3
1	Shoes canvas prs	0. 1.11
3	Socks prs each	0. 1.11
		0. 1.11
		0. 0. 4
1	Spoon table	0. 1. 4.
2	Towels hand each	0. 1. 4
		0. 0. 2½
2	Discs identity	0. 4. 7
1	Bag ration	0. 1. 0.
1	Belt waist	0. 1. 9½
1	Bottle water	0. 1. 7
1	Braces right	0. 2.10
1	Braces left	
1	Carrier water bottle	

(continued)

		£
	Frog Bayonet	0. 1. 9½
	Haversack	0.10. 7½
	Mket steel	0. 9. 9
1		0.12. 6½
1	basic	0.11.11½
2	Straps e web	0. 1. 3
1	Cover Mes r left	0. 4. 0½
1	Tin Mess re ting	0. 4. 0½
1	Bayonet	0. 1. 4½
1	Bottle Oil	0. 0. 3
1	Pullthrough	0. 2. 3
1	Rifle K 6738	0.16. 6
1	Scabbard bayonet	0. 0. 7
3	Blankets each	0. 0. 3
		7. 8. 0
		0. 9. 3
		0.12. 0
		0.12. 0
		0.12. 0
1	Sheet ground	.10. 0
1	Case anti-gas	0.
1	Respirator complete	£ 28.16. 0

PRESIDENT: Major W. E. Morgan, M.C.
MEMBERS: Lieut. A.C. Cannon
" L. Bouchard.

CERTIFIED A TRUE COPY

(P.S. Mathewson) Lt Col.
Officer Commanding
No. 2 Can Inf Holding Unit.

Capt.
Adjutant, No. 2 Can Inf Hold Unit

Major
Officer having or final custody of Copy.

STATEMENT OF EVIDENCE IN THE CASE OF

E-4129 Pte. Degagne, R.
Royal 22nd, Regt.

Sir,

At London on the 24-11-40 at about 01.30 hrs. I was on duty at C.P.C.H.Q. when a Police Inspector from Bow Street Police Sth. came in here and asked me to go with him and investigate about a Canadian in civilian clothes whom he suspected of being a soldier. In company with L/Cpl. Ogg I proceeded to St. Giles Street where I saw the a/m dressed in civilian clothes. I asked him for his identity card he could not produce one. I asked him for his pass he could not produce one. He pretended that he could not speak English. I then spoke French to him. He finally stated that he was a soldier from the Royal 22nd. Regt. I placed him under arrest and escorted him to C.P.C.H.Q. where I turned him over to the N.C.O. I/C cells to be detained.

.....Sgt.
Canadian Provost Corps.

London
24-11-40

Sir,

I have read over and corroborate the above statement.

.....L/Cpl.
Canadian Provost Corps.

London
24-11-40

I hereby certify that it is not practical to call Sgt R.M. Brown to give testimony at this summary of evidence.

Officer Taking Summary

Statement of **EVIDENCE** in the case of

E-4129 Pte. Degagne, R.
Royal 22nd. Regt.

Sir,

At London on the 27-1-41 at about 08.15 hrs. I was on my home on pass when the a/m soldier approached me and asked me if I was a Military Police I told him that I was. He then stated that he was surrendering himself to me as being A.W.L. I placed him under arrest and escorted him to C.P.C.H.Q. where I turned him over to the N.C.O. i/c cells to be detained.

London
27-1-41 ..... L/Cpl.
Canadian Provost Corps.

Sir,

I was N.C.O. i/c cells when the a/m was brought in here and I took him into custody.

London
27-1-41 ..... L/Cpl.
Canadian Provost Corps.

REMARKS

1	Frog Bayonet	£ 0. 1. 9½
1	Haversack	0.10. 7½
1	Helmet steel	0. 9. 9
1	Pack	0.12. 6½
2	Pouches basic	0.11.11½
1	Sling rifle web	0. 1. 3
1	Strap shoulder left	0. 4. 0½
1	" " right	0. 4. 0½
2	Straps web supporting	0. 1. 4½
1	Cover Mesatin	0. 0. 3
1	Tin Mess rectangular	0. 2. 3
1	Bayonet	0.16. 6
1	Bottle Oil	0. 0. 7
1	Pullthrough	0. 0. 3
1	Rifle K 8738	7. 8. 0
1	Scabbard bayonet	0. 2. 3
3	Blankets each	0.12. 0
		0.12. 0
		0.12. 0
1	Sheet ground	0.10. 0
1	Case anti-gas	
1	Respirator complete	0.16.10
		£ 28.16. 4½

PRESIDENT: Major W. E. Morgan, M.C.
MEMBERS: Lieut. A.C. Cannon
" L. Bouchard.

CERTIFIED A TRUE COPY

(F.S. Mathewson) Lt Col.
Officer Commanding
No. 2 Can Inf Base Unit.

Capt.
Adjutant, No. 2 Can Inf Hold Unit

Major
Officer having original custody of Copy.

STATEMENT OF EVIDENCE IN THE CASE OF

E-4129 Pte. Degagne, R.
Royal 22nd, Regt.

Sir,

At London on the 24-11-40 at about 01.30 hrs. I was on duty at C.P.C.H.Q. when a Police inspector from Bow Street Police Stn. came in here and asked me to go with him and investigate about a Canadian in civilian clothes whom he suspected of being a soldier. In company with L/Cpl. Ogg I proceeded to St. Giles Street where I saw the a/m dressed in civilian clothes. I asked him for his identity card he could not produce one. I asked him for his pass he could not produce one. He pretended that he could not speak English. I then spoke French to him. He finally stated that he was a soldier from the Royal 22nd. Regt. I placed him under arrest and escorted him to C.P.C.H.Q. where I turned him over to the N.C.O. I/C cells to be detained.

London
24-11-40

H.M. Groulx .....Sgt.
Canadian Provost Corps.

Sir,

I have read over and corroborate the above statement.

London
24-11-40

H. M. Ogg .....L/Cpl.
Canadian Provost Corps.

I hereby certify that it is not practical to call Sgt R.M. Groulx to give testimony at the summary of evidence.

J. Corrigan Lt
Officer taking down summary

CRIME. Royal 22nd. Regt. SQUADRON, BATTERY OR COMPANY

Boston.

CHARGE against No E-4129 Pte. Degagne, R.

Place	Date of Offence	OFFENCE	Name of Witness	Punishment Awarded	By whom Awarded
London	24-11-40	W.O.A.E. (1) Absent without leave from .....until apprehended at about 01.30 hrs. on the 24-11-40. (2) UNPROPERLY dressed as a soldier" in that he was dressed in civilian clothes.	Sgt. Grubb, R.N. Canadian Provost Corps. L/Cpl. Ozog, R.W. Canadian Provost Corps.		

CAPT.
O.C. No. 6 COMPANY
CANADIAN PROVOST CORPS.

Service years
Number of good conduct badges
Date of last entry in company conduct book
Character
Date of last entry for an act of drunkenness
Number of cases of drunkenness within the last 12 months

Commanding.

(4 copies)

M. F. B. 264
H. Q. 1712-39-90

CHARGE

Army Form B 252
(See King's Regulations)

Royal 22nd. Regt. — Regiment / Battery / Squadron / Troop or Company

CHARGE against No. E-4129 Rank Pte.

Name Degagne, R.

Place London Date of Offence 27-1-41

OFFENCE (1) W.O.A.S. Absent without leave from .....until he surrendered at about 08.15 hrs. on the 27-1-41. (2) Breaking detention from his own Unit in Witley.

A.P.M. CANADIANS LONDON AREA MAJOR

Names of Witnesses:—

L/Cpl. Crowe, Canadian Provost Corps.

L/Cpl. Richardson, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

P.T.O.

Statement of **EVIDENCE** in the case of

E-4129 Pte. Degagne, R.
Royal 22nd. Regt.

Sir,

At London on the 27-1-41 at about 08.15 hrs. I was on my home on pass when the a/m soldier approached me and asked me if I was a Military Police I told him that I was. He then stated that he was surrendering himself to me as being A.W.L. I placed him under arre[illegible] and escorted him to C.P.C.H.Q. where I turned [illegible] over to the N.C.O. i/c cells to be [illegible]ined.

.....M.M. [illegible].....L/Cpl.
Canadian Provost Corps.

N.C.O. i/c cells when the a/m was here and I took him into custody.

.....V.E. Richard.....L/Cpl.
[illegible]dian Provost Corps.

[illegible]ARKS

Statement of **EVIDENCE** in the case of

No. 4129 Pte Menet

Sir

At Reading on the 22.2.41 at about 23.59 in consequence of information received I proceeded to the Y.M.C.A. Friar Street and there saw the above named soldier He was DRUNK.

I arrested and conducted him to the civil Police Station to be detained

Reading
23.2.41

A Hayes L/Cpl
C.M.P. Station

Sir I have read over and corroborate the above statement

[signature]

[signature] L/Cpl.
C.M. Police.

REMARKS

I hereby certify that it is not practical to call L/Cpl Hayes to give testimony at the summary of evidence —
Lt Corrigan

Army Form B 252
(See King's Regulations)

CHARGE

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. 4129 Rank Pte

Name MERRET

Place Reading Date of Offence 22.2.41

OFFENCE When on Active Service
DRUNK in the Y.M.C.A. Reading at 23.59 hours
22.2.41

Names of Witnesses :— L/C Hayes A C.M. Police
L/C Wyndell C C.M. Police

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Q4250 WLW 19625-264 1,000,000 7/40 K. & H. Ltd. G657/47

Statement of **EVIDENCE** in the case of

E-4129 Pte Degagne R.
R 22 Regt.
No.2 Inf. Holding Unit.

Sir,

At London on the 23-2-41 at about 14.20 hrs I was on duty at C.P.C.H.Q. when upon instructions received I proceeded to Reading. Upon arrival there I found out that the a/m soldier was being held on a charge of being drunk. They also stated that the a/m soldier would not reveal his identity and produced a pass made out in another nameand as being o of the Free French Forces. He was handed over to me by the C.M.P. While escorting him to London I found out his true identity..I escorted him to C.P.C.H.Q.,,London and handed him over to the N.C.O. i/c of Cells to be detained.

London.
23-2-41.

[signature] .....Cpl.
Canadian Provost Corps.

Sir,

I was N.C.O. i/c of Cells when the a/m soldier was handed over to me to be detained.

London.
23 -2-41.

[signature] .....L/Cpl.
Canadian Provost Corps.

REMARKS

I hereby certify that it is not practical to call Cpl Bonds to give testimony at the summary of evidence.
[signature] Corrigan Lt.

CHARGE

Army Form B 252
(See King's Regulations)

R 22nd Regt. ..... Regiment
No.2 Inf. Holding Unit. ..... Battery / Squadron / Troop or / Company

A.P.M. CANADIANS MAJOR LONDON AREA

CHARGE against No. 7[illegible] Rank Pte.

Name Degagne R.

Place London. Date of Offence 23-2-41.

OFFENCE (1) W.O.A.S. Absent without leave from .....until apprehended by the C.M.P. in Reading at about 23.59 hrs on the 22-2-41.

(2) Drunk.(as charged by the C.M.P.)

(3) In possession of a pass belonging to another soldier ,and which he used for identity.

Names of Witnesses:—
Cpl Monks, Canadian Provost Corps.
L/Cpl Crawford, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

F.I.O.

Ref:- K.R.& O.(Can.)539

Regt.No:- E-4129

Rank:- Pte.

Name:- Degagne, R.

Regiment:- Royal 22nd. Regt.

Unit:- #3 Inf. Holding Unit.

The following expenses were incurred in apprehending and returning the m/n soldier to his unit from:- Reading to London

DATE	PARTICULARS	AMOUNT	
23-2-41.	Escort's return fare: (full single fare)	6	7
	Prisoner's single fare (full single fare)	5	7
	Escort's expenses(two suppers and taxi fares from Waterloo Stn. to C.P.C.H.Q. for which receipts were produced)	4	10
	TOTAL:	16	00

A E Cameron
MAJOR
A.P.M. CANADIANS
LONDON AREA

TOTAL

(P.T.O.)

K.R.& O.(Can.) 539

"Where expenses have been incurred for the purpose of effecting the arrest of a soldier who is a deserter or absentee without leave(including any reward payable for such arrest)and for the return of such soldier to his corps,which under the Pay and Allowance Regulations may be awarded by such soldier's commanding officer or in case he is tried by court-martial,or if he is on board one of his Majesty's ships,by the commanding officer of the ship,and which upon such award may be deducted from the ordinary pay of such soldier,the sum required to make good such expenses shall be included in the particulars of the charge of desertion or absentee without leave,as the case may be,on which such soldier is tried."

NOTE:-

The expenses over leaf have been recovered by this unit from Public Funds through the command paymaster,and are to be charged against the soldier through your unit Part II Orders.

---oOo---

No.5. Canadian General Hospital, RCAMC, Taplow, Bucks
6.Feb.41.
5/Gen/Hos/5-2-8-3.

Officer Commanding
No.2. Canadian Infantry Holding Unit,
C.A.S.F.

Re:- E4129. Pte. Desgagnes, R.

In reply to your 523 of 28th.Jan.41. regarding the m/n pte. we regret to announce that he is absent without leave from this Hospital since 0100 hrs. 6th.Feb.41.

A copy of our part 11. daily orders is enclosed.

R. Cooper ..... Major, RCAMC
for
Officer Commanding
No.5. Canadian General Hospital
R.C.A.M.C.

RECEIVED
10 FEB 1941
No. 2 Inf. Holding Unit C.A.S.F.

I hereby certify that it is not practical to call Major Cooper to give testimony at the summary of evidence
H Corrigan Lt

TTT-83

Pte Degazio, V.T.

RECORDED AT CMHQ IN AB 160 1 1183

PRO'D 1 AUG 1944 CANADA G.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA21) 40/1 M to 8/1696 (8070) 4.38B

Convened by Order of Brig A. W. Beament Comd 21 Army Gp dated 16 July 44

Con Tac GHQ 1 Echelon

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent & confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
B55145	Pte	Joseph Telford	Degazio

PROCEEDINGS REVIEWED

J C Campbell Major 14 Aug 44

REVIEWING OFFICER, JAG'S BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 20 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A45, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 36, 62-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is triable(4) amenable to military law, and each charge discloses an offence.(5)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by C.O.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 80 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ~~[illegible]~~ as interpreter? Ans ~~[illegible]~~

The interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer? Ans ~~[illegible]~~

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J. K. Halmarson MBE	CAC 12 Bde 2 Corps
Member	Lieut	K. C. D. Liddell	CAC 12 Bde 2 Corps
Member	Lieut	R. E. Porter	CAC 12 Bde 2 Corps
Judge-Advocate	—	—	—
Prosecutor	Lieut	N. F. Stenning	Alg K.
Defending Offr	Lieut	G. J. Hunter	Alg K.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 26, 27, 109, 110. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2d p 3.)

A8. The accused Pte Joseph Telford Degazio before arraignment make(s) (no) ~~[illegible]~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~[illegible]~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and ~~[illegible]~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A 36

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B55145 Pte Joseph Telford Degazio CHQ (MML)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 712, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on (date) ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which ~~[illegible]~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

One year's detention
Costs of apprehension - seventeen shillings, two pence

20 Jul 44 (Sgd) J. K. Halmarson
Date awarded. President. (RP 45, 50)

(Sgd) — Judge-Advocate, if any.

(See back of Convening Order as to custody and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding & sentence.

I direct that the ~~[illegible]~~ be remitted to ~~[illegible]~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) W. H. Beament Brigadier, GOC

Date 25 Jul 44 Commanding ~~Cdn Sec GHQ 1 Echn - 21 A Gp~~ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Date. Signature of Offr.

Accused.

B55145 PTE Joseph Telford Degazio 27 July 44 A. F. Frank Capt.

13 C. B. R. Bn.

C.R Serial 20 (CHQ) d/27 July 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I certify that there are no illegalities or irregularities in the proceedings of the Court in the case of the above accused, and that the sentence is legal.

DAG Cdn Sec GHQ 21 A Gp

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*D*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *paras* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on N.A. charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) to N.A. charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....Do you intend to call witnesses on your behalf? Ans.....Are they witnesses as to character only? Ans.....
(1. *RP* 115. 2. *RP* 40 *fn*, *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes or back of Convening Order. Cf* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1; 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*G*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 14(3) (*i*), *RP* 45, 120(*A*). 2. *AA* 14(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex [illegible] and Ex C respectively.(3)
(1. *MFR* 251 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes through counsel.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.) Exhibit D

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its* 'proviso', *is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-52, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366. *Overseas RO* 309, 1203, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 40(2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

FIRST CHARGE
AA Sec 15 (1)

The accused B.55145 Pte Joseph Telford DECAZIO, CH of C (MG) attached 13 Bn 2 CBRC, a soldier of the Canadian Army Overseas, is charged with

WHEN ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field absented himself without leave from 2359 hrs 27 May 44 until 1130 hrs 1 Jul 44 when he was apprehended by the Civil Police in LONGERSHALL, Wilts.

Total time absent 34 days 11 hrs 31 mins.

Costs of apprehension and return to unit £-.17.2.

(W.J. Stewart) Lt.col
Commanding,
13 Bn 2 CBRC

In the field
11 Jul 44.

To be tried by Field General Court Martial

(A.W. Beament) Brigadier
OIC
Cdn Sec GHQ 1 Ech 21 Army Group

In the Field
16 Jul 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-55145	Pte	Joseph Telford	DEGAZIO	CH of O(MG) att 13 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Jul 44 endorsed by me, ~~for my order in my case~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that such procedure is necessary or expedient in the interests of discipline~~) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed as detailed hereunder.

4. ~~I am unable to appoint an officer not below the rank of (a) Field Officer from the reasons I have stated there~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I am appointed Judge Advocate there for the purpose.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) J.K. Hjelmerson (Must be named. RP 106.) CAC 12 Bn 2 CBRG (Unit.)

MEMBERS.

Lieut to be detailed by OC 12 Bn 2 CBRG

(Rank.) Lieut to be detailed by OC 12 Bn 2 CBRG (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

(Rank.) Lieut to be detailed by OC 13 Bn 2 CBRG (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

---- (Rank.) ---------- (Must be named, if any. RP 106.) ----- (Unit.)

On Active Service in the Fd

in England (Country.)

Date 16 Jul 44

(Signed personally. RP 105 fn 2)

(A.W. Beament) Brigadier (Rank.)

Commanding Cdn Sec GHQ 1 Echn 21 Army Group Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/3BA/CMAB/(to Imc of AFAS: AFI & R/1867 (4021)

Approved

(TG Norris) Col

DJAG

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined B-55145 (No.)

PTE. (Rank) DEGAZIO J.T. (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station FIELD.

Date. JUL 20-44

[signature] (Sgd)
Medical Officer,
(unit) 13 Bn, 2 CBRG.

Exhibit D

F. G. C. M. Pte. J. T. DeGAZIO.

(E 3)

On behalf of the accused, B 55145 Pte. Joseph Telford DeGazio, he fully realizes the seriousness of the charge against him. but in view of the fact he was taken from his unit prior to its going into action he feels that he was deprived of the opportunity of giving his services to his country. He voluntarily enlisted. When apprehended by civil authorities he was returning to his duties. He is a fine looking, capable soldier and I feel that if he is given a chance to get into action at the earliest opportunity he will give a good account of himself.

With these few remarks I conclude with a plea of leniency, that he may serve his King and Country.

For the Defence.



Exhibit A

B 5

SUMMARY

SUMMARY OF EVIDENCE IN THE CASE OF

B.55145 Pte DEGAZIO, J.T., CH of C (NC), attached to 13 Bn 2 CBRG, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, all evidence is given on oath.

FIRST WITNESS FOR PROSECUTION

Lt W.A. MURRAY, Records Officer, 13 Bn 2 CBRG, having been duly sworn, states: -

"I am Lt W.A. Murray, Records Officer, 13 Bn 2 CBRG, and present the following documents pertaining to the accused B.55145 Pte DEGAZIO, J.T.:

(1) Certified true copy of Part II Order Extract 13 d/3 Jul 44 showing B.55145 Pte Degazio, J.T. as A'L from 2359 hrs 29 May 44.

(2) AFW 1618 Certificate of surrender showing B.55145 Pte DEGAZIO, J.T. as apprehended by the Civil Police at Ludgershall, Wilts, at 1130 hrs 1 Jul 44.

(3) CBRQ expense form 1000-55 showing cost of returning B.55145 Pte DEGAZIO, J.T. [illegible] London from Ludgershall as £ -.17. 8.

W.A. Murray Lt
(W.A.Murray) Lt
13 Bn 2 CBRG

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

The accused was cautioned in accordance with rules of procedure 6 (e).

THE ACCUSED DECLINES TO MAKE A STATEMENT AT THIS TIME.

"I certify that the foregoing summary of evidence consisting of 1 page was taken down by me in the presence and hearing of the accused and that rules of procedure 6 (c) (d) and (e) have been complied with."

J.E. Miller Lt
(J.E. Miller) Lt
Officer Taking Summary of Evidence
13 Bn 2 CBRG

J.E.M.

Exhibit 1

PART II ORDER EXTRACT FORM

TO:

99/20/.....

.....19.....

EXTRACTS FROM: Unit X-4 List C.H. of C. (MG)

Part II Order No. 13 dated 3 Jul 44

ABSENCE WITHOUT LEAVE

A.W.L. from 2359 hrs 27 May 44. Still absent
2359 hrs 16 Jun 44 (22nd day)

B55145 Pte DECAZIO J.T.

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

CERTIFIED TRUE COPY OF ORIGINAL IN MY POSSESSION.

Originating Clerk's Initials .....

B Z Saunders Captain
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

W.D. A.G. 1276 (4032)

Exhibit (2)

Army Form G.1618.

IMMEDIATE. PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(Details will be entered here when A.F.W. 3164, Appeal Form G.1618/A

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the Nil.

Police in connection with the apprehension of _____ and are payable to _____

OFFICER IN CHARGE
POLICE STATION.
1 JUL 1944
LUDGERSHALL, WILTSHIRE.
(Near ANDOVER).

Nil

Date _____ (Superintendent or Officer i/c Police Station at _____)

AUTHORITY for the PAYMENT of a REWARD. (For Army use only.)

The Command Paymaster _____ is hereby authorised to pay to _____ being the person recommended by the Committing Magistrate, a reward of _____ for the apprehension of _____

(O.C. Unit)
Officer Commanding.

Date _____

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

DESCRIPTIVE RETURN OF § B55145, Joseph Telford DEGAZIO, who was apprehended at 11.30 (hour) a.m. on the first day of July, 1944, and was committed to confinement at Ludgershall, on the first day of July, 1944, as a Deserter (or Absentee without leave) from the 2nd C.Bn.R.C. at Crookham Camp, Nr. Aldershot. Regiment of (Canadian).

Age 24 yrs.	Height 5 feet 11 inches
Complexion swarthy	Hair brown Eyes grey
Marks scar under R.eye	In uniform or plain clothes uniform.
Probable date and place of attestation	
Probable date of desertion or beginning of absence and from what place	Approx. 5 weeks ago, from Crookham Camp.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Wm. H. Hillier, D/Cons.(R).
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given	* DEGAZIO was seen in Ludgershall, and was questioned as to his Pass, and was unable to produce one, and stated he had been absent for five weeks.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is a deserter from the before-mentioned Corps.

Clive Abbatt — Signature
Ludgershall — Residence
Nr. Andover, Hants. — Post Town
July 1st 1944 — Date of Signature
} of Committing Magistrate.

Signature of Prisoner

Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
} of Magistrate.
Date of Signature

§ Care should be taken to insert Army No. and Rank.

‡ Insert "was apprehended" or "surrendered," as the case may be

* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be

PART II. Army Form C.1618.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehension will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

Exhibit 13

Ref: K.R. & O. (Can) 539

Expense Voucher Re—:

Reg. No. B-55145 Rank Pte. Name Degazio, J.T. Unit 9 Btn 2 C B R G

The following expenses were incurred in ~~apprehending~~ and returning the M/N Soldier to ~~his Unit From~~ London from Ludgershall

Date	Particulars	Amount		
4 July 44	Escorts return fare from LONDON To Ludgershall		11	5
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Ludgershall		5	9
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		17	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

LIEUT.

R. E. BIRCH.
ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

C.M.H.Q. 1000/55
40/P & [illegible]

Exhibit B

E 2

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
B55145	Pte	DEGAZIO, J.T.	13 Bn 2 CBRG

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For AA Sec 15 (1)	5 times
For AA Sec 40	2 times
For	times
For	times

Date of first entry in Field Conduct Sheet 21 Dec 42

Date of last entry in Field Conduct Sheet 14 May 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for na beginning on the na day of na

4. The accused has been awaiting trial on the present charges for days in civil custody; and for 19 days in military custody, i.e., nil days in open arrest, 19 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 24 yrs 5 mos

6. The date of his ~~calling up for military service~~ attestation is 5 Feb 40

7. The service which the accused is allowed to reckon is 2 yrs 5 mos

8. The accused is in possession of† C.V.S.M. and Clasp

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date:

	Date of promotion
In the substantive rank of	na
In the war substantive rank of	na
In the acting rank of	na

INSTRUCTION: If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

NOTE* The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

†Strike out if not applicable.

‡State the military decorations (if any) held by accused.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Discription of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental book in my custody, are correct to the best of my knowledge and belief.

Signed this 20 day of July 44

J E Miller Lt

(J.E. Miller) Lt
13 Bn 2 CBRG

E2

No. E.55145 Name DEGAZIO, J.T. Sqn., Battery, or Company 21 Light C Corps

Date of last entry in Company Conduct Sheet na | No. and date of last drunk na | Period not reckoning towards freedom from extra fine na | Date of enlistment | Sheet No. 1 | G.C. Badges | Signature O.C., Company, etc. J.R. Kemsley, Lt | Service or Proficiency Pay | Character

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2365)

PREVIOUS SHEET DESTROYED. LAST ENTRY 20 DEC 42 NIL drunkenness

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	21 Dec 42	Pte		AA Sec 15 (1) AWL 8 days.	Cpl Hare	8 days pay	29 Dec 42	Lt.col Cose	Forf 8 days pay.
Field	16 Jun 43	Pte		Vol Blood Donor	H. Kelly, Capt				
Field	16 Sep 43	Pte		AA 17 (3) AWL 10 hrs 30 mins	L/Cpl Macdonald	7 days CB	16 Sep 43	Maj Page	Forf 1 days pay.
Field	16 Sep 43	Pte		AA 40 Improper possession of one waterproof coat.	Maj Anderson	7 days CB	16 Sep 43	Lt.col Johnson	Forf 1 days pay.

[illegible] [illegible] [illegible] [

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Mar 44	Pte		AA 15(1) AWL 1 day 21 hrs	Cpl Coleman	14 days CB 28 days Pay FR A I 149(2)	21 Mar 44	Lt.col Johnson	Forf 2 days pay FRAI 149(1)(a)
Field	9 Apr 44	Pte		AA 15(1) AWL 1 hr	Cp Kennedy	1 days PA FRA I	10 Apr 44	Lt.col Clinghan	Forf 1 days pay.
Field	14 May 44	Pte		AA Sec 15(1) AWL from 2359 hrs 7 May 44 to 2326 hrs 7 May 44 (Absent 2 days 23 hrs 26 mins)	Sgt Jackson Documentary	28 days FP 28 days pay FR A I 149(2)	16 May 44	Lt.col Mick, RW	Forf 3 days pay absence FRAI 149(1)(a)

LIST OF WITNESSES

FOR PROSECUTION: Lt W.A. Murray, Records Officer, 13 Bn 2 CBRC.

FOR DEFENCE: nil

LIST OF EXHIBITS

(1) Certified true copy of Part II Order Extract 13 d/3 Jul 44 showing B.55145 Pte De-azio, J.T. as AWL from 2359 hrs 27 May 44.

(2) AFO 1618 Certificate of surrender showing B.55145 Pte De-azio, J.T. as apprehended by the Civil Police at Lud-ershall, Wilts, at 1130 hrs 1 Jul 44.

(3) CMHQ Expense Form 1000:55 showing costs of returning B.55145 Pte De-azio, J.T. to London from Lud-ershall as £0.17.2.

REQUEST FOR A DEFENDING OFFICER

I, B.55145 Pte Demazio, J.T. wish to have a competent Officer appointed to defend me at my forthcoming trial by FSCM.

Demazio J.T.

(B.55145 Pte Demazio, J.T.)

BB-112

PTE DEGRACE R.

BB-112

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

"A."
Order convening the Court

On Active Service, this Thirty-first day of MARCH , 19 43

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Inf Bde , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

Proceedings Reviewed

President.

Rank.	Name.	Regiment.
Major	F.J.Gilmour	H.Q. 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Major	to be appointed by O.C. Calg Highrs	Calg Highrs
Capt.	to be appointed by O.C. R.H.C.	R.H.C.
Lieut.	to be appointed by O.C. R.H.C.	R.H.C.

WAITING MEMBER

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (G.V.Whitehead) Brigadier
Commanding 5 Cdn InfBde
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D/57057 Pte. Rene DEGRACE, R. de Mais, a soldier of the Canadian Army Overseas	FIRST CHARGE A. A. Sec 8 (2) (see charge sheet attached)	Guilty	Guilty	
	SECOND CHARGE A.A. Sec 40 Alternative (see charge sheet attached)	withdrawn		
	THIRD CHARGE A.A. Sec 15 (1) (see charge sheet attached)	Guilty	Guilty	
	FOURTH CHARGE A.A. Sec 40 (see charge sheet attached)	Guilty	Guilty.	
			150 days detn + stoppages of £1/10/½ in respect of loss of kit 1 April 1943 F Gilmour Major Pres	I confirm GW

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) G V Whitehead (G.V.Whitehead) Brigadier
Commanding 5 Cdn Inf Bde
Convening Officer (e)

(Signed) F Gilmour Major RCA
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) FG
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 1st day of April 1943.

F Gilmour Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 370 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this FG day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct ~~that the soldier named in the margin be not committed to prison until further orders.~~) GW

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2 day of Apl 1943

G V Whitehead
Confirming Officer.

Promulgated and extracts taken in the case of D57057 Pte Degrace R.

(a) (Dated) 3 apr. 43 (Signed) W. Lyon Bisaillon Lt Col.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, 057057 Pte, Rene Degrace,
Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas,
is charged with

First Charge
A.A. Sec 8(2)

USING INSUBORDINATE LANGUAGE, to his superior officer, in that he, in the Field, on 1 Feb 43 when told by Lieut. A. Angers to pay attention to a lecture answered: "These things do not interest me, and I won't listen", or words to that effect.

Second Charge
A.A. Sec 40

Alternative

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE, in that he, in the Field on the 1 Feb 43 when told by his superior officer Lieut. A. Angers to pay attention to a lecture said: "These things do not interest me and I won't listen", or words to that effect.

Third Charge
A.A. Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE, in that he, in the Field, at 1400 hours on the 3 Feb 43, absented himself without leave until his return at 0945 hours on the 23 Mar 43. (Total absence, 47 days 19 hours 45 mins)

Fourth Charge
A.A. Sec 40

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE, in that he, in the Field, on the 23 Mar 43 was found to have lost by neglect articles of his kit to the amount of £ 1 - 10 - ½.

Dated this 31st day
of Mar 1943

D Archambault Major
(M. Archambault), Major
A/Commanding Officer,
Regiment de Maisonneuve, CA(AF).

To be tried by FGCM

G Whitehead Brig
COMD. 5 CDN. INF. BDE.

MAR 3 1 1943

B² F Fulmour
Maj Pres

" I wish to have Lieut. V. David defend me at my trial by Field General Court Martial if he is available, failing this I request that an officer be appointed by my Commanding Officer to defend me."

Signed in the Field

This 21st day of Mar 1943

Rene Degrace
Signature of accused

W.P.E. Brown Lt.
Signature of witness

MEDICAL CERTIFICATE (E.H.(Can) 557)

I certify that I have this morning examined [illegible] Sergeant R. of Rare Mais and in my [illegible] he is fit to undergo trial by Court Martial.

Station In the Field

Date 1.7.43

[illegible] Carrier [illegible]

Medical Officer

[illegible]

Maj

MEDICAL [illegible] H.A.P. 1 APR 1943 LE REGIMENT DE MAISONNEUVE

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ In the Field on the 1st day of April 1943 by order of Brigadier G. V. Whitehead

Commanding 5th Cdn. Inf. Bde.

dated the 31st day of March 1943.

President. Major F. S. Gilmour
R.C.A. Att'd H.Q. 2 Cdn Div.

Members. Major B. McKinzie
Calgary Highlanders C.A.(O)
Capt. T. W. Beauclerk
R.H.C.

, ~~Judge Advocate~~ [illegible]

Trial of* D 57057 Pte Rene Degrace
Regiment de Maisonneuve C.A.(O)

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. H. C. C. Leith, R. de Mais.

Counsel‡ or defending officer† Lieut. J. R. Beauchemin R. de Mais

At 1115 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible]

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Lieut. J. D. Birks. R.H.C.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (2), the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read? Guilty. *Question to the accused.* *Answer.*

~~Are you guilty or not guilty of the second charge against you, which~~ you have heard read? *Question.* *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? Guilty. *Question.* *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? Guilty. *Question.* *Answer.*

The accused having pleaded Guilty to 1st 3rd & 4th charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" has been proceeded with.

FB ~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D 57057 Pte Rene Degrace is found guilty of the 1st, 3rd & 4th charges.

FB †The summary (~~or abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes

Answer. The accused in mitigation of punishment says:—

I was told that I was going to be court martialled

FB ~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

for disobeying an order & I did not think I had disobeyed an order & as I had just returned from a field punishment camp I was scared so I went A.W.L. but I did not mean to stay absent so long. When I went A.W.L. the only things I was short was the cap Badge & the gymn shorts, the other articles were where I usually kept them with my kit in my billet. I am very quick tempered for the least little thing that I am told off

PTO.

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

FB

DD

by officers & N.C.O's I lose my temper & then afterwards I am sorry. I have no idea of trying to be at any raps in the army. When I was away I was scared because I knew I was going to be Court Martialed but I always intended to return & I did return of my own free will to take my punishment. I am sorry I went A.W.L. & I dont intend to do it any more - I realize how foolish I was

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character.

No sir.

The Defending officer addresses the Co in mitigation states that the accused is really a very good soldier & a good man & is keen & intelligent. But he is quick tempered if he thinks that he is getting an injustice & because he lost his head he was threatened with a court martial & then got scared & caught the train. He is sorry & he will make a good & usual soldier for this regiment when we get into action.

F.G.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut H.E.C Leith is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* AFB 246 & Sent Copy of AFB-6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked J.I.J., signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes

Cross-examined by the accused. No

[Note.—If the nature of the sentence is a deprivation of the accused's liberty, the finding of the Court should state how liable he was to undergo punishment in addition to that to be awarded by the Court the punishment must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* no

The Court is closed for the consideration of the sentence.

F

~~Sentence.~~

~~Sentence~~

~~The Court sentence the accused~~

SUMMARY OF EVIDENCE IN THE CASE OF No D57057 Pte Rene Degrace, Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: No Lieut. A. Angers, Le Regiment de Maisonneuve, sworn states:-

On the 1 Feb 43 a lecture was being given. Pte Degrace was told twice to sit up properly by Sgt. Olivier. I looked into the room and saw that the accused was not paying attention and I told him to do so. The accused answered: " These things do not interest me and I won't listen".

The accused declines to cross-examine.

(Sgd) A. Angers Lt
"A. Angers" Lieut.

SECOND WITNESS for the prosecution:-No D57354 L/Sgt L. Olivier, Le Regiment de Maisonneuve, sworn states:-

Three times I told Pte. Degrace to sit up properly and he did not obey. Lieut. A. Angers then spoke by giving him the same order and Pte. Degrace answered: " I am not interested in the lecture".

The accused declines to cross-examine

(Sgd) L. Olivier
"L. Olivier" L/Sgt.

THIRD WITNESS for the prosecution: No D56254 C.S.M. R. Belair, Le Regiment de Maisonneuve, sworn states

On the 3 Feb 43 at 1330 hours after being told by the R.S.M. to parade the accused at 1400 hours, L/Sgt Olivier reported to me that Pte Degrace was absent from parade. I detailed L/Sgt Olivier to investigate or search for the accused We could not find him anywhere.

The accused declines to cross-examine

(Sgd) R. Belair
"R. Belair" C.S.M.

FOURTH WITNESS for the prosecution: No D57354 L/Sgt L. Olivier, Le Regiment de Maisonneuve, sworn states

At 1330 hours on the 3 Feb 43 I went to the billet to get the accused for the C.O's parade. I searched everywhere in the billet for the accused and did not find him. I then went to the Coy Orderly Room to see if he was there and I did not find him. I then went to Bn H.Q. to see if he would be there. I did not find him there. I came back to the Coy. Orderly Room and told L/Cpl Cervais who was C.O.C. to look for the accused. He later reported he had not seen him.

The accused declines to cross-examine

(Sgd) L. Olivier
"L. Olivier" L/Sgt.

"G"
7-8

FIFTH WITNESS for the prosecution: No D56328 L/Cpl R. Berthiaume
Le Regiment de Maisonneuve, sworn states
On the 8 Feb 43 L/Sgt Olivier asked me to collect the accused's clothing and equipment, which I did. L/Sgt Olivier and I then checked all the accused's kit and we found him deficient of the following articles:
1 pr boots ankle
1 short cotton
1 vest cotton
1 shirt angola
1 field dressing
1 short gym
1 vest gym
1 badge cap
1 towel
I then got L/Sgt Olivier to sign a statement to this effect, which he did.

The accused declines to cross-examine

(Sgd) Cpl Berthiaume R.
R. Berthiaume L/Cpl.

SIXTH WITNESS for the prosecution: No D56615 C.S.M. G. Menard,
Le Regiment de Maisonneuve, sworn states
On the 25 Mar 43 I checked the accused's kit and found him deficient of the following articles:
1 pr boots ankle
1 short cotton
1 vest cotton
1 shirt angola
1 field dressing
1 short gym
1 vest gym
1 badge cap
1 towel

The accused declines to cross-examine

(Sgd) Menard
G. Menard C.S.M.

SEVENTH WITNESS for the prosecution: No D57070 R.Q.M.S. F.E. Cingras
Le Regiment de Maisonneuve, sworn states:
I have checked the articles found deficient in the accused's kit in accordance with C.A.R.O. 1759 and find the amount to be 2-0-d, and also in accordance with Appendix to C.A.R.O. 2111 find the price to be $1-10-0d

The accused declines to cross-examine

(Sgd) [illegible]
F.E. Cingras R.Q.M.S.

EIGHT WITNESS for the prosecution: No D57655 L/Cpl R. Lacourse,
Le Regiment de Maisonneuve, sworn states:
On the 25 Mar 43 I was Company Orderly Corporal. At 0945 hours HX I was returning from a tour of inspection and upon entering the orderly room I met the accused who had just arrived to report himself. I told him to come with me at Regt'l H.Q. and he did. After which I handed him over to Sgt. Beaulieu of the Regt'l Military Police.

The accused declines to cross-examine

(Sgd) Lacourse R.
R. Lacourse L/Cpl.

5 748

NINTH WITNESS for the prosecution: No D56436 Pte F. Paquin, Le Regiment de Maisonneuve, sworn states:-

I present:
Original copy of Tattoo Report on the 3 Feb 43, purporting to be signed by N.C.O. i/c of Tattoo at that date. (Exh A)
Certificate of Absentee Report made at the Coy Orderly Room daily and signed by myself. (Attached as Exhibit "B")
Certificate of cost on Loss of kit, purporting to be signed by the R.S.M.S. (Attached as Exhibit "C")

all of which relate to the accused, whom I recognize.

The accused declines to cross-examine.

(Sgd) "F. Paquin" Pte
Clerk of 'C' Coy R de Mais.

The accused having been duly cautioned in accordance with R.P. 4(B), says:
" I do not want to give evidence or make a statement to-day".

The accused does not wish to call witnesses in his defence at this point.

"CERTIFIED THAT R.P. 4 complied with."
In the Field,
30 Mar 43

(Sgd) K E C Leith Lieut.
"K.E.C. Leith" Lieut.
Officer detailed to take the summary

"C" 7/9

LIST OF WITNESSES FOR THE PROSECUTION

Lieut. A. Angers
D57354 L/Sgt Olivier L.
D56254 C.S.M. Belair R.
D-56328 L/Cpl Berthiaume
D56615 C.Q.M.S. Menard G.
D57090 R.Q.M.S. Gingras P.E.
D57655 L/Cpl Lacourse B.
D56436 Pte. Paquin F.

LIST OF WITNESSES FOR THE DEFENCE

N I L

(Sgd) H.E.C. Leith Lieut
"H.E.C. Leith" Lieut

LIST

LIST OF EXHIBITS

A./ Company Tattoo Report 43
B./ Absentee Reports from 4 Feb 43 till 25Feb
C./ Statement of list prices from R.N.M.S.

(Sgd) R. E. Leigh Lieut
H.M.S. Leith " Lieut.

	£ 1
Boots ankle	£ 1 - 1 - 6
Drawers cotton shirt	" 0 - 2 - ½
Vest cotton gym	" 0 - 1 - 6
Shirt angola	" 0 - 9 - 2
Dressing First Field	" 0 - 1 - 1
Gym Shirts	" 0 - 1 - 11
Vest cotton	" 0 - 1 - 6
Badges cap	" 0 - 0 - 4½
Towel	" 0 - 0 - 11½
	£ 1 - 7 - 0½
Rec Oct 1959	2 - ½
appendix 10 case 2111	" J
1. 10 ½	[illegible]

[illegible] Surgeon
Rams

(Substitute for A.F.B. 296
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. ~~D-57057~~ D-57057 Pte. Degrace Rene UNIT Regiment de Maisonneuve, CA (O) AGE 28 years MARRIED OR SINGLE S. No. of DEPENDENTS Nil. DATE OF ATTESTION 27 May 40

No. OF DAYS SPENT IN CLOSE ARREST (to date of trial)
CIVIL Nil. MILITARY 9 HOSPITAL Nil. TOTAL 9

DATES OF PROMOTION, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY
Nil.

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

(officer i/c Records)
Regiment de Maisonneuve, CA (O)

Dated at In the Field
this 1 day of Apr 1943
(to be dated and signed as date of trial

No. D-57057 Name Degrace R. | Sqn., Battery, or Company | Corps R. DE MAIS. | Date of enlistment 29-3-40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122) 175M—7-41 (1215-39) H.Q. 1777-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valcartier	2-6-40	Pte.	X	A.W.L. 2115 hrs 2-6-40 till 2115 hrs. 25-6-40 (23 Days) A.A. 14 (1)	Sgt. Lamoureux A.	15 days pay	26-6-40	Lt. Col Bourassa	26 days P.
Aldershot	5-Oct.40	Pte.		A.A. 40 Conduct to the prejudice smoking on duty	C.S.M. Berube Sgt. Blanchard	2 days C.B.	8 oct 40	Major Brosseau	
Aldershot	2-11-40	Pte.		A.A.40 Neglec to obey an order anti-gas cape in proper order	C.S.M. Berube Lt. Lapierre	4 days C.B.	8-11-40	Major Brosseau	
Aldershot	19-3-40	Pte.		W.O.A.S. Neglect to obey an order to stand properly while on duty A.A. 40	R.S.M. Boudreau C.S.M. Berube	4 days C.B.	20-11-40	Major Brosseau	
Lewes	1-2-41	Pte.	X	W.O.A.S. A.W.L. from 1930 hrs to 2200 hrs 6-2-41 A.A. 15 (1)(2½Hrs.	C.S.M. Berube Sgt. Paripeau	2 days C.B.	1-2-41	J. Lupien Capt.	

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	20-2-41	Pte.		W.O.A.S. Act. to the prejudice etc. neglected to clean his web equipment A.A. 40	C.S.M. Berube Sgt. Parizeau	6 days C.B.	20-2-41	[illegible] Major L. Brosseau	
Aldershot	11-6-41	Pte.		W.O.A.S. Act to the prejudice etc caused disturbance in the ranks A.A. 40	C.S.M. Berube Sgt. Desjardins	7 days C.B.	11-6-41	J. Lupien Capt.	
Pevensey Bay	13-8-41	Pte.		W.O.A.S. A.W.L. from 1345 hrs. 13 aout 41 to 1630 hrs 13 aou41 A.A. 15 (1) (2 hrs, 45 min)	C.S.M. Berube Sgt. Martin	2 days F.P. 2 days pay	14-8-41	Major L. Brosseau	Forfeits 2 days pay
Normans Bay	2-11-41	Pte.		W.O.A.S. Failed to appear on Regt. parade at 0830 hrs. A.A. 40	Lt. Leith Sgt. Martin	3 days pay	2-11-41	Lt. Ellis	Forfeits 3 days
Normans Bay	24-11-41	Pte.		W.O.A.S. Conduct to the prejudice etc. failed to appear on Orderly Room parade A.A. 40	Lt-Cpl. Lan-dry. Lt. Leith	7 days F.P.	27-11-41	J. Lupien Capt.	Forfeits 7 days

M.F.M. 6

No. D-57057 Name Degrace R. Sqn., Battery, or Company R. de Mais. Corps Date of enlistment 29-3-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Signature O.C. Company, etc. | Sheet No. 2 | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Beachland	15-1-41	Pte.		W.C.A.S. neglect to the prejudice etc. neglect to obey an order A.A. 40	Lt. Leith Cpl. Dallaire	27 days F.P.	19-12-41	Major Montpetit	Forfeits 27 days P
Bognor	16-10-42	Pte.		W.C.A.S. Conduct to the prejudice etc. insubordinate language towards a superior officer A.A. 40	Cpl. Leblanc	7 days pay	20-oct-42	Capt. Rheaume	Forfeits 7 days P.
Wisborough	10-7-42	Pte.		W.C.A.S. A.W.L. from 0945 hrs. to 1545 hrs same day A.A. 15 (1)	C.S.M. Berube Sgt. Landry C.	7 days C.B.	13-7-42	M. Blutegau Capt.	
Wisborough	18-7-42	Pte.		W.C.A.S. A.W.L. from 2359 hrs to 0730 on 19-7-42 A.A. 15 (1)	C.S.M. Berube Sgt. Landry	3 days Pay	22-7-42	Lt-Col Derome	4 day pay

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	8-11-42	Pte.		W.O.A.S. A.W.L. from 1800 hrs 8-11-40 to 0830 hrs. 18-11-40 Nov.42 A.A. 15 (1)	Sgt.Patry Cpl. St-Laurent	27 days F.P.	19-11-42	Lt-Col Bisaillon	Forfeits 37 days P.

TRUE COPY OF ORIGINAL

SIGNED.....
Officer i/c of records,

"Z"

5 T- 79

Pte. Degray, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D651744 Pte Degray L. Rde Chaud

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA SEC 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At ~~present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one hundred and fifty days

(Sgd) ..... 13 Sept 1945 (Sgd) [signature]

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be entered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing auth: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not~~ committed to prison or detention barracks until further orders.(1) ~~(1. KR 67A. Delete if not used.)~~

Date 7 Sept 45 (Sgd) [signature] Lt-Col

T/Commanding 8 Can Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D651744 Degray L.	14 Sep 45	[signature] Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED R de Chaud.

RECEIVED AT CMHQ IN AB 168 57-79

FIELD GENERAL COURT-MARTIAL

CPA196 (In lieu of AFA3) 40/P & B/166th (6/44) 4/388

Convened by Order of Lt-Col S M Lett, DSO T/Comd 8 Can Inf Bde dated 10 Sep 45

RECEIVED 1 OCT 1945 CANADIAN ARMY OVERSEAS

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D651744	Pte	Lucien	DEGRAY	R de Chaud

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 13 Sept 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 37/102.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1225 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to Capt H Hebert Lieut as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to ... as shorthand writer?~~ Ans ..... as shorthand writer. Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	B Lumbelman	Q O R F G
Member	Captain	M J Bushell	N Shore R.
Member	Lieut	M E Mayers	N Shore R.
Judge-Advocate			
Prosecutor	Lieut	R H J RADAKIR	R de Chaud
Defending Offr	Lieut	L. DUGAS.	R de Chaud.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment makes(s) (no) ~~(a)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

See previous remarks being at end due to an oversight after Witness, the Witness number later was Private.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1).~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (~~are~~) so informed, ~~and he (they)~~ ~~change(s) his (their)~~ plea(s) on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans..... .(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A), fn 1; 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, became (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 233 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 40-50, 69, 118, 119(A)&(B), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LE REGIMENT DE LA CHAUDIERE

DATE...13 Sept.45..

MEDICAL REPORT

I certify that I [illegible] this morning examined

No. D-651744 Rank Pte. Name DeGray, L.

and in my opinion is Fit ~~[illegible]~~ Pg to undergo trial by Court-Martial.

P. Gauthier.

P. GAUTHIER [illegible]
M.O. R DE CHAUD

B2

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D651744	Pte		Lucien	DEGRAY	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Sep 45 endorsed by me, ~~[illegible]~~, "To be tried by Field General Court-Martial". Sml Sml Sml

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) Sml

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder. Sml

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Sml Sml

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~ Sml

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.		Must be named. RP 106.	Unit.
Major	B	Dunkelman	Q O R of C

MEMBERS.

Rank.		Named or detailed. RP 106.	Unit.
Captain	M J	Bushnell	N Shore R
Lieut	D H	Kallmeyer	Q O R of C

WAITING MEMBER.

Rank.		Named or detailed, if any. RP 106.	Unit.
Lieut	N E	Mayers	N Shore R

JUDGE-ADVOCATE.

Rank.		Must be named, if any. RP 106.	Unit.
		NA	

On Active Service in the Fd

in Holland (Country.)

(S.M. Lett) (Signed personally. RP 105 fn 2.) Lt-Col (Rank.)

Date 10 Sep 45

Commanding T/Comd, 8 Cdn Inf Bde Cda

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 56 (In lieu of AFA 3) 40/P & S/1697 (6148)

CHARGE SHEET

The accused, D-651744 Pte DEGRAY Lucien of Le Regiment de la Chaudiere Cda, a soldier of the Canadian Army Overseas, is charged with:

Army Act, Sec. 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

In that he,

In the field, in Holland, absented himself without leave from 0900 hrs 20 August 45, until 0120 hrs 3 Sept. 45.
(Total Absence 13 days, 16 hrs and 2o Mins)

Signed in the Field.
This 7 day of Sept. 45

J.P. L'Esperance Lt.Col.
Commanding,
Le Regiment de la Chaudiere.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

Signed in the Field.
This 10 day of Sept. 45

S.M. Lett Lt.Col.
T/Commanding
8 Cdn Inf. Bde.

SUMMARY OF EVIDENCE

In the case of D-651744 Pte DEGRAY Lucien of Le Regiment de la Chaudiere.

By direction of theCommanding Officer the evidence is taken under Oath.

B-156143 Sgt. DesBiens P. Le Regiment de la Chaudiere having been duly sworn states:

I am B-156143 Sgt. DesBiens P. Le Regiment dela Chaudiere On the 20 August 45 at approx. 0900 hrs I noticed the absence of D-651744 Pte Degray L. of Le Regiment dela Chaudiere, who is the accused here present. I noticed his absence at the Roll Call in the morning, I did not see the accused in the Bn. Lines since that time up the time of his return to the unit.

The accused declines to cross-examine the witness.

.....
B-156243 Sgt. DesBiens. P.
Le Regiment dela Chaudiere.

E-110088 Cpl. Groleau A. Le Regiment dela Chaudiere having been duly sworn states:

I am E-110088 Cpl. Groleau A. of Le Regiment de la Chaudiere On the 3 Sept. 45 at approx. 0120 hrs Pte Degray L. reported himself at the Guard House of "B" Coy of Le Regiment de laChaudiere.

The accused declines to cross-examine the witness.

.....
E-110088 Cpl. Groleau A.
Le Regiment dela Chaudiere.

The following Absentee Reports were read over to the accused and marked as exhibits.

A.R.	22-8-45.	Exhibit "A"
A.R.	24-8-45.	" "B"
A.R.	27-8-45.	" "C"
A.R.	29-8-45.	" "D"

Desirez vous faire une declaration ou rendre temoignage sous serment vous n'etes pas oblige de dire quoi que ce soit ni de rendre temoignage a moins que vous ne le disiriez, mais tout ce que vous direz et toute deposition que vous ferez sera pris par ecrit et pourra servir de preuve.

No, Sir I have no declaration to make.

Do you want to call any witness on your behalf?

No, Sir.

I certify the the Foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that R.P. 4 CDEF and G have been complied with.

Signed in the Field.
This 7 day of Sept. 45.

.....
E. Ouellet Lieut.
Le Regiment de la Chaudiere.

Request by the accused

I want an officer to represend me at my forecoming F.G.C.M.

Lucien Degray.....
D-651744 Pte Degray L.
Le Regiment de la Chaudiere.

EX B

ARMY FORM B. 296 (W.A.R.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-651744	Pte	DEGRAY Lucien	Le Regiment dela Chaudiere

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers hereto stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL 6 times.

For Sec. 35 R.&I for MDB 39 2 times.

For Sec. 40 3 times.

For ..... times.

Date of first entry in Field Conduct Sheet May 22, 44

Date of last entry in Field Conduct Sheet May 21, 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A

beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody ; and for 6 days in military custody, *i.e.*, nil days in open arrest, 6 days in close arrest ; of which nil days were spent in hospital.

5. The present age of the accused is 20 years

6. The date of his attestation is 25 Feb. 44

7. The service which the accused is allowed to reckon is 1 Year 7 Months.

**State the military decorations (if any) held by accused.

8. The accused is in possession of** CVSM with Clasp

9. ~~X-X-X-

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 7 day Sept. day of 45

L.P. Lambert

L.Pt. Lambert Capt. Adjt.
Le Regiment de la Chaudiere.

EX ~~D.P.~~ C.

No. D-651944 Name DEGRAY LUCIEN | Sqn, Battery, or Company | Corps R.C.C.S. | Date of enlistment 25 FEB 44 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/138 (5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No ONE | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BARRIEFIELD ONT	22 MAY 44	SIGMN		AWL FROM 0600 HRS 22 MAY 44 TO 1515 HRS 22 MAY 44 ABS: 9 HRS 15 MINS. AA 15(1)	CPL MCBEATH SGT HILL	ADMONISHED	22 MAY 44	MAJOR N.E. HANCOCK	FORF. 1 DAYS PAY
BARRIEFIELD ONT	19 JUN 44	SIGMN		AWL FROM 0600 HRS, 19 JUN 44 TILL APPREHENDED BY MIL. AUTH. AT MONTREAL, QUE. AT 0210 HRS, 2 JUL 44, DRESSED IN CIVILIAN CLOTHING. (ABS: 12 DAY, 20 HRS, 10 MINS) (COST OF APPREHENSION: $11.25)	L/CPL CLARK E.L.	14 DAYS C.B. STOPPAGE OF PAY $11.25	5 JUL 44	LT.-COL. W.H. MCMURRAY C.B.E., M.C.	FORFEITS 13 DAYS PAY FRG. 149(1)(A)
BARRIEFIELD ONT	12 JUL 44	SIGMN		AWL WHILST A DEFAULTER, 0730 HRS, 12 JUL 44 TILL APPRO. AT GANANOQUA, ONT. BY CIVILIAN POLICE, 1430 HRS, 12 JUL 44, DRESSED IN CIVILIAN CLOTHES. (ABSENT 7 HRS.) (COST APPRSN. $2.16	CPL. KRAMER N. CONST. F. POTTER MAJOR R.F. ARDRON	165 HRS. DATE STOPPAGES PAY $2.16	14 JUL 44	LT. COL. W.H. MCMURRAY C.B.E., M.C.	FORF. 1 DAYS PAY FRG 149(1)A

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BARRIEFIELD ONT	24 JUL 44	SIGMN		AWL FROM 0800 HRS, 24 JUL 44 UNTIL APPREHENDED AT MONTREAL, QUE. AT 1000 HRS, 25 JUL 44. (ABS: 1 DAY, 4 HRS) (COST OF APPREHENSION: $10.00)	CPL. BROGDEN T.H CAPT. SB. MARTINEAU CAPT. J. SCUTTER	14 DAYS DETN STOPPAGE OF PAY $10.00	28 JUL. 44	LT. COL. A.A. ANDERSON D.S.O.	FORFS 2 DAYS PAY FR.Q1, 149(1)(A)
BARRIEFIELD ONT	31-7-44	SIGMN		SEC. 35 R.Q.1. FOR M.D.B. 1939, S.S. (11)	SGT H.G. HILL	92 HRS. NO. 1. DIET		(E. WATTS) MAJ.	
BARRIEFIELD ONT	9-8-44	PTE		SEC. 35 SS. (15) MDB 1939, R.Q.1.	SGT STEVENSON	92 HRS NO 1 DIET	8-8-44	(E WATTS MAJ.	
BARRIEFIELD ONT	16 AUG 44	SIGMN		(1) CONDUCT TO THE PREJUDICE ... FAILED TO TAKE PROPER CARE OF HIS ARMY ISSUE ANKLE BOOTS. (2) CONDUCT TO THE PREJUDICE ... WAS IN IMPROPER POSSESSION OF AN ARMY ISSUE SHIRT, THE PROPERTY OF ANOTHER SOLDIER	CSM (WO11) HAWSON, R.S. SIGMN. CLOW, F.E. CPL. DILLICK, S. CPL. CHAPMAN R.S.	165 HRS DETN	19 AUG 44	LT. COL. W.H. ~~[illegible]~~ MCMURRAY O.B.E., M.C.	

No. D651944 Name DEGRAY LUCIEN Sqn, Battery, or Company | Corps C.I.C. (C.A.) | Date of enlistment 15 FEB 44 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/128 (5412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No ONE PAGE TWO | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BARRIEFIELD ONT	25 SEP 44	SIGMN		AWL 0600 HRS, 25 SEP 44 TO 0905 HRS. 26 SEP 44 (1 DAY, 1 HRS., 5 MINS)	L/CPL. TAYLOR, E.J.	9 DAYS PAY, 9 DAYS		COL. F.G.	FORF. 2 DAYS PAY
BARRIEFIELD ONT	3 NOV 44	SIGMN		NEGLECTING TO CARRY OUT DUTIES AS NIGHT FIREMAN.	L/CPL. SANGSTER F.G.	CB, FR&I 149(2)	29 SEP 44	MALLOCH H.C.	FR&I 149(1)(A)
TERRACE B.C.	29 NOV. 44	SIGMN		FAILING TO APPEAR AT A PLACE OF PARADE APPOINTED BY HIS COMMANDING OFFICER AA. 15(2)	SGT. BERTIE D	5 DAYS CB	6 NOV. 44	MAJ. JHP HADFIELD	
WOODDALE CAMP IN THE FIELD	9 3/45 21 MAY 45	PTE PTE		AA SEC 40 APPEAR ON PARADE UNSHAVEN AA SEC 15(1) AWL FROM 2359 HRS 18 MAY 45 UNTIL 2130 HRS 20 MAY 45 (ABS: 1 DAY 22 HRS 31 MINS)	CAPT SMART AC L/SGT W BAGGS	28 DAYS DETENTION	6 DEC 44	BRIG. A.R. ROY	
						3 DAYS C.B.	9 MAR 45	MAJ. GENDRON	
					DOCUMENTARY EVIDENCE	9 DAYS [redacted] CB SUM FORF OF 9 DAYS' PAY	21 MAY 45	LT. COL. P. TRIQUET U.C.	FORF 2 DAYS PAY FR&I 149(1)(A) FORF 7 DAYS PAY FR&I 149(2)

Certified true copy
L. P. Lambert Capt adjt

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				On 13 Sept 45, Tried by FGCM					
Field	20 Aug 45	Pte		AA Sec 15 (1) WOAS, AWL, from 0900 hrs 20 Aug 45 until 0120 hrs 3 Sept 45. (AWL: 13 days, 16 Hours, 20 Mins).					
		Findings		Guilty					
		Sentence		awarded 150 days With		(CERTIFIED TRUE COPY) (L.F.LAMBERT) CAPT/ADJT.,			
		Confirmation		Final + last conf by Cmd & C.13					

4S-7

Pte. Deguire L.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-144796 Pte Louis Joseph DEQUIRE - CIC - 4 CITH

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 13 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of ninety (90) days and to be put under stoppages of pay until he has made good £1-4-1 the expenditure occasioned by his absence.

(Sgd) ..... Judge-Advocate, if any. Date awarded. 3 Feb/45 (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~Recommend that the accused be ..... (1) ..... further order.~~

(1. AA 57A. Delete if not used.)

Date 5 Feb/45 (Sgd) N Blackader Brig Comd

Commanding 13 Cdn Inf Trg Bde

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B144796 Pte Dequire LJ	6 Feb 45	(JHE Grenier) Lt-Col., Offr Comd 4 Cdn Inf Dep Bn.
PART II ORDER No 31 d/6 Feb 45		

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AA (S.S. 45-1)

FIELD GENERAL COURT-MARTIAL

(To be used in lieu of AF A43; 40/F & B/16pp (E) 44.)

4/388

Convened by Order of Brigadier K.G. Blackader DSO, MC, ED Comd 13 CITB dated 1 Feb 45

FEB 1945

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-144796 PROCEEDINGS RECEIVED		Louis Joseph	DEQUIRE	CIC 4 CITH

J.H. Fitzgerald Capt. 18 Feb 45

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 3 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to observations or preceding para number herein. See back of Convening Order, CF A45, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1115 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~the Interpreter is sworn.~~(1) Do you object to Pte 26 Sgt AA Sinclair as interpreter? Ans ~~The shorthand writer is sworn.~~(1) as shorthand writer? Ans NO

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans Nil

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, (& MML p 742.))

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. REDMAN	HQ, CRU
Member	CAPT	R.A. SHARPE	26 CITR
Member	Lt	G.A. THIBODEAU	4 CITR
~~Judge Advocate~~			
Prosecutor	Lt	J.R. MATHIEU	4 CITR
Defending Offr	Lt	J.A. LALONDE	4 CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 1 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposite, the evidence, if any, and finding are recorded per Notes. For forms of record see references on fns to RoP cited. Insert in RP name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, advise and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. ~~A~~ F, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereupon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1; 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes on Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. ~~B~~ F and Ex. ~~C~~ G respectively.(3)
(*1. MFB 255 or AFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. I'm not sure (NOTE ATT)(2)
(*1. RP 37(C), 46(D). 2. Address, if oral, recorded per Notes. Court should permit accused or his witnesses to prove on such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 70 previous, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, (19)(A), KR Con 308, 330, 343-346. Overseas RO 309, 2323, RP 48. As to sentences for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 364. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 367. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No B-144796 Private Louis Joseph DEGUIRE, of The Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of The Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, absented himself without leave from 1500 hours on the 12th day of December 1944 until apprehended by the Military Police at 2010 hours on the 21st day of January 1945. Cost of apprehension £1-4-7.

(Total absence 40 days 5 hours 10 minutes)

J. Gavan Power Col
Commanding Officer
4 CDN INF TRG REGT

IN THE FIELD
30 Jan 45.

To be tried by Field General Court Martial.

(K.G. Blackader) Brig
Comd
12 Cdn Inf Trg Bde

In the Field
1 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
R-144796	Pte	Louis Joseph	DEQUIRE	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Feb 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court; (b) a Fd Offr as President, for the reasons I have attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col (Rank.)	D L MacNEIL, VD (Must be named. RP 106.)	HQ CMF (Unit.)

MEMBERS.

Captain	to be detailed by Commanding Officer	2 CIBG
Lieutenant (Rank.)	to be detailed by Commanding Officer (Named or detailed. RP 106.)	4 CIBG (Unit.)

WAITING MEMBER.

Captain (Rank.)	to be detailed by Commanding Officer (Named or detailed, if any. RP 106.)	4 CIBG (Unit.)

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 1 Feb 45

K Blackader (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding (K G Blackader) 1s Cdn Inf Trg Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA26 (1p 2m) (F AFA2) 40-7 & 8-1497 (4693)

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: 814796 Pte
(M.I.E) (M.I.K)
Deguire L.J. of 4C1TR and in my opinion he is
~~fit~~ cas ~~[illegible]~~ to undergo trial by Court Martial.

Station

Date 3 Feb. 45

SGD [signature] Capt
(Medical Offr)

Mitigation Plea re: B 144796 Pte Louis Joseph Deguire, C.I.C.

1- The accused, Pte Louis Joseph Deguire, C.I.C. is 20 years old.

2- He has been in the Canadian Army since the 24th March 43

3- He arrived overseas in May 44 and from June 23rd to Oct 21st has been in action with Le Regiment de la Chaudiere in France, Belgium and Holland.

4- During his stay in action, Pte Deguire did fairly well has always been a reliable man and a good soldier

5- On the 21st of Oct 44, Deguire was wounded in Holland, and then was evacuated later on to an hospital in England

6- In view of the foregoing circumstances and especially due to the fact that his crime sheet was up to now absolutely clean, I would ask the Court to be very lenient towards a man who always had a good record and who is anxious to become once again a useful soldier of the Canadian Army

Andre Lalonde Lieut
For the Defense
3 Feb 45

SUMMARY OF EVIDENCE

In the case of No. B-144796 Private Louis Joseph DEGUIRE, of the Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness for the Prosecution — Capt A.G. Tanguay, of the Cdn Inf Corps, on strength 4 CITR, having duly sworn states as follows:

" I produce the following documents relating to the accused:

(a) A certified true extract from 4 CITR Daily Orders Part II No.22 dated 26 Jan 45, Para 11-B. This is to show the start of AWL. PRODUCED AND MARKED EXHIBIT "A".

(b) Movement Order and pass signed by the Registrar 13 Cdn Gen Hosp. This is to show start of AWL. PRODUCED AND MARKED EXHIBIT "B".

(c) Certificate in accordance with Army Act Section 163 (1)(j.j.) ,certificate of arrest d/22 Jan 45 signed by Garrison Adjutant Gibraltar Barracks Leeds. This is to show end of AWL. PRODUCED AND MARKED EXHIBIT "C".

(d) CMHQ 100:55 Expense Voucher d/25 Jan 45 and signed by Lieut J.A. Thomson Admin Officer D.P.W.'s Br. CMHQ. This is to show cost of apprehension . PRODUCED AND MARKED EXHIBIT "D". "

The accused declines to cross-examine this witness.

.....Capt.
(A.G. Tanguay)

The accused was then cautioned as follows : " Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or to make any statement unless you wish to do so,but whatever you may say or any evidence you may give will be taken down in writing and may be used in Evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence , consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (G),(D),(E)&(F) have been duly complied with.

.....Capt
(G.G. St Pierre)
(Officer Detailed to take the Summary of Evidence)

EXA
MN

Exhibit A

LAST ORDER
NO 21
25 Jan 45

4 CANADIAN INFANTRY TRAINING REGIMENT
DAILY ORDERS PART II
issued by
COLONEL J.GAVAN POWER, E.D., OFFICER COMMANDING

THIS ORDER
NO 22
26 Jan 45

SECTION "B" OTHER RANKS

11. ABSENT WITHOUT LEAVE

11-B A.W.L. from 1800 hrs 12 Dec 44. Still A.W.L. at 1800 hrs 3 Jan 45 (22nd day)

R-144796 Pte Deguire, L.J. (R de Chaud)

Signed R. Leveredure
(R. Leveredure) Captain
for Major i/c Administration
4 CDN INF TRG REGT

Certified true extract (A.G. Senguay) Capt & Adjt (4 CITR.-Officer (Depot Bn) having custody of original.

Dated ... Jan 45.

Do 22 d/2 Jan 45 TB

MOVEMENT ORDER AND PASS

Exhibit "B"

No. B-144796 Rank Pte Name Deguire L. R de Chard

has been granted Seven days Sick Leave & seven days R.L.

wef ~~1300~~ 0900 hrs NOV 28 1944 1500 hrs 12 Dec. 44

Authority DMS/Cir.LETTER/95/44 & DMS MD2

On completion of leave he has been instructed to report to CO 4 CITR. detraining at Milford

Hospital records forwarded to CO 4 CITR.

Hour and date of departure ~~1300~~ 0900 hr. 28 Nov 44

[signature]
Major Registrar
for CO. 13th Cdn. General Hospital, R.C.A.M.C.

Exhibit "C"

CERTIFIED IN ACCORDANCE WITH ARMY ACT SECTION 163 (1)(J.J.)

I certify that No ..B.144796..... Rank ...Pte. Name ..DEGUIRE L.J.....

Unit NO.4 O.I.T.R. CANADIAN ARMY... Was arrested at .....LEEDS.....

On ..21/1/45..... At .2010 hrs..... and at the time of his arrest he was

wearing Military Uniform.

Signature of Provost Marshall ..P.M. or other Officer into whose

custody the a/m person was taken on arrest.

Captain,
Garrison Adjutant,
Gibraltar Barracks, Leeds 2.

22/1/45.

Expense Voucher Re—

Ref: KR & O (Can) 539 Exhibit 7

Reg No B144796 Rank Pte Name Degure, L.J. Unit 4C1TR

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Leeds

Date	Particulars		Amount		
25 Jan 45	Escorts return fare from LONDON To	Leeds		14	3
	Prisoners single fare to LONDON From	Leeds	Oron Wilst		
	Prisoners fare from	to		10	4
	Escorts & Prisoners expenses for Bed, Meals, Bus fares				
		Total £	1	4	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson LIEUT.
J. A. THOMSON,
ADMIN. OFFICER—D.P.M's BR.
C.M.H.Q.
Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

Capt

1/35 CMHQ 100/55 40/P & S/483 (6782)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-144796	Pte	DEGUIRE, L.J.	4 CDN INF TRG REGT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial the summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See case 877, S.R., 1940.

‡ The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

* Within last 12 months. *Since Enlistment.

~~For ..... times ..... times~~

For ..... times ..... times.

For ..... times ..... times.

For ..... times ..... times.

~~For ..... times ..... times.~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

~~2. The accused has not been previously convicted.~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence beginning on the ..... day of .....~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~13~~ ..... days in civil custody, and 13 days in military custody, making a total of 13 days, of which None days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 20 YRS OLD

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 24 Mar 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 262 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 262 days service.

9. The accused is entitled to reckon 1 yr 262 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military awards~~ or is in possession of or entitled to (*state any military decoration or reward*) CVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated ..... and in his regiment (*or corps or department*) the rank of ..... dated .....

[illegible]

Ex B

MJ

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 3-144796 Rank Pte Name DENIRE, L.J. of 4 CITB Regiment (or as the case may be)

(*INSTRUCTION*—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charge upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the disposing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of Jan 45

officer having custody of regtl books.

11. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ... years ...

In the rank of ... years ...

In the rank of ... years ...

MFM 6
(AFB 1222)
40/PAS/136 (3458)

No B-144796 Name DEGUIRE L.J. Sqn, Battery or Company — Corps COMPILED FROM MFM 4 CIC — Date of enlistment — GC Badges N/A — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet N/A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 12 Dec44	Pte			AWL sec 15(1)AWL-40days, 5hrs, 10mins. Doc		90 days Detn	3 Feb 45	DO 31/45	Total ForfPay 143 days Pay Stopp Pay £1-4-7

Certified true copy..... Officer having custody of original

Date 29 Jan 45 (A.G. T. NEILY) Capt
Adjutant,
4 Cdn Inf Dep Bn.

(PTO)

MISCELLANEOUS

In the case of No B-144796, Rank Pte, Name DEGUIRE L.J.
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING REGIMENT, a soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. Capt A.G. Tanguay, of The Cdn Inf Corps, on strength of 4 C.I.T.R.
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENCE

1. NIL, of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

Lieut Chapdelaine

if he is available.

L.J. Deguire Pte

In the Field
30th day of January 1945.

KK-72 (AFRICA)

TPR DEHMEL M.G.

A-22

B60962, Tpr. M.G.Dehmel,
3 Bn., 1 C.B.R.D.,
In the Field.

KK-72

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty ninth day of July, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [illegible]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

[illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

Proceedings Reviewed [illegible] Capt for Chp 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	F. M. Nash, E.D.	1 Bn., 1 C.B.R.D.

Members.

Rank.	Name.	Regiment.
Captain	W. J. Palmer.	1 Bn., 1 C.B.R.D.
Lieut.	J. Guay.	1 Bn., 1 C.B.R.D.

*Signed G. Hedley Basher
Commanding Officer
Commandant, 1 Canadian Base Reinforcement Depot

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-60962 Tpr. M. G. Dehmel 3 Bn., 1 C.B.R.D.	FIRST CHARGE AA Sec 9(2)	Not Guilty	Not Guilty	I confirm the findings and sentence of the Court. G Kenny Basher Colonel Con Base Reinforcement Depot
	SECOND CHARGE AA Sec 10(3)	Not Guilty	Guilty	
	THIRD CHARGE AA Sec 40	not Guilty	Not Guilty	
			To suffer Field Punishment for 28 days And to forfeit 28 days pay 2-8-43.	
	FOR FULL DETAILS OF CHARGES SEE CHARGE SHEET Attached			

* Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ? "
Answer to be recorded (on separate sheet if necessary) :—

(Signed) G Kenny Basher Colonel
Commandant, 1 Con Base Reinforcement Depot
Commanding Officer (e)

(Signed) F.M. Nash Major
1 Bn. 1 C.B.R.D.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the 31st July & 2nd Aug day of July & Aug 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. B. Certificate of proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
3. The Interpreter
*4. The officers under instruction

were duly sworn.

*Omit if not applicable.

Signed this 2nd day of Aug 1943

F.M. Nash Major
President of the Court Martial

*See footnote (f) on page 702 M.M.L. 1920.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. C. Certificate in case of death sentence.

Signed this day of 19

President of the Court Martial

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. D. Confirmation.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*[illegible] that the soldier named in the margin be not committed to prison or detention barracks until further orders.]

Signed this 2nd day of August 1943

G Kenny Basher
Colonel
Confirming Officer
Commandant, 1 Con Base Reinforcement Depot

Promulgated and extracts taken in the case of B60962 Tpr M G DEHMEL

(a) (Dated) 5 Aug 1943 (Signed) A/Lt + Tm Capt. Adjutant
3 Bn 1 Con Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Full.

CHARGE SHEET

The accused, B.60962 Tpr. M.G. DEHMEL, C.A.C., on strength 3 Bn., 1 C.B.R.D., is charged with:

First Charge
Army Act
Sec. 9(2)

WHILE ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER,

in that he,

At Phillipeville, on the 18th July 1943 at about 18.50 hours, when ordered by 7689291, Cpl. F. Golding, C.M.P. to desist from attempting to interfere with members of the Canadian Provost Corps in the execution of their duty, refused to desist and continued to so attempt to interfere.

Second Charge
Army Act
Sec. 10(3).

WHILE ON ACTIVE SERVICE, RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM,

in that he,

At Phillipeville on the 18th July 1943 at about 18.50 hours, when apprehended by Cpl. F. Golding, C.M.P. resisted by struggling.

Third Charge
Army Act
Sec. 40.

WHILE ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

At Phillipeville, on the 18th July 1943 at about 18.50 hours when apprehended by Military Police, was not in possession of his pay book, M.B.M.I Part I.

In the Field

28 July 43

Sgd. Vincent McKenna Lt-Col
(VINCENT McKENNA) Lt.-Col. MC., ED.
Commanding, 3 Bn., 1 C.B.R.D.

To be tried by F.G.C.M.

G. Henry Basher
Colonel
Commandant, 1 Cdn Base Reinforcement Depot

Draft.

CHARGE SHEET

The accused, B.60962 Tpr. M.G. DEHMEL, C.A.C., on strength 3 Bn., 1 C.B.R.D., is charged with:

First Charge
Army Act
Sec. 9(2)

WHILE ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY A SUPERIOR OFFICER,

in that he,

At Phillipeville, on the 18th July 1943 at about 18.50 hours, when ordered by 7689291, Cpl. F. Golding, C.M.P. to desist from attempting to interfere with members of the Canadian Provost Corps in the execution of their duty, refused to desist and continued to so attempt to interfere.

Second Charge
Army Act
Sec. 10(3).

WHILE ON ACTIVE SERVICE, RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM,

in that he,

At Phillipeville on the 18th July 1943 at about 18.50 hours, when apprehended by Cpl. F. Golding, C.M.P. resisted by struggling.

Third Charge
Army Act
Sec. 40.

WHILE ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

At Phillipeville, on the 18th July 1943 at about 18.50 hours when apprehended by Military Police, was not in possession of his pay book, M.B.M.I Part 1.

In the Field

28 July 43

Sgd (VINCENT McKENNA) Lt.-Col. MC., ED.
Commanding, 3 Bn., 1 C.B.R.D.

To be tried by F.G.C.M.

Colonel
Commandant, 1 Can Base Reinforcement Depot

Fld.

MEDICAL OFFICERS CERTIFICATE

K.R. (CAN.) PAR. 557

Tpr. Dehmel M. E. No. B-60962

of B Coy. C.B.R.D. AND IN MY OPINION HE

IS FIT/[redacted] TO UNDERGO TRIAL BY COURT MARTIAL

STATION Field

DATE 2 Aug 43

W. S. Woolner Capt.

MEDICAL OFFICER

Fld.

MEDICAL OFFICERS CERTIFICATE
K.R. (CAN) PAR 557)

Tpr. Dehmel M. B. No. B-60962

B Coy "C.B.R.D" AND IN MY OPINION HE

IS FIT/[redacted] TO UNDERGO TRIAL BY COURT MARTIAL

W. S. Woolner Capt.
MEDICAL OFFICER

STATION Field

DATE 2 Aug 43

fmk.

PAGE 1

Accused B60962 (Number) TPR (Rank) MAX GODFRED (Christian Names) DENNEL (Surname) 3 Bn I C BRD (Unit)

Held in the Field in North Africa (Country) on 31 Jul 43 and 1 Aug 43 (Date)

	Rank	Name	Unit
PRESIDENT:	Major	F.M. NASH	1 Bn I C BRD
MEMBERS:	Capt	W.J. PALMER	1 Bn I C BRD
	Lt	J. GOAY	1 Bn I C BRD

JUDGE ADVOCATE: (If any)

OFFICERS UNDER INSTRUCTION: Lt JOURARD, S. 3 Bn I C BRD; Lt WARDMAN, L 3 Bn I C BRD; Lt PRICE, H.J. " "; ~~Lt KANNERT, R.G.~~ fmk.

PROSECUTING OFFICER: Lt STARR, C.F. 3 Bn I C BRD

Lt D.E. RYAN Lawyer? Ans NO

DEFENDING OFFICER: Lt G.M. TAYLOR Lawyer? Ans NO

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1530 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

fmk ~~President to accused: Do you object to _____ as interpreter? Ans _____~~

fmk ~~The interpreter is duly sworn~~

fmk ~~Do you object to _____ as shorthand writer? _____~~

The shorthand writer is duly sworn. (Forms of Oath on Page 'D'. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No Sir.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D'))

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (A.A.46(8))

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(2), 106); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.67), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge NOT GUILTY

Second Charge NOT GUILTY

Third Charge NOT GUILTY

Fourth Charge _____

Fifth Charge _____

Sixth Charge _____

Seventh Charge _____

Eighth Charge _____

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

pmk

fmk.

PAGE 'C'

(For use when there are pleas of 'Guilty' and 'Not Guilty'

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, in respect to 'Guilty' pleas, by the President ascertaining that accused understands the nature of the charge(s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P.37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence? (R.P.39(A). Ans No

3. The Prosecutor's opening address (if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See Record of Evidence on Page [illegible])

4. The Prosecution is closed. (If submission that no prima facie case established, see R.P. 40 fn 1; R.P. 70 fn 1)

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination. (R.P.40, fn 2) or that he may, if he wishes make an unsworn statement upon which he can not be cross-examined. (R.P. 40(b)(ii)(a))

6. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans Yes
Q. Do you intend to call any other witness in your defence? Ans yes
Q. Is he a witness as to character only? (R.P. 40(b) Ans No

7. The evidence for the defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

fmk. (For further proceedings see page Attached.)

8. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses, see Rs P.40, 41 and 42)

9. The Court is now closed to consider the finding. (Rs P 43 and 117) (Record Finding on Page 2 of A.F.C.3)

10. The Court being re-opened, the accused is again brought before it and the findings of 'Not Guilty' (if any) are pronounced. (R.P.117(B))

11. The charges, to which the accused pleaded 'Guilty' are read to the accused.

~~12. President to accused:~~
Q. Do you desire to make any statement in reference to the charge(s) to which you have pleaded 'Guilty'? (R.P.37(B) Ans _____

fmk (Statement (if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

13. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings. R.P.37(B).

fmk - See page 9 attached

PAGE 'C' CONTINUED

14. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C)) Ans No
No cross-examination.
(Statement (if any) is recorded on separate sheet, initialled by the President and attached hereto)

15. President to accused:
Q. Do you wish to give evidence yourself or call witnesses as to character? (R.P.37(C)) Ans No

16. Statement of Character and Service (A.F.S.296) and Field Conduct Sheet (R.F.M.6), signed in the manner required by A.A.163(i)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "F", and "G", initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.3132)

17. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P.46(D)).
Ans No. Sir No Cross-examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto)

18. The Court is now closed to consider the sentence. (Record on Page 2 of A.F.A.3)

(Punishments, A.A.44; K.R.(Can)563-566; one sentence only awarded, R.P.46. Sentence should be dated)

The sentence is not announced to the accused by the Court.

F. M. Nash Major
(Signature of President)

(1)

Evidence for Prosecution

Finch

First Witness

No 7689291 Cpl T. Golding 230 L of C Provost Coy, being sworn states

Examined by Prosecuting officer:

On July 18, 1943 I was on duty in Rue Galbois. I saw the accused whom I identify. At about 1850 hrs on July 18, I was on duty in Rue Galbois accompanied by L/Cpl Roberts when I saw the accused with a friend who was being questioned by a L/Cpls of the Cdn Provost Corps. The questioning turned out to be heated during which the accused insisted on butting in and interfering with the L/Cpls in their duty. I approached him and ordered him to leave for the purpose of dispersing the crowd and to stop the interference with the L/Cpl. This he refused to do, I repeated the order which was also refused. I arrested him and a slight scuffle developed. L/Cpl Roberts then assisted me in getting the accused into the police truck in which he was conveyed to the guard room where he was placed under close arrest. The interference by the accused of the questioning of his friend consisted of the accused pushing his way in and interfering with the L/Cpls and making their job very difficult. I requested him to leave the L/Cpls to their duty. I should say the accused had been drinking, he was rather talkative. The accused neither offered to come quietly and he resisted. He made no attempt at striking just evasive action.

Cross examined by Defending officer

I do not recognize the accused as the one who was causing the disturbance. The accused was not talking but was butting in. There was more or less of a circle and the accused kept butting in. The Cdn Provost took nobody in arrest while I was there. The street was crowded. The incident occurred outside a brothel. The brothel was out of dounds but not the street. The crowd was mixed both Arabs and others but in this particular crowd there were only soldiers. I couldn't say just what happened in the scuffle but I had the accused by the arm.

RP 83B complied with.

Second Witness

No 6024418 L/Cpl Roberts J. 230 L of C Provost Coy, being duly sworn states.

Examined by Prosecuting officer:

At 1850 hours on 18 Jul 43 I was in Rue Galbois. I may recognize the accused as having been there at that time. When I saw him

FORM TO BE USED IN APPOINTING A PROXY TO VOTE AT PROVINCIAL ELECTION

THE ACTIVE SERVICE ELECTION ACT, 1942

FORM 30

(Section 27)

I, ... , of the ..... of .....
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in the County of ..... in the Province of Ontario, being a member of the Naval Forces, Military Forces or Air Forces of Canada, with a right to vote at elections to the Legislative Assembly of the Province of Ontario in the Municipality of .....

in the Electoral District of ..... in the Province of Ontario, hereby nominate and appoint ..... of ..... in the County of ..... , occupation ..... , as my true and lawful attorney for me and in my name to vote at the first next ensuing election to the said Assembly. And I hereby certify that I am a British Subject and entitled to vote at such election.

In witness whereof I have hereunto set my hand this ..... day of ..... , 19 .

WITNESS

.....

.....
(SIGNATURE)

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CERTIFICATE OF REVISING OFFICER

(Section 30)

I, ... , the Revising Officer duly appointed under The Voters' Lists Act for the purpose of revising the Voters' List to be used at the election now pending for the Electoral District of ..... , do hereby certify that ..... , a voter entered on the Voters' List and having the right to vote at the pending election in the Municipality of ..... in the Electoral District of ..... , duly appeared before me at my sittings for the revision of the Lists for the Municipality of ..... , and that upon the evidence there tendered by him (or on his behalf) I find that ..... , named in this appointment as an Extra-Provincial Active Service Voter, is duly qualified to vote at the said pending election, and that the said ..... is a person duly qualified to act as Proxy for the said Extra-Provincial Active Service Voter and to vote on his behalf at the said election.

Dated this ..... day of ..... , 19 .

.....
(REVISING OFFICER)

Smk

he was interfering with 2 L/Cpls of the Cdn Provost Corps who were questioning a Cdn soldier. The interfering consisted of the accused interrupting and passing remarks. I was present when accused was approached by Cpl Golding. Cpl Golding ordered him to go away and he refused. The order was given at least twice and the accused refused both times. Cpl Golding ordered him into the truck and he refused to get in and therefore had to be put in after a struggle lasting quite a few minutes. I would say the accused was sober at the time. He was quite spirited.

Cross Examined by the Defending officer

I recognize the accused as the one ~~that~~ was causing the disturbance. I dont know whether the Cdn Provost had one of ~~the~~ the accused's friends under arrest there. I said the Provost were questioning the Cdn soldiers. I did not hear the Cdn Provost order the accused to leave. I dont know what lack Cpl Golding used but we both had his arms.

Re examined by the Prosecuting officer

The Cdn provost might have ordered the accused to leave out of my hearing.

Questioned by the Court

I dont remember any particular passages that the accused said to the Cdn Provost but he was definitely talking.

R P 83 B complied with.

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Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

③ Fyall

Evidence for Defence

First Witness

No B60962 Tpr Dehmel, M. G., 2 Dn 1 CBRD having been sworn states.

Examined by Defending officer.

At 1830 hrs on Sunday 18 Jul 43 I was in Philipperville with some of my other friends who were standing up against the wall of a building. A Cdn Provost came up to one of the lads that I was with and they had a conversation. He took him to the centre of the road. They were about to leave with Tpr Huggins and I turned around to one of the lads I was with a far us to go up & see what was the matter. We asked the Cdn Provost what the matter was on the Provost said something but I cant remember what. I asked the Cdn Provost to release Tpr Huggins who was under arrest because he was drunk. I told the Cdn Provosts that he had been drinking but he wasn't quite drunk. The Cdn Provosts said to me that if I would take him out of the district and back to camp that they would let him go. We took Tpr Huggins and were about to start away when someone struck me from behind and put a bar more lock on my arm. I went to turn around to see who it was and someone else grabbed my other arm. There was a little struggle. One of the English provosts was present when I was talking to the Cdn provosts

Cross examined by the Prosecuting officer

I don't know what the tone of the conversation was when the Cdn Provost had my friend. I was speaking to the Cdn Provost about 1 minute before they gave me custody of Tpr Huggins. We were both doing the talking i.e. Tpr Huggins and I. Cpl Golding and L/Cpl Roberts were there all the time. Cpl Golding did not order me to leave the area. He never said anything to me prior to my arrest. I didn't know who was seizing me from behind. ~~Cpl Golding~~ I ~~could~~ ~~it~~ ~~say~~ when Cpl Golding and L/Cpl Roberts were standing. I didn't see them when I was talking to the Cdn Provost as they were behind me. There was a lot of noise there and I didn't hear Cpl Golding or L/Cpl Roberts order me to leave. The first word I heard from them was when I was on the truck. ~~I had~~ I didn't been drinking just before this occurred but I had some liquor since 1500 hrs. The truck was about 10 feet from where the English Provosts seized me. To my knowledge they didn't say ~~my~~ anything till I was on the truck.

Questioned by the Court

I noticed the English Provosts at the start but

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in the Electoral District of _____ in the Province of Ontario, hereby nominate and appoint _____ of _____ in the County of _____, occupation _____, as my true and lawful attorney for me and in my name to vote at the first next ensuing election to the said Assembly. And I hereby certify that I am a British Subject and entitled to vote at such election.

In witness whereof I have hereunto set my hand this _____ day of _____, 19 .

WITNESS

_____ _____
(SIGNATURE)

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_____
(REVISING OFFICER)

I didn't see them when I was talking to the Cdn Provosts. I couldn't say whether it was then that grabbed my arm first or not. Fresh

RP 83 (B) complied with.

Second Witness

No. B61258 Tpr Huggins, W.O. 3 Bn 1 CBAD having been sworn states.

Examined by Defending officer

On 18 Jul 43 four of us, counting myself there were five, went to a pub & drank quite a lot. We went from the pub up a side street and I was causing a little disturbance there and then the Provosts took me and put me under arrest for causing a disturbance. Then the accused and Tpr McCankey came up to the Cdn Provosts and asked them to turn me loose. And the Cdn Provosts turned me loose provided the boys took me back to camp; and as walking down the road someone struck the accused from behind and he swung around not knowing who it was; and after striking him found out it was an English Provost Cpl. The English Provosts then threw him in the back of a truck. I saw no more of the accused till next morning.

Cross Examined by Prosecuting officer

The accused was sober at the time. I was feeling good but wasn't drunk. The Cdn Provost had me about 5 minutes before they turned me over to the accused. The accused was right across from me all the time. Less than 5 feet. The Cdn Provost were talking to me during this 5 minute. I saw the British Provosts then. They were there all the time I was under arrest. The English Provosts were standing behind the accused and the other fellow and they were all facing me. When I was talking to the Cdn Provost the accused was not talking to them. He was standing with a couple of others about 4 feet away. The accused talked the Cdn Provost into letting me go. The accused came up after the Cdn Provost were talking to me. I didn't hear Cpl Golding say anything to the accused. I saw one of the English Provosts - a full Cpl whom I have seen here to-day - strike the accused on the back of the neck with his foot. Before that Cpl Golding and the accused had not been talking. The accused swung around and hit the Cpl with his elbow. The two Provosts had the accused arms behind him & took him to the truck and threw him in. I don't know if the English Provost said anything to the accused before they put him in the truck, except that they said "We are putting you in the truck."

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In witness whereof I have hereunto set my hand this _____ day of _____, 19 .

WITNESS

_____ } _____
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Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

Trail

It took only a few seconds to put the accused in the trunk.

Questioned by the Court

The Cdn Police arrested me at that time. I dont know why the Cdn Police didn't stop the English Provost from taking the accused.

R P 83 B complied with

Third Witness
No. B103 Tpr McConkey, W. R. 3 Bn 1 C B R D being duly sworn states

Examined by Defending office

On 18 July 47 at approximately 1830 hrs the accused Tpr Huggins and 4 others were in Philippeville and Tpr Huggins had had a few drinks and was causing a little disturbance. The Cdn Provost then came up and started talking to Tpr Huggins. They asked him what it was all about, he was a little drunk, so then the accused and my self came on and asked the Cdn Provost would he let Tpr Huggins go if the accused and I took him out of town. The Cdn Provost talked to us for a while there and finally decided they would let him go. So they gave Tpr Huggins to the accused and me and we started down the street when a full Cpl put an arm lock on the accused from behind. The accused then swung around and seeing it was the Provosts that were swinging at him put his hands up to protect himself. The Provosts then put the accused in the trunk on his back and drove him away

Cross Examined by Persecuting office

The accused wasn't under the influence of liquor at the time. He had one drink since 1500 hrs. The Cdn Provosts had Tpr Huggins about 10 minute before they turned him over to us. Tpr Huggins was talking most of the time, the accused and I were standing by the side of the road. The accused talked the Provost into letting Tpr Huggins go. I dont know how long the accused spoke to the Cdn Provost. He was from the centre of the street to the sidewalk away from the Provost. I saw Cpl Gelding & Cpl Roberts. They were there most of the time. They didn't say anything to the accused or my self before they arrested the accused as far as I can remember. I dont know ~~whether~~ how far the British Provost were away. They were more than 10 feet away. Tpr Huggins was in the accused and my custody before the arrest of the accused.

I saw the English Cpl grab the accused I cant say whether he struck him. When the accused swung around he struggled

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Dated this _____ day of _____, 19____.

_____
(REVISING OFFICER)

(6)

with the Provost. If he hit him with anything it was with his arm. I never heard the British Provost say anything to the accused.

R P 83(B) complied with.

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Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

fmd.

(7)

Evidence called by the Court pursuant to Rule 86(D)

First Witness. A56042 L/Cpl Forsyth, S. 2 L of C Pro Sec having been duly sworn states:

Examined by the Court.

At about 2015 hrs I saw the accused fighting with the British MPs. That was the first time I saw the accused that night. I helped the British MPs put him into the truck. That was the last time I saw him. At no time that night did the accused persuade me to release a man I was arresting for drunkeness. The accused at the time he was arrested was interfering with the carrying out of our duties. He was battling with the British MPs to prevent our arresting of his friend. I didn't hear ~~the~~ any command given to the accused by the British MPs.

RP 83(B) complied with

Second Witness G48711 L/Cpl Elsliger, G. 2 L of C Pro Sec having been sworn states

Examined by the Court.

On 18 July 43 I was on duty in Philippeville. As a result of what the British MPs told me I spoke to the chum of the accused. I told this chum to keep his arm band off as he wasn't on duty. The British MPs then came up and said he was wearing an arm band but he said he wasn't. Then the fight started and the accused who was there all the time asked me if he could take his chum away. I said to the accused, "Yes ~~that~~ he could take him away. The chum then said he wouldn't go for nobody so I put the chum under close arrest. I don't remember the name of the chum. After I put him under arrest I didn't see any more of the accused. The accused did not at any time interfere with the carrying out of my duties. He simply asked me if he could take his chum away and I said yes. I can't give any details as to the arrest of the accused. I was putting the chum of the accused in the truck when the accused was being arrested. When I turned around there ~~[illegible]~~ was a free-for-all with the British MPs, so we went to help the British MPs and the guy we arrested got away. When we went up to the British MPs they had the accused under arrest. The only thing I heard the British MPs say to the accused was "Get into the truck you are under arrest". When the British MPs were trying to put the accused into the truck he was struggling. L/Cpl Forsyth helped me put the chum of the accused into the truck. This was before the accused was arrested. ~~[illegible]~~ right a bunch of the accused's chums came to our

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And I hereby certify that I am a British Subject and entitled to vote at such election.

In witness whereof I have hereunto set my hand this _____ day of _____, 19 .

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Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

(8)

station and asked for the accused. I told the the accused was under arrest in the British MP's guard room.
RPS 3(B) complied with.

fmk

fmk.

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Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

The Court being satisfied from the Summary of Evidence that the accused did not understand the effect of his plea of "Guilty" the Court entered a plea of "Not Guilty".

No evidence being adduced in regard to the third charge the finding of "Not Guilty" was pronounced.

Found.

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CERTIFICATE OF REVISING OFFICER

(Section 30)

I, _____, the Revising Officer duly appointed under The Voters' Lists Act for the purpose of revising the Voters' List to be used at the election now pending for the Electoral District of _____, do hereby certify that _____, a voter entered on the Voters' List and having the right to vote at the pending election in the Municipality of _____ in the Electoral District of _____, duly appeared before me at my sittings for the revision of the Lists for the Municipality of _____, and that upon the evidence there tendered by him (or on his behalf) I find that _____ named in this appointment as an Extra-Provincial Active Service Voter, is duly qualified to vote at the said pending election, and that the said _____ is a person duly qualified to act as Proxy for the said Extra-Provincial Active Service Voter and to vote on his behalf at the said election.

Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

[illegible] Address by Defending Officer

The evidence given for the accused as to distance times and when different personnel were standing was more or less conflicting. I would like to point out that if you line up a number of types you will always get a conflicting answer as to distances and times. In first charge it states accused was attempting to interfere with members of the Cdn Provost Corps. Evidence was produced that the Cdn Pro Corps were cooperating with these types. Cpl Goldberg decided to use the power of his entire stripe to overcome a Cdn Provost. In the second charge it states that the accused struggled. I would point out that when a person has a hammer lock on you arm you are bound to struggle. I therefore ask the Court to dismiss the two charges against the accused on the grounds that the prosecution has failed to produce evidence to back up these charges.

FORM TO BE USED IN APPOINTING A PROXY TO VOTE AT PROVINCIAL ELECTION

THE ACTIVE SERVICE ELECTION ACT, 1942

FORM 30

(Section 27)

I, _____, of the _____ of _____
(HOME MUNICIPALITY)
in the County of _____ in the Province of Ontario, being a member of the Naval Forces, Military Forces or Air Forces of Canada, with a right to vote at elections to the Legislative Assembly of the Province of Ontario in the Municipality of _____ in the Electoral District of _____ in the Province of Ontario, hereby nominate and appoint _____ of _____ in the County of _____, occupation _____, as my true and lawful attorney for me and in my name to vote at the first next ensuing election to the said Assembly. And I hereby certify that I am a British Subject and entitled to vote at such election.

In witness whereof I have hereunto set my hand this _____ day of _____, 19____.

WITNESS

_____ } _____
(SIGNATURE)

NOTE.—The appointment of a proxy is restricted to members of the Naval, Military or Air Forces of Canada who at the time of any election are on Active Service outside the Province of Ontario.

CERTIFICATE OF REVISING OFFICER

(Section 30)

I, _____, the Revising Officer duly appointed under The Voters' Lists Act for the purpose of revising the Voters' List to be used at the election now pending for the Electoral District of _____, do hereby certify that _____, a voter entered on the Voters' List and having the right to vote at the pending election in the Municipality of _____ in the Electoral District of _____, duly appeared before me at my sittings for the revision of the Lists for the Municipality of _____, and that upon the evidence there tendered by him (or on his behalf) I find that _____, named in this appointment as an Extra-Provincial Active Service Voter, is duly qualified to vote at the said pending election, and that the said _____ is a person duly qualified to act as Proxy for the said Extra-Provincial Active Service Voter and to vote on his behalf at the said election.

Dated this _____ day of _____, 19____.

_____
(REVISING OFFICER)

Closing Address by Prosecuting office

It appears quite evident by the evidence that the accused did disobey a lawful command given by a superior office. Evidence for the prosecution shows that the accused being admittedly sober must have heard and understood the order of Gnl Golding to desist from interfering with the Cdn Pro Corps. The evidence shows that the order was given to him twice and he refused to obey. The charge is not in creating a disturbance but that the accused did commit a crime under Sec 9(2) A.A. Also evidence submitted by prosecution and cross examination of the Defence witnesses shows that the accused did resist the British Provost when they were apprehending him.

FORM TO BE USED IN APPOINTING A PROXY TO VOTE AT PROVINCIAL ELECTION

THE ACTIVE SERVICE ELECTION ACT, 1942

FORM 30

(Section 27)

I, _____, of the _____ of _____
(HOME MUNICIPALITY)
in the County of _____ in the Province of Ontario, being a member of the Naval Forces, Military Forces or Air Forces of Canada, with a right to vote at elections to the Legislative Assembly of the Province of Ontario in the Municipality of _____ in the Electoral District of _____ in the Province of Ontario, hereby nominate and appoint _____ of _____ in the County of _____, occupation _____, as my true and lawful attorney for me and in my name to vote at the first next ensuing election to the said Assembly. And I hereby certify that I am a British Subject and entitled to vote at such election.

In witness whereof I have hereunto set my hand this _____ day of _____, 19 .

WITNESS

_____ _____
(SIGNATURE)

NOTE.—The appointment of a proxy is restricted to members of the Naval, Military or Air Forces of Canada who at the time of any election are on Active Service outside the Province of Ontario.

CERTIFICATE OF REVISING OFFICER

(Section 30)

I, _____, the Revising Officer duly appointed under The Voters' Lists Act for the purpose of revising the Voters' List to be used at the election now pending for the Electoral District of _____, do hereby certify that _____, a voter entered on the Voters' List and having the right to vote at the pending election in the Municipality of _____ in the Electoral District of _____, duly appeared before me at my sittings for the revision of the Lists for the Municipality of _____, and that upon the evidence there tendered by him (or on his behalf) I find that _____, named in this appointment as an Extra-Provincial Active Service Voter, is duly qualified to vote at the said pending election, and that the said _____ is a person duly qualified to act as Proxy for the said Extra-Provincial Active Service Voter and to vote on his behalf at the said election.

Dated this _____ day of _____, 19 .

_____
(REVISING OFFICER)

Draft.

SUMMARY OF EVIDENCE in the case of B60962 Trooper M.G. Dehmel, a reinforcement on the strength of No. 1 C.B.R.D., 3 Bn., "B" Sub Unit.

By direction of the Commanding Officer the evidence is taken on oath.

Lieut. D.E. Ross, No. 1 C.B.R.D., 3 Bn. is detailed to take the Summary of Evidence.

1st WITNESS FOR THE PROSECUTION

7689291 Cpl. F. Golding, 230 L.of C. Provost Coy, Philippeville, having been duly sworn, states:

"At about 1850 hours the 18th July 1943, I was on duty in Rue Galbois in Philippeville, accompanied by L/Cpl Roberts, where I saw B60962 Tpr. Dehmel, M.G. He was with a friend of his who was having an argument with two L/Cpls of the Canadian Provost Corps. He was interfering and a large crowd was present. I ordered him to leave for the purpose of getting the crowd away. This he refused to do. I again ordered him to leave and not to interfere with the M.P.s in their duty. He again refused. I arrested him with difficulty and conveyed him to the guard room where I handed him over to the N.C.O. in charge to be detained

Sgd... F. Golding Cpl. .....

The Accused declined to cross-examine the witness.

2nd WITNESS FOR THE PROSECUTION

6024418 L/Cpl. J.Roberts, 230 L.of C. Provost Coy., Philippeville, having been duly sworn, states:

"At Philippeville on the 18th July 1943, at about 1850 hours, I was on duty in the Rue Galbois accompanied by Cpl. Golding. Cpl Golding & two L/Cpls. of the Canadian Provost Corps were questioning a Canadian soldier. Tpr. Dehmel, the accused, repeatedly interfered with this questioning by passing remarks. Cpl. Golding ordered the accused to proceed on his way. He refused and was arrested. He violently resisted arrest. Finally the accused was conveyed to the C.M.P. guard room, Philippeville, where he was detained to await an escort.

Sgd... J. Roberts L/Cpl. .....

The Accused declined to cross-examine the witness.

The officer taking the summary thereupon warned accused as follows:

"Do you wish to make any statement or give evidence under oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused declined to make a statement.

I certify that the forgoing Summary of Evidence was taken down by me in the presence and hearing of the accused and that Rules of Proceedure 4(C)(D)(E) & (F) have been complied with.

Sgd.. D.E.Ross Lt. .....
(D.E.Ross) Lieut.
#1 C.B.R.D.,3 Bn., "B" Sub Unit.
Officer taking Summary.

In the Field
17 July 1943

G. (New sheet created 16 April 43 (Auth. Cdn.Sec.G.H.Q. 2nd Sch Circular letter 112 d/26 Oct 42)

M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

No. B60962 Name Dehmel, Max Godfred. Sqn., Battery, or Company — Corps C.A.C. Date of enlistment 21 Sept 39 G.C. Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk — Period not rocking towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunken-ness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Oshawa, Can	19 May 40	Pte.		A.A.sec 15(1),W.O.A.S.,A.W.L. from 0030 hrs 19 May 40 to 1015 hrs 19 May 40. Absent 9hrs 15 Min.	L/Cpl.S.T. Lawrence Pte.Parso.	72 hrs Detn. Forf.3 dys pay FR&I 149(1)b	21 May 40	H.R.Schell	Forf. 1 d pay FR&I 149 (1) a
Camp Borden Canada	30 June 40	Pte.		A.A.Sec 15 (1) W.O.A.S. A.W.L. from 0950 hrs 30 June 40 to 1100 hrs 30 June 40.Absent 1 hr 10 min.	Sgt.Sheriff C.S.M.Crawford	7 dys C.B.		H.R.Schell	Forf. 1 dy pay FR&I 149 (1)a
Camp Borden Canada	5 Jul 40	Pte.		A.A.Sec 40, Conduct to etc. an improper reply to an N.C.O.	Making Sgt.Reid,H. Cpl.Mosier	28 dys Detn. Forf 28 dys pay FR&I 149 (1)b	6 Jul 40	A.N.Scott Lt-Col.	

(R.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden Canada	29 Jan 41	Pte.		Pte. A.A. Sec 15(2), W.O.A.S. A.W.L. from Duty Watch Parade at 0815 29 Jan 41.	C.S.M. W. LeBlanc	7 dys C.B.	29 Jan 41	Capt.A.N. Childs.	
Camp Borden Canada	10 Mar 41	Pte.		A.A. Sec 15(2) W.O.A.S. A.W.L. from a place of parade at 1330 hrs	S/Sgt McMillan Sgt.Herman	4 dys C.B.	24 Mar 41	Capt.A.N. Childs	Forf.1 dys pay FRAI 149 (1) a
Field	31 Mar 42	A/L/Cpl		A.A. Sec 40 W.O.A.S. Conduct to the etc. attempted to obtain extra rations.	Cpl. Beaton Tpr. Neil	Demoted to P.C. (Tpr.)	2 Apr 42	P.H. Cox Lt-Col.	
Field	3 June 42	Tpr.		A.A.Sec 11 W.O.A.S. Gambling.	S.S.M.Murray Sgt. George	168 hrs Detn. Forf. 7 dys pay FRAI 149 149 (1)b	4 June 42	G.W.Little Col.	

G

M.F.M. 6
(A.F. B.122)
40/P & /8138 (2968)

No. B60962 Name Dehmel, Max Godfrey | Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 21 Sept 39 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Jun 42	Tpr.		A.A.Sec 40, W.O.A.S. Conduct to the etc. Improper possession of Government property namely one kitchen knife.	Sgt.Clarke Cpl Beaton.	14 dys Detn. 14 dys forf.of pay FRAI 149 (1) b		O.W.Little Col.	
Field	14 Oct 42	Tpr.		A.A. Sec 11, W.O.A.S. Neglecting to obey "I" Wing Order No.96 para 494 d/12 Sept 42. Demanded a meal in "A" Mess while dressed in Overalls	Documentary Cpl.Shone Tpr.Moran,R.P.	7 dys C.B.	17 Oct 42	Lt.Col A.S.W. Willis	
Field	13 May 43	Tpr.		A.A. Sec 40 W.O.A.S. Conduct to the Prejudice,Etc. was in possession of government tools not issued to him	S/Sgt.Ferguson T/QMS Whitney Sgt.Carr Cpl. Jordan	28 d Detn.	14 May 43	O.W.Little Col.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Jul 43	Tpr.		A.A.40 Conduct to the prejudice of Good Order & Military Discipline appearing on supper parade at 1730 hrs 14 Jul 43 improperly dressed.	Lieut. J.D. Segsworth	3 days C.B.	15 Jul 43	G.B.Mutrie Capt.	

Certified true copy from Regimental Books in my custody

sgd. G.B. Mutrie Capt
3 Fd Regt RCA

"F"

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 60962	Trooper	Max Dehmel	3 Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ ~~Regimental and Squadron, Battery~~ ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months			Since enlistment or appointment		
For	A.A. Sec 11	1	times	A.A.Sec 15(1)	12	times
For	A.A. Sec 40	2	times	A.A.Sec 15(2)	2	times
For			times	A.A.Sec 40	5	times
For			times	A.A.Sec 11	2	times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards ~~under~~ Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule ~~annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 3 days in ~~Air Force~~ military custody, making a total of 3 days in custody, of which 3 days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 27 yrs 9 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 21 Sept 1939

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 10 mos.

8. The accused is entitled to reckon 3yr10mo. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force ~~reward (or is in~~ military ~~military~~ possession of or entitled to). State any air force decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the~~ Air Force regimental rank of

Certified True Copy
A.J. McQueen Capt Adj
3 Bn 1CBRD.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit

Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24th day of July 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

MM-23 (case #2)
PTE DEION F.
See S-144 for tot. case

MM-23

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Sixth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in A/ Command of 5 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~ *

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* ~~I am unable to appoint~~ —

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

~~for the following reasons, namely:—~~

*Omit if not applicable.

D/ Kindly Sign X

W M W Shaw Capt "X" Archambault Mgr

117

CAPT W M W SHAW, ADJA, 2 CDN DIV IS HEREBY APPOINTED JUDGE ADVOCATE.

President.

Rank.	Name.	Regiment.
Major	M. Archambault	R de Mais

Members.

Rank.	Name.	Regiment.
Captain	E. A. Ballantyne	H.Q. 5 Cdn Inf Bde
Lieut	R. E. Fraser	H.Q. 5 Cdn Inf Bde

WAITING MEMBER

Lieut or Capt To be detailled by O. C. Calg. Highrs.

*Signed D.G. (D.G. ~~[illegible]~~) MacLauchlan

A/ Commanding 5 Cdn Inf Bde.

Convening Officer.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-52588 Pte Deion J. Calg. Highrs	Section 15(1) AA Absenting himself without leave (see Charge Sheet att.)	guilty	guilty	
	Section 24 AA Losing by neglect clothing, equipment and regimental necessaries (see Charge Sheet att.)	guilty	guilty To undergo detention for 180 days and to be put under stoppages of pay in the sum of £ 7-11-0 3/4 to make good costs of return and deficiencies of kit 6 Aug 43 M Archambault Maj	I confirm D.G. MacLauchlan Lieut-Col 6 Aug 43.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) D.G. MacLauchlan Lieut-Col. (Signed) M Archambault Maj
(D.G. MacLauchlan) (M. Archambault) Maj.
A/ Commanding 5 Cdn Inf Bde. R de Mais
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable

1. The members of the Court
2. The witnesses
*~~3. The Interpreter~~) NR
*~~4. The officers under instruction~~) NR

were duly sworn.

Signed this 6 day of Aug 1943.

W Mills Shaw Capt
M Archambault Majr
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (i) on page 782 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ M

Signed this Sixth day of August 1943.
D.G. MacLauchlan
Confirming Officer Lieut-Col

Promulgated and extracts taken in the case of M52588 Pte DEION F.

(a) (Dated) August 6th 43 (Signed) [illegible] Lieut A/Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

K52588 Pte Frederick Deion, The Calgary Highlanders, CA(O), soldier of the Canadian Army , In the Field, is charged with

FIRST CHARGE
Sec 15(1)
Army Act

Absenting himself without leave ,
in that he
in the field, did absent himself without leave from 2300 hrs, 27th June 43 until apprehended by Cdn Provost Corps, at 0300 hrs, 3rd August 43, AT Edinburgh.
Time Absent 36 days 4 hours
Expenses incurred in returning accused £3-3-8

SECOND CHARGE
Sec 24(2)
Army Act

Losing by neglect his Regt'l Necessaries,
in that he,
in the field, on 5th August 43 , was found to be deficient kit to the depreciated value of £4-7-4¾ as follows;

		Inventory Price			Depreciated Value		
Anklets Web prs	1	-	3	5½	-	2	6½
Blouse B.D.	1	1	7	10	1	0	6½
Trousers B.D.	1	1	8	4½	1	0	7½
Bonnets Tam O	1		4	2		3	1½
Ankle Boots prs	1	1	1	6		16	0
Vests Woolen	1		2	7½		2	0
Shirts Drab	1		9	2		6	10
Socks prs	1		1	8		1	3
Badges Cap	1			8			6
Braces prs	1		1	3½			10½
Dressings F.F.	1		1	1			9
Towels Hand	1			11½			9
Helmets Steel	1		10	0½		7	6
Nets Cam	1			3			2½
Knife Clasp	1		5	2½		3	11
TOTAL		5	18	3½	TOTAL 4	7	4¾

[signature] Major
A/O.C. The Calg Highrs. CA(O)

In the Field

TO BE TRIED BY F.G.C.M.
D.G. Machanehlan Lt Col
A/COMD 5 CDN INF BDE

B2

STA ELEMENT OF AC USED

I, K52588 Pte Deion, F., The Calgary Highlanders, CA(O), a soldier of the Canadian Army in the Field, do desire the services of an officer to defend me at my trial by Field General Court Martial.

Should Major B McKenzie be available I should like to avail myself of his services as Defending Officer.

F Deion

Witness R B Cran Capt

Dated in the Field
8 Aug 43.

THE CALGARY HIGHLANDERS C.A.(O).

MEDICAL CERTIFICATE.

I certify that I have this morning examined No. K52588 Pt

Dwan F. of Calgary Highlanders and in my opinion he is Fit ~~Unfit~~ to undergo trial by Court Martial.

Station In the field.

Date. 6 Aug. 42.

J. D. Cassel, Capt.
Medical Officer.

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field Gen Court-Martial held at In the field
on the 6 day of Aug 1943 by order of
Lt Col D G Machauchlan
T/ Commanding 5 Cdn Inf Bde
dated the 6 day of Aug 1943

President.

Major M Archambault, R de Mais

Members.

Capt E A Ballantyne, HQ 5 Cdn Inf Bde
Lt R E Fraser, HQ 5 Cdn Inf Bde

Capt W M W Shaw, ADJA, 2 Cdn Div
, Judge Advocate.

Trial of* 1K52588 Pte Frederick Deion, Calg Highrs

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

WITNESS ~~(or abstract)~~ ~~is not available~~

WITNESS ~~The Court satisfy themselves that~~ ~~are owing to~~

WITNESS ~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt E W B O'Meara, Calg Highrs

WITNESS ~~assisted~~ defending officer† Major B Mackenzie, Calg Highrs

At 1120 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 18 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Question to be asked.

Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

Guilty

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Question.

Answer.

The accused having pleaded Guilty to both charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded.

WMWS *~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused K52588 Pte Frederick Deion is found guilty of both charges

WMWS †The summary (~~or abstract~~) of evidence is read, marked "G" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:— I went awh because before I arrived at Calg Highrs I went to orderly room in Holding unit & told them I ~~[to hand in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

WMWS did not wish to go to any unit. I went to the Col. & he put me in the clink & I was brought to the unit where I was held for 2 days until released by the orderly offr after he released me I took off. I wanted to go to my own unit which is Seaforths of Can & I have been with them since they came over

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No, Sir

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused.~~

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence character.

~~The Court being re-opened, the accused is again brought before it.~~

Prosecutor is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness* AFB 296 + MF M6

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked M + L signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer* yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer* yes

NOT. Cross-examined by the accused.

Question to the accused. Do you wish to address the Court? *Answer.* yes then my def offic (see over)

The Court is closed for the consideration of the sentence.

F

Sentence.

~~Sentence~~

WMWS ~~The Court sentence the accused~~

Def affr:- True that Devine's past not too good
But was transferred from Seaforths due to
overage - went to HA for 4 mos i/c sanitary
duties & had no crimes. If over-age for own
field unit he could not see why he had to
go to another field unit where he would
just be transferred again for over-age.
Number of others from his unit transferred for
same reason were sent back to Canada but
acsd sent to Calg Highs.
Great Esprit de corps for own reg't & when
found could not carry on with them his feelings
were such that he did not want to partake in
activities of another field unit. If had not have
been sent down against his will crime would
not have taken place.

WMW Shaw
Capt
Judge Advocate

[illegible]
President

SUMMARY OF EVIDENCE

In the case of K52588 Pte Deion, F. , The Calgary Highlanders, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION Lieut. C.B. Wood, Adjutant of The Calgary Highlanders, CA(O) sworn states;

I present Certified true copy of AFB 115 declaration of Court of Inquiry which refers to K52588 Pte Deion, F. , The Calgary Highlanders Certificate of apprehension purporting to be signed by DAPM London Area(Attached).

Certificate of Cost of Return purporting to signed by DAPM , London ARea (Attached)

Both of which refer to K52588 Pte Deion, F. , The Calgary Highlanders, CA(O)

J.R. Wood Lieut A/Adjt

The accused declines to Cross Examine

SECOND WITNESS FOR THE PROSECUTION M11702 C.Q.M.S Wilson, R.L. , The Calgary Highlanders, CA(O) sworn states;-

at 1430 hrs 5th August 43 when Pte Deion was returned to the unit I checked his kit and found him to be deficient in Regt'l Necessaries amounting in value to £5-18-3½ with a depreciated value of£4 -7-4½ as per the attached list. A careful search failed to produce any of his missing kit.

R.L. Wilson

The accused declines to Cross Examine

The accused having been duly cautioned in accordance with AF 4 (2) says, " I will wait until my trial"

Certified rule of procedure 4 (B, C, D, E) Complied with

In the Field

Date 5 Aug 43

J.R. Wood Lieut
The Calgary Highlanders
C.A.(O)

G.C.

LIST OF WITNESSES FOR THE PROSECUTION

Lieut G.B. Wood, The Calgary Highlanders, CA(O)

M10588 CQMS Wilson, R.L., The Calgary Highlanders, CA(O)

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 20th day of July 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K52588 Pte Deion, F.

DECLARATION.

The Court declare THAT No. K52588 Pte Deion, F. of The Calgary Highlanders, CA(O). illegally absented himself without leave at 2300 hrs in the Field, on the 27th day of June 1943 and that on the 20th day of July 1943 he was deficient and is still deficient of the following articles:-

	£	S	D
Anklets Web prs 1		2	6½
Blouses Battle Dress 2	2	1	1
Trousers Battle Dress 2	2	1	0
Bonnets Tam O Shanter 1		3	1½
Boots Ankle prs 2	1	12	0
Vests Woolen 1		2	0
Shirts Angora Drab 2		13	9
Gloves prs Woolen 1		3	10
Socks prs 2		2	6
Badges Cap 1			6
Braces prs 1			10½
Cap Comforter 1			9
Comb Hair 1			1½
Spoon N.S. 1			1½
Dressing F.F. 1			9
Housewife 1		1	6
Knife Clasp 1		3	11
Patches D.S. 1		3	1½
Towel "and 1			9
Helmet Steel 1		7	6
Nets Camo 1			2½
Blanket G1098 1		9	9
Blouse Denim 1		9	2½
Trousers Denim 1		8	2
TOTAL	£	6	4½

Names of President and Members

M.J. MacDougald Captain P.P.C.L.I. President
Lieut. M.E. How, Calg Highrs Member
Lieut. P.H. Clarke " " Member

Signed at In Field this 20th Day of July 1943

Signature of Commanding Officer D.G. MacLauchlan Lieut-Col.

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

A.S.E.W.Ltd. Gp.4/8 Form B115/56

Ed

Equipment deficiencies of K 52588 Pte. Deion. F

Articles		Inventory price. £	s	d	Unexpended Wear value £	s	d
Anklets, Web prs.	1		3	5½		2	6½
Blouse, B.D.	1	1	7	10	1	0	6½
Trousers B.D.	1	1	8	4½	1	0	7½
Bonnets Tam O'Shanter	1		4	2		3	1½
Ankle Boots Prs.	1	1	1	6		16	0
Vests Woollen	1		2	7½		2	0
Shirts Angora Drab	1		9	2		6	10
Socks, prs.	1		1	8		1	3
Badges, Cap	1			8			6
Braces, prs.	1		1	3½			10½
Dressings, first field	1		1	1			9
Towel, hand	1			11½			9
Helmets steel	1		10	½		7	6
Nets, Camouflage helmet	1			3			2½
Knife, clasp	1		5	2½		3	11
Total		5	18	3½	4	7	4½

(Signed by R. L. Wilson
CQMS 'B' Coy)

Ref: K.R. & O. (Can) 539

Expense Voucher Re—:

Reg. No. K-82588 Rank Pte. Name Dieron, F Unit Cal. High Batt. HQ

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ ~~Unit From~~ London from Edinburgh

Date	Particulars		Amount		
	Escorts return fare from LONDON To	Edinburgh ~~Glasg~~	1	10	4
3 Aug. 43	Prisoners single fare to LONDON From	Edinburgh	1	10	4
	Prisoners fare from	To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	(½ portion)		3	0
		Total £	3	3	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. . . . . Rank . . . . Name . . . . .

Unit . . . . . was arrested at . . . . . (place)

at . . . . . (hour) on . . . . . (date) and that at the time of his arrest he was wearing (Military Uniform) or (Civilian clothes)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

(Strike out part inapplicable).

. . . . . Capt.

(Appointment) D. A. P. M.,

London Area

(Substitute for A.F.B. 296)
or M.F.B. 355.

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. K52588 Name Pte Deion, F. Unit Calg Highrs CA(O)

Age 41 Married or Single Single No. of Dependents Nil

Date of Attestation 20th Sept 1939

No. of Days Spent in Close Arrest (To date of trial)

Civil Nil Military 3 days Hospital Nil Total 3 days

Date of Promotions, Appointments and Confirmations of Rank, if any

N/A

A certified True Copy of M.F.M. Sheet Accompany this form

Ewb O'Meara, Lieut
(Officer i/c Records)
for Unit.

Dated at

This 6 day of Aug 1943

(To be dated and signed as of date of trial.

"H"

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fulbd	31 Mar 43	Pte		AA Sec 15(1) WOAS AWL (absent 16 hrs)	Sgt Short. EX	14 days CB	2 Apr 43	Lt Col Hewitt	1 days pay
Fulbd	31 May 43	Pte		AA Sec 15(1) WOAS AWL from 1400 hrs 31 May 43 to 1800 hrs 31 May 42 thereby missing a draft. (absent 4 hrs)	Cpl GP Matchenoski	7 days Pay 7 days Detention	1 June 43	Lt Col. T D Hewitt Sec 40	Fofr 7 days pay FR&I 1 [illegible]
Fulbd	22 June 43	Pte		AA Sec 40 Cond to Prej etc. when warned for draft said "I will not go"	Capt Roxburgh Sgt Short	14 days CB	23 June 43	Lt Col T A Hewitt	Protective custody until delivered with draft.

"Certified True Copy" [illegible] A/Adjt

THE CALGARY HIGHLANDERS

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. NX7585 Name Denis F. | Sqn., Battery, or Company | Corps | Date of enlistment 20-9-39 | G.C. Badges | Service or Proficiency Pay

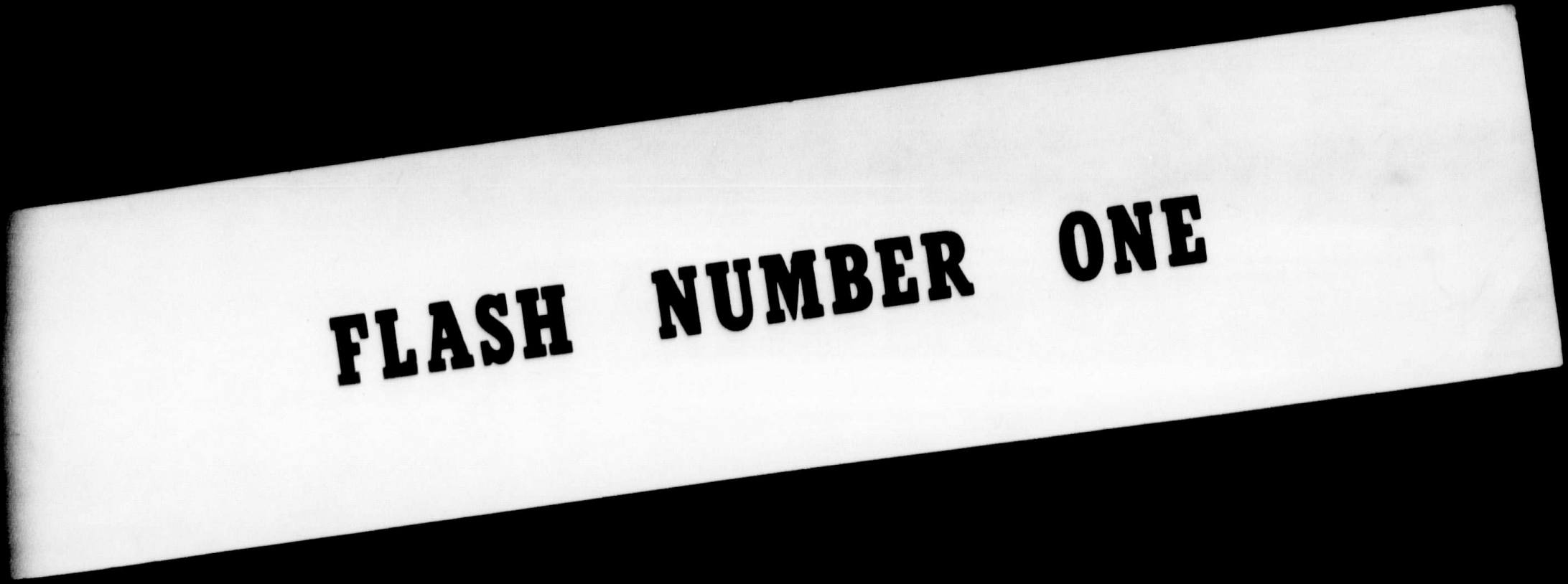
Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. D Harris Capt. | Character Poor.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Previous sheet destroyed 21/3/40.					
Field	5/10/40	Pte	1	Drunkenness	Sgt Alderdice	Admonished	7/11/40	Maj Cranfield	
"	18/4/41	"		AWL - from place of parade	Sgt Beatty	14 days C.B	19/4/41	Maj Fort	
"	6/6/41	"		AWL - 1800 hrs 6-6-41 to 0830 hrs 25-6-41	Cpl Leland.	21 days F.P.	27-6-41	Lt Col Ferris	Total 56 days pay
"	9/8/41	"		AWL 1900 hrs 4-8-41 to 1245 hrs 5-8-41	Cpl Leland.	4 days F.P.	8-8-41	"	6 days pay
"	16/8/41	"	"	AWL 0845 hrs 14-10-41 to 1645 hrs 16-10-41	Sgt Beatton				
"			"	AWL - 1830 hrs 18-10-41 to 2115 hrs 18-10-41	Sgt Beatty	28 days F.P.	28-10-41	A/Lt Col Ferris	28 days pay
"					Regimentary	Admonished	8-1-42	"	Cpl 1st award ALV.
"	13-1-42	"	2.	Drunkenness	P.M. Enfield	3 days pay	3-6-42	A/Lt Col	Total 4 days pay.
"	1-6-42			AWL 1330 hrs 1-6-42 to 1030 hrs 3-6-42	Cpl Fleming	14 days C.B	29-7-42	"	
"	27-7-42			Failing to appear at place of parade.	Cpl Hurst.	3 days pay	10-9-42	"	Total 4 days pay
"	10-9-42			AWL 2334 hrs 10-9-42 to 0600 hrs 11-9-42		6 months Detn	17-9-42	F.O.C.M.	Total 70d
"	17-9-42	"		AWL 1700 hrs 17-9-42 to 1930 hrs 21-9-42					14d pay pay
				(1) Losing by neglect AA 24 (2)					Flap 4 pay
									6-2-2 (P.T.O.)

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE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144 S.

Pte. Deion. F.

1445.

HEADQUARTERS
29 SEP 1942
2 CDN. INF. BDE.

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-fourth day of September, 1942.

Whereas it appears to me, the undersigned, an officer in Command of The Seaforth Highlanders of Canada, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

* Omit if not applicable.

PROCEEDINGS REVIEWED

[illegible]
Reviewing Officer (3 Arc) Cdn Inf Bde
11 Dec 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

.20

President.

Rank.	Name.	Regiment.
Major	V. Brooks	P.P.C.L.I.

Members.

Rank.	Name.	Regiment.
Lieut.	N.G. Roxburgh	Edmonton Regt.
Lieut.	M.J. Neville	Edmonton Regt.
(W) Lieut.	T.E. [illegible]	P.P.C.L.I.

*Signed [signature]

Commanding (C. Vokes) Brig 2 Cdn Inf Bde.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-52588 Private F. Deion, Seaforth of C.	1st Charge:- Sec. 15 (1) A.A. Absenting himself without leave. [illegible]	Not Guilty.	Guilty.	Confirmed [illegible]
	2nd Charge:- Sec. 24 (2) A.A. Losing by neglect his equipment, clothing, and Regimental necessaries. [illegible]	Not Guilty	Guilty. The Court sentence the accused K 5188 PE DEION F. SEAFORTH OF C. TO FORFEIT Six Months detention. To pay for deficiencies of equipment, clothing, & regimental necessaries £2.2.2½. To pay costs of apprehension amounting to nine shillings.	

The Judge Advocate General, for Canadian Military and Air Forces Overseas, having advised that the conviction on the first charge is invalid, I hereby direct that the record of conviction on the said charge be, and the same is hereby removed and the accused relieved of all consequences of his trial thereon.

In the field
21 Nov 42

[illegible]
Comd 2 Cdn Inf Bde.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(Signed) [illegible] (C. [illegible]) Brig. Commanding 2 Cdn Inf Bde. (Signed) H. Brooks A/Maj President.

Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Whereas Comd 2 Cdn Inf Bde acting on the advice of the Judge Advocate General for Canadian Military and Air Forces Overseas has directed that the record of conviction on the first charge herein be removed on the ground of invalidity and said Comd having so removed said conviction and the accused been relieved of all consequences of his trial on the first charge and whereas authority is vested in me by A.A. Sec. 57(2) to remit, mitigate or commute the remaining sentence and whereas I have considered the said sentence and the recommendation of the Comd 2 Cdn Inf Bde in this connection I hereby commute the sentence to stoppages of £2.2.2½

H.L. Salmon

(H.L.N. Salmon)
Major General
GOC 1 Cdn Div

25 Nov 42

XI. 4

Space for further Review (continued from page 2).

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, date of release. No. of marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks

XII.—Remarks and recommendations of C.O. on Second Trial.

Date		Signature

XIII.—Remarks and recommendations of Confirming Officer on Second Trial.

Date		Signature

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

HEADQUARTERS 2nd CDN (NF) BDE

Army Form A3104.

I.—Case of No. K-52589 Pte F. Dolan Unit Seaforths of C.

Sentenced to 6 months detention & stoppages on 26 DEC 42

Age on, and date of enlistment 26 - 27 DEC 39 -2-11-23. Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To .....

Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....

Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offences, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....

Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....

Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date .....

Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed at not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(13572) Wt.24436/175 7,000 8/43 A.& E.W.Ltd. Gp.498
(18852) Wt.45641/720 7,000 12/42 " " Forms/A.3104/13

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial.		
1st. Charge:- Sec. 15 (1) A.A. Absenting himself without leave.	17 Sept 42	26 Sept 42
2nd Charge:- Sec. 24(2) A.A. Losing by neglect his equipment, clothing and Regimental necessaries.	22 Sept 42	26 Sept 42
J.H.Gowan, J H Gowan Capt. Signature of Officer making entry.		
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
21 Oct 42	This man is an old offender. In my opinion he received a fair trial. I recommend that sentence be served in full.	Bmt Hoffmeister [illegible]

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		
OCT 23 1942	I recommend that sentence be served in full	[illegible] Comd. 2 Can. Inf. Bde
21 NOV 42	The J.A.G. has advised that conviction on the first charge is invalid and I have directed that the record of the conviction on the said charge be reward and the accused relieved of all consequences on his trial thereon. I therefore recommend that sentence as initially confirmed be reduced to stoppages of £2-2-2½ to make good deficiencies of equipment clothing and regtl necessaries.	[illegible] Brigadier, Comdg. 2 Cdn. Inf. Bde.

MEDICAL CERTIFICATE (K.R. CAN 557)

I certify that I have this morning exa mined No K52588

Pte. Deion, F. of The Seaforth H ighlanders of Canada, and

in my opinion he is fit to undergo trial by Court Martial.

Medical Officer

Station: In the field
Date: 26 Sep 42

CHARGE SHEET

K52588 Pte. Deion, F., The Seaforth Highlanders of Canada, a soldier in the Canadian Army, Overseas, is charged with, While On Active Service,

ABSENTING HIMSELF WITHOUT LEAVE,

1st. Charge
Sec. 15(1)
Army Act.

in that he, in the field, absented himself without leave from his billets and duty from 1700 hrs the 17th day of September 1942 until apprehended by the Cdn Provost Corps at London at 1920 hrs the 21st day of September 1942.
Absent 4 days 2 hours 20 minutes.

and incurring the cost of transportation of the accused and escort to the amount of £0-9-0.

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING, and REGIMENTAL NECESSARIES,

2nd. Charge
Sec. 24(2)
Army Act.

in that he, in the field, on 22 SEP 42, was deficient,

	100%	75%
Patches Div Red Rect. 2 pr	£0- 0- 6	£0- 0- 4½
Badges shoulder, 2 pr.	2- 4	1- 9
Combs, hair, 1	2	1½
Drawers woolen, 1 pr.	5- 3	3-11
Gloves woolen, 1 pr.	2- 6½	1-11½
Trousers denim, 1 pr.	11- 6	8- 9
Razor, 1	1-10½	1- 4
Shirts woolen, 1	2- 1	1- 9
Socks woolen, 2 pr.	1- 8	1- 1
Spoon table, 1	4½	3
Towels hand, 1	11½	8
Bags ration, 1	1½	1
Covers mess tin, 1	4½	3
Capes A/Gas camouflaged, 1	1- 3- 6½	17- 8
TOTAL	£2-16- 7½	£2- 2- 2½

J.D. Forin Major.
A/OC The Seaforth Highlanders of Canada.

To be tried by F.G.C.C.M.

Brigadier.
Comdg. 2 Cdn. Inf. Bde.

Trial of K 52588 Pte. Deion F. The Seaforth Highlanders of Canada.

Lieut. J. J. Conway The Seaforth Highlanders of Canada appears as prosecutor

Accused is not represented by Counsel at his own request.

1. President and members of court assembled at 1400 hrs 26 Sept 42
2. R.P. 108, R.P. 106 and Ch V. MML. page 112 read.
3. Court satisfied that it is convened in accordance with these rules, and that accused is amenable to Military law and to the Jurisdiction of the Court.
4. Court opened, accused, court, witnesses and Prosecutor before court.
5. Convening order duly read, accused answered to his name.
6. No objection to President or members of court raised.
7. Members and President of court duly sworn.
8. Witnesses excluded from court.
9. Medical certificate presented, accused is fit for trial.
10. Accused agrees with his description as per charge sheet.
11. Accused pleads Not Guilty to first charge.
12. Accused pleads Not Guilty to second charge.
13. R.P. 39(A) complied with, accused asked the following by President,-
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer:- "No sir."

Prosecution.

First Witness for Prosecution:- K 5254 L/Sgt Lannigan W.E.
Seaforth Highlanders of Canada, duly sworn, ~~states~~ W.B. examined by the Prosecutor:-

Q1. What is your Platoon?
A1. No 15 Platoon Sir.
Q2. Do the accused on your Platoon?
A2. Yes Sir.
Q3. Will you give the court any information you have with regard to the first charge against the accused?
A3. On 1st Sept 42 No 15 Platoon was ordered to parade at 1700 hrs to march out on an exercise. I called 15 Platoon to parade a few minutes before such time. The accused was absent, he had no pass that I knew of and he continued to be absent from subsequent parades until I saw him again on the day after he had been apprehended by the Provost.

The accused declines to cross examine this witness.

Second Witness for Prosecution:- K 52822 A/C.Q.M.S.
Boyd. R.A. Seaforth Highlanders of Canada, A/C.Q.M.S "C" Coy, duly sworn is examined by Prosecutor:-

Q1. Are you the A/C.Q.M.S of "C" Coy?
A1. Yes Sir.
Q2. Did you have occasion to check the clothing and equipment as charge to the accused?
A2. I did sir.
Q3. When?
A3. On 22 September 42 at approximately 1645 hours.
Q4. Did you find any deficiencies?
A4. I did sir.
Q5. Have you a list in your possession?
A5. I have a list in "C" Coy quartermaster Stores sir.

Prosecution to President:- "May I produce the list sir"?
President to Prosecution:- "Yes"

Q.6. Were the deficiencies as stated in the charge sheet?

A.6 That is correct sir.

The accused declines to cross examine this witness.

The Prosecution is closed.

President to Accused:-

Q.1. Do you wish to call any witnesses, or do you wish to make any statement on your own behalf? Provisions per R.P. 40(A) explained to accused verbally by President

A.1. No Sir.

The court is closed to consider the Finding

After finding:-

The Court being re-opened, the Accused is again brought before it.

Certified True Copy of AFM 6 presented to Court by Prosecution.

President to Accused:-

Q.1. Have you anything further to say, or do you wish to give evidence, or to call witnesses as to character, or in mitigation of sentence?

A.1. "Sir, I have been with the Seaforth Highlanders of Canada since the regiment first went on active service. The fact that changes occur from time to time, the officers and N.C.O.'s misunderstand me, they treat me as a mental case. The fact that I'm not, and the changing around N.C.O.'s and officers, they tell me another that I'm inefficient and am not to be depended upon for the last two years. Therefore I feel that it is unjust to me and isolates me from my friends.

The Court is closed to consider the Sentence

Signed at Bn HQ Seaforth Highlanders of Canada
this 26th day of September 1942. W. Brooks Lt-Col President F.S.C.M.

W. Brooks. Appr. / Rec'd

Summary of Evidence in the case of K52588 Pte Devon F. The Seaforth Highlanders of Canada.

By Direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st Witness for the Prosecution

No K52454 L/sgt Lannigan W.E. The Seaforth Highlanders of Canada having been duly sworn states:

At Revensey Bay on the 17th day of September I was acting as platoon sergeant of number 15 Platoon C Coy The Seaforth Highlanders of Canada. The accused Pte Devon F is a member of that Platoon. I called the roll of 15 Platoon at 1700 Hours 17th Sept 1942 and found that the accused was absent. The accused continued to be absent from duty and quarters until I saw him again at about 1430 Hours 22nd Sept 1942. When he was in the custody of the Regimental Provost Signed W. E. Lannigan, L/sgt

The accused declines to cross examine this witness.

2nd Witness for the Prosecution

No K52822 Acting C.Q.M.S Boyd R.A. The Seaforth Highlanders of Canada, having been duly sworn states.

Sir

I am acting C.Q.M.S of C Company The Seaforth Highlanders of Canada. On the 22nd September 1942 at approximately 1645 hours I conducted in conjunction with the provost sergeant a check of the clothing and equipment on charge to K52588 Pte Devon F. The following articles were found to

as set out hereunder.

	100%	75%
Patches Div Red Rectangular 3 pr.	0-0-6	0-0-4½
Badges Shoulder 2 p.	2-4	1-9
Combs Hair 1	2	1½
Drawers Woollen 1 pr	5-3	3-11
Gloves woollen 1 pr	2-7½	1-11½
Trousers Denim 1 pr	11-9	8-9
Razor 1	1-10½	1-4
Shirts Woollen 1	5-1	3-1
Socks Woollen 1 pr	1-7	1-3
Spoon table 1	1-4½	3
Towels hand 1	11½	9
Bags Ration 1	1½	1
Covers Mess tin 1	4½	3
Capes A/gas 1	1-3-6½	17-8
	2-6-7½	2-2-2½

Signed.

R K Boyd

The accused declines to cross-~~examine this witness~~.

The accused having been duly cautioned in accordance with Rule of Procedure 4(E) declines to make any statement

Certified that Rule of Procedure 4(C)(D)(E)(F) and (6) have been complied with.

Taken down by me in the presence and hearing of the accused this 22nd day of September 1942.

A B Mercer Lieut

Signature of Officer taking Summary



Plea	Date of offence	Sum	Case of previous conv.	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of same suspending with this	By whom awarded	Remarks
[illegible]				[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Nott'd 2 d 8 Name DIXON F

Sqn., Battery, or Company C Corps The Seaforth Highlanders of Canada

Date of enlistment 20/9/39 G.C. Badges

Service or Proficiency Pay

Character BAD

Sheet No 2

Signature O.C. Company, etc.

MFM 6 (A.F.B. 1322) Sheet No. 6-29-11-(51) W.O. 1772-45-18

Date of last entry in Company Conduct Sheet	Date of offence	Nature	Date of award or of order dispensing with trial	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Nil									
Nil	20/12/40	F&E		Absent Without Leave from 6 Mornings Parade 20/12/40 to 0800 hrs 21/12/40	C/Sgt. [illegible]	21/12/40			
Nil	8/1/41	F&E		Absent Without Leave from 0800 hrs 8/1/41 to 0800 hrs 9/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	9/1/41	F&E		Absent Without Leave from 0800 hrs 9/1/41 to 0800 hrs 10/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	10/1/41	F&E		Absent Without Leave from 0800 hrs 10/1/41 to 0800 hrs 11/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	11/1/41	F&E		Absent Without Leave from 0800 hrs 11/1/41 to 0800 hrs 12/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	12/1/41	F&E		Absent Without Leave from 0800 hrs 12/1/41 to 0800 hrs 13/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	13/1/41	F&E		Absent Without Leave from 0800 hrs 13/1/41 to 0800 hrs 14/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	14/1/41	F&E		Absent Without Leave from 0800 hrs 14/1/41 to 0800 hrs 15/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	15/1/41	F&E		Absent Without Leave from 0800 hrs 15/1/41 to 0800 hrs 16/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	16/1/41	F&E		Absent Without Leave from 0800 hrs 16/1/41 to 0800 hrs 17/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	17/1/41	F&E		Absent Without Leave from 0800 hrs 17/1/41 to 0800 hrs 18/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	18/1/41	F&E		Absent Without Leave from 0800 hrs 18/1/41 to 0800 hrs 19/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	19/1/41	F&E		Absent Without Leave from 0800 hrs 19/1/41 to 0800 hrs 20/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	20/1/41	F&E		Absent Without Leave from 0800 hrs 20/1/41 to 0800 hrs 21/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	21/1/41	F&E		Absent Without Leave from 0800 hrs 21/1/41 to 0800 hrs 22/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	22/1/41	F&E		Absent Without Leave from 0800 hrs 22/1/41 to 0800 hrs 23/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	23/1/41	F&E		Absent Without Leave from 0800 hrs 23/1/41 to 0800 hrs 24/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	24/1/41	F&E		Absent Without Leave from 0800 hrs 24/1/41 to 0800 hrs 25/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	25/1/41	F&E		Absent Without Leave from 0800 hrs 25/1/41 to 0800 hrs 26/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	26/1/41	F&E		Absent Without Leave from 0800 hrs 26/1/41 to 0800 hrs 27/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	27/1/41	F&E		Absent Without Leave from 0800 hrs 27/1/41 to 0800 hrs 28/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	28/1/41	F&E		Absent Without Leave from 0800 hrs 28/1/41 to 0800 hrs 29/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	29/1/41	F&E		Absent Without Leave from 0800 hrs 29/1/41 to 0800 hrs 30/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	30/1/41	F&E		Absent Without Leave from 0800 hrs 30/1/41 to 0800 hrs 31/1/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	31/1/41	F&E		Absent Without Leave from 0800 hrs 31/1/41 to 0800 hrs 1/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	1/2/41	F&E		Absent Without Leave from 0800 hrs 1/2/41 to 0800 hrs 2/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	2/2/41	F&E		Absent Without Leave from 0800 hrs 2/2/41 to 0800 hrs 3/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	3/2/41	F&E		Absent Without Leave from 0800 hrs 3/2/41 to 0800 hrs 4/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	4/2/41	F&E		Absent Without Leave from 0800 hrs 4/2/41 to 0800 hrs 5/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	5/2/41	F&E		Absent Without Leave from 0800 hrs 5/2/41 to 0800 hrs 6/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	6/2/41	F&E		Absent Without Leave from 0800 hrs 6/2/41 to 0800 hrs 7/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	7/2/41	F&E		Absent Without Leave from 0800 hrs 7/2/41 to 0800 hrs 8/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	8/2/41	F&E		Absent Without Leave from 0800 hrs 8/2/41 to 0800 hrs 9/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	9/2/41	F&E		Absent Without Leave from 0800 hrs 9/2/41 to 0800 hrs 10/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	10/2/41	F&E		Absent Without Leave from 0800 hrs 10/2/41 to 0800 hrs 11/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	11/2/41	F&E		Absent Without Leave from 0800 hrs 11/2/41 to 0800 hrs 12/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	12/2/41	F&E		Absent Without Leave from 0800 hrs 12/2/41 to 0800 hrs 13/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	13/2/41	F&E		Absent Without Leave from 0800 hrs 13/2/41 to 0800 hrs 14/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	14/2/41	F&E		Absent Without Leave from 0800 hrs 14/2/41 to 0800 hrs 15/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	15/2/41	F&E		Absent Without Leave from 0800 hrs 15/2/41 to 0800 hrs 16/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	16/2/41	F&E		Absent Without Leave from 0800 hrs 16/2/41 to 0800 hrs 17/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	17/2/41	F&E		Absent Without Leave from 0800 hrs 17/2/41 to 0800 hrs 18/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	18/2/41	F&E		Absent Without Leave from 0800 hrs 18/2/41 to 0800 hrs 19/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	19/2/41	F&E		Absent Without Leave from 0800 hrs 19/2/41 to 0800 hrs 20/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	20/2/41	F&E		Absent Without Leave from 0800 hrs 20/2/41 to 0800 hrs 21/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	21/2/41	F&E		Absent Without Leave from 0800 hrs 21/2/41 to 0800 hrs 22/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	22/2/41	F&E		Absent Without Leave from 0800 hrs 22/2/41 to 0800 hrs 23/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	23/2/41	F&E		Absent Without Leave from 0800 hrs 23/2/41 to 0800 hrs 24/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	24/2/41	F&E		Absent Without Leave from 0800 hrs 24/2/41 to 0800 hrs 25/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	25/2/41	F&E		Absent Without Leave from 0800 hrs 25/2/41 to 0800 hrs 26/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	26/2/41	F&E		Absent Without Leave from 0800 hrs 26/2/41 to 0800 hrs 27/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	27/2/41	F&E		Absent Without Leave from 0800 hrs 27/2/41 to 0800 hrs 28/2/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	28/2/41	F&E		Absent Without Leave from 0800 hrs 28/2/41 to 0800 hrs 1/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	1/3/41	F&E		Absent Without Leave from 0800 hrs 1/3/41 to 0800 hrs 2/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	2/3/41	F&E		Absent Without Leave from 0800 hrs 2/3/41 to 0800 hrs 3/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	3/3/41	F&E		Absent Without Leave from 0800 hrs 3/3/41 to 0800 hrs 4/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	4/3/41	F&E		Absent Without Leave from 0800 hrs 4/3/41 to 0800 hrs 5/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	5/3/41	F&E		Absent Without Leave from 0800 hrs 5/3/41 to 0800 hrs 6/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	6/3/41	F&E		Absent Without Leave from 0800 hrs 6/3/41 to 0800 hrs 7/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	7/3/41	F&E		Absent Without Leave from 0800 hrs 7/3/41 to 0800 hrs 8/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	8/3/41	F&E		Absent Without Leave from 0800 hrs 8/3/41 to 0800 hrs 9/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	9/3/41	F&E		Absent Without Leave from 0800 hrs 9/3/41 to 0800 hrs 10/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	10/3/41	F&E		Absent Without Leave from 0800 hrs 10/3/41 to 0800 hrs 11/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	11/3/41	F&E		Absent Without Leave from 0800 hrs 11/3/41 to 0800 hrs 12/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	12/3/41	F&E		Absent Without Leave from 0800 hrs 12/3/41 to 0800 hrs 13/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	13/3/41	F&E		Absent Without Leave from 0800 hrs 13/3/41 to 0800 hrs 14/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	14/3/41	F&E		Absent Without Leave from 0800 hrs 14/3/41 to 0800 hrs 15/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	15/3/41	F&E		Absent Without Leave from 0800 hrs 15/3/41 to 0800 hrs 16/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	16/3/41	F&E		Absent Without Leave from 0800 hrs 16/3/41 to 0800 hrs 17/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	17/3/41	F&E		Absent Without Leave from 0800 hrs 17/3/41 to 0800 hrs 18/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	18/3/41	F&E		Absent Without Leave from 0800 hrs 18/3/41 to 0800 hrs 19/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	19/3/41	F&E		Absent Without Leave from 0800 hrs 19/3/41 to 0800 hrs 20/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	20/3/41	F&E		Absent Without Leave from 0800 hrs 20/3/41 to 0800 hrs 21/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	21/3/41	F&E		Absent Without Leave from 0800 hrs 21/3/41 to 0800 hrs 22/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	22/3/41	F&E		Absent Without Leave from 0800 hrs 22/3/41 to 0800 hrs 23/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	23/3/41	F&E		Absent Without Leave from 0800 hrs 23/3/41 to 0800 hrs 24/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	24/3/41	F&E		Absent Without Leave from 0800 hrs 24/3/41 to 0800 hrs 25/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	25/3/41	F&E		Absent Without Leave from 0800 hrs 25/3/41 to 0800 hrs 26/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	26/3/41	F&E		Absent Without Leave from 0800 hrs 26/3/41 to 0800 hrs 27/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	27/3/41	F&E		Absent Without Leave from 0800 hrs 27/3/41 to 0800 hrs 28/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	28/3/41	F&E		Absent Without Leave from 0800 hrs 28/3/41 to 0800 hrs 29/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	29/3/41	F&E		Absent Without Leave from 0800 hrs 29/3/41 to 0800 hrs 30/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	30/3/41	F&E		Absent Without Leave from 0800 hrs 30/3/41 to 0800 hrs 31/3/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	31/3/41	F&E		Absent Without Leave from 0800 hrs 31/3/41 to 0800 hrs 1/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	1/4/41	F&E		Absent Without Leave from 0800 hrs 1/4/41 to 0800 hrs 2/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	2/4/41	F&E		Absent Without Leave from 0800 hrs 2/4/41 to 0800 hrs 3/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	3/4/41	F&E		Absent Without Leave from 0800 hrs 3/4/41 to 0800 hrs 4/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	4/4/41	F&E		Absent Without Leave from 0800 hrs 4/4/41 to 0800 hrs 5/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	5/4/41	F&E		Absent Without Leave from 0800 hrs 5/4/41 to 0800 hrs 6/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	6/4/41	F&E		Absent Without Leave from 0800 hrs 6/4/41 to 0800 hrs 7/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	7/4/41	F&E		Absent Without Leave from 0800 hrs 7/4/41 to 0800 hrs 8/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	8/4/41	F&E		Absent Without Leave from 0800 hrs 8/4/41 to 0800 hrs 9/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	9/4/41	F&E		Absent Without Leave from 0800 hrs 9/4/41 to 0800 hrs 10/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	10/4/41	F&E		Absent Without Leave from 0800 hrs 10/4/41 to 0800 hrs 11/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	11/4/41	F&E		Absent Without Leave from 0800 hrs 11/4/41 to 0800 hrs 12/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	12/4/41	F&E		Absent Without Leave from 0800 hrs 12/4/41 to 0800 hrs 13/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	13/4/41	F&E		Absent Without Leave from 0800 hrs 13/4/41 to 0800 hrs 14/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	14/4/41	F&E		Absent Without Leave from 0800 hrs 14/4/41 to 0800 hrs 15/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	15/4/41	F&E		Absent Without Leave from 0800 hrs 15/4/41 to 0800 hrs 16/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	16/4/41	F&E		Absent Without Leave from 0800 hrs 16/4/41 to 0800 hrs 17/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	17/4/41	F&E		Absent Without Leave from 0800 hrs 17/4/41 to 0800 hrs 18/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	18/4/41	F&E		Absent Without Leave from 0800 hrs 18/4/41 to 0800 hrs 19/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	19/4/41	F&E		Absent Without Leave from 0800 hrs 19/4/41 to 0800 hrs 20/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	20/4/41	F&E		Absent Without Leave from 0800 hrs 20/4/41 to 0800 hrs 21/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	21/4/41	F&E		Absent Without Leave from 0800 hrs 21/4/41 to 0800 hrs 22/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	22/4/41	F&E		Absent Without Leave from 0800 hrs 22/4/41 to 0800 hrs 23/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	23/4/41	F&E		Absent Without Leave from 0800 hrs 23/4/41 to 0800 hrs 24/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	24/4/41	F&E		Absent Without Leave from 0800 hrs 24/4/41 to 0800 hrs 25/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	25/4/41	F&E		Absent Without Leave from 0800 hrs 25/4/41 to 0800 hrs 26/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	26/4/41	F&E		Absent Without Leave from 0800 hrs 26/4/41 to 0800 hrs 27/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	27/4/41	F&E		Absent Without Leave from 0800 hrs 27/4/41 to 0800 hrs 28/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	28/4/41	F&E		Absent Without Leave from 0800 hrs 28/4/41 to 0800 hrs 29/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	29/4/41	F&E		Absent Without Leave from 0800 hrs 29/4/41 to 0800 hrs 30/4/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	30/4/41	F&E		Absent Without Leave from 0800 hrs 30/4/41 to 0800 hrs 1/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	1/5/41	F&E		Absent Without Leave from 0800 hrs 1/5/41 to 0800 hrs 2/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	2/5/41	F&E		Absent Without Leave from 0800 hrs 2/5/41 to 0800 hrs 3/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	3/5/41	F&E		Absent Without Leave from 0800 hrs 3/5/41 to 0800 hrs 4/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	4/5/41	F&E		Absent Without Leave from 0800 hrs 4/5/41 to 0800 hrs 5/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	5/5/41	F&E		Absent Without Leave from 0800 hrs 5/5/41 to 0800 hrs 6/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	6/5/41	F&E		Absent Without Leave from 0800 hrs 6/5/41 to 0800 hrs 7/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	7/5/41	F&E		Absent Without Leave from 0800 hrs 7/5/41 to 0800 hrs 8/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	8/5/41	F&E		Absent Without Leave from 0800 hrs 8/5/41 to 0800 hrs 9/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	9/5/41	F&E		Absent Without Leave from 0800 hrs 9/5/41 to 0800 hrs 10/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	10/5/41	F&E		Absent Without Leave from 0800 hrs 10/5/41 to 0800 hrs 11/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	11/5/41	F&E		Absent Without Leave from 0800 hrs 11/5/41 to 0800 hrs 12/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	12/5/41	F&E		Absent Without Leave from 0800 hrs 12/5/41 to 0800 hrs 13/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	13/5/41	F&E		Absent Without Leave from 0800 hrs 13/5/41 to 0800 hrs 14/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	14/5/41	F&E		Absent Without Leave from 0800 hrs 14/5/41 to 0800 hrs 15/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	15/5/41	F&E		Absent Without Leave from 0800 hrs 15/5/41 to 0800 hrs 16/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	16/5/41	F&E		Absent Without Leave from 0800 hrs 16/5/41 to 0800 hrs 17/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	17/5/41	F&E		Absent Without Leave from 0800 hrs 17/5/41 to 0800 hrs 18/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	18/5/41	F&E		Absent Without Leave from 0800 hrs 18/5/41 to 0800 hrs 19/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	19/5/41	F&E		Absent Without Leave from 0800 hrs 19/5/41 to 0800 hrs 20/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	20/5/41	F&E		Absent Without Leave from 0800 hrs 20/5/41 to 0800 hrs 21/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	21/5/41	F&E		Absent Without Leave from 0800 hrs 21/5/41 to 0800 hrs 22/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	22/5/41	F&E		Absent Without Leave from 0800 hrs 22/5/41 to 0800 hrs 23/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	23/5/41	F&E		Absent Without Leave from 0800 hrs 23/5/41 to 0800 hrs 24/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	24/5/41	F&E		Absent Without Leave from 0800 hrs 24/5/41 to 0800 hrs 25/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	25/5/41	F&E		Absent Without Leave from 0800 hrs 25/5/41 to 0800 hrs 26/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	26/5/41	F&E		Absent Without Leave from 0800 hrs 26/5/41 to 0800 hrs 27/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	27/5/41	F&E		Absent Without Leave from 0800 hrs 27/5/41 to 0800 hrs 28/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	28/5/41	F&E		Absent Without Leave from 0800 hrs 28/5/41 to 0800 hrs 29/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	29/5/41	F&E		Absent Without Leave from 0800 hrs 29/5/41 to 0800 hrs 30/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	30/5/41	F&E		Absent Without Leave from 0800 hrs 30/5/41 to 0800 hrs 31/5/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	31/5/41	F&E		Absent Without Leave from 0800 hrs 31/5/41 to 0800 hrs 1/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	1/6/41	F&E		Absent Without Leave from 0800 hrs 1/6/41 to 0800 hrs 2/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	2/6/41	F&E		Absent Without Leave from 0800 hrs 2/6/41 to 0800 hrs 3/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	3/6/41	F&E		Absent Without Leave from 0800 hrs 3/6/41 to 0800 hrs 4/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	4/6/41	F&E		Absent Without Leave from 0800 hrs 4/6/41 to 0800 hrs 5/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	5/6/41	F&E		Absent Without Leave from 0800 hrs 5/6/41 to 0800 hrs 6/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	6/6/41	F&E		Absent Without Leave from 0800 hrs 6/6/41 to 0800 hrs 7/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	7/6/41	F&E		Absent Without Leave from 0800 hrs 7/6/41 to 0800 hrs 8/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	8/6/41	F&E		Absent Without Leave from 0800 hrs 8/6/41 to 0800 hrs 9/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	9/6/41	F&E		Absent Without Leave from 0800 hrs 9/6/41 to 0800 hrs 10/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	10/6/41	F&E		Absent Without Leave from 0800 hrs 10/6/41 to 0800 hrs 11/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	11/6/41	F&E		Absent Without Leave from 0800 hrs 11/6/41 to 0800 hrs 12/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	12/6/41	F&E		Absent Without Leave from 0800 hrs 12/6/41 to 0800 hrs 13/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	13/6/41	F&E		Absent Without Leave from 0800 hrs 13/6/41 to 0800 hrs 14/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	14/6/41	F&E		Absent Without Leave from 0800 hrs 14/6/41 to 0800 hrs 15/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	15/6/41	F&E		Absent Without Leave from 0800 hrs 15/6/41 to 0800 hrs 16/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	16/6/41	F&E		Absent Without Leave from 0800 hrs 16/6/41 to 0800 hrs 17/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	17/6/41	F&E		Absent Without Leave from 0800 hrs 17/6/41 to 0800 hrs 18/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	18/6/41	F&E		Absent Without Leave from 0800 hrs 18/6/41 to 0800 hrs 19/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	19/6/41	F&E		Absent Without Leave from 0800 hrs 19/6/41 to 0800 hrs 20/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	20/6/41	F&E		Absent Without Leave from 0800 hrs 20/6/41 to 0800 hrs 21/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	21/6/41	F&E		Absent Without Leave from 0800 hrs 21/6/41 to 0800 hrs 22/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	22/6/41	F&E		Absent Without Leave from 0800 hrs 22/6/41 to 0800 hrs 23/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	23/6/41	F&E		Absent Without Leave from 0800 hrs 23/6/41 to 0800 hrs 24/6/41	Sgt. Elliott	7 Days C.B.	21/1/41	Adjt.	
Nil	24/6/41	F&E		Absent Without Leave from 0800 hrs 24/6/41 to 0800 hrs 25/6/41	Sgt. Elliott	7 Days C.B.	21/

List of Exhibits in the case of K52588 Pte. Deion, F., The Seaforth Highlanders of Canada,

Certificate of apprehension
Certificate of Expense for apprehension

List of Witnesses in the Case of K52588 Pte. Deion, F., The Seaforth Highlanders of Canada.

K52454 L/Sgt Lannigan, W.E. Seaforth of C
K52522 A/CQMS Boyd, R.A. " " "

Statement as to Character and Particulars of Service in the case of K52588 Pte. Deion, F., The Seaforth Highlanders of Canada.

The accused has been in confinement since 21 Sept on the present charges, for _____ days in civil custody and for _____ days in Military custody, making a total of _____ days, of which nil days were spent in hospital.

The present age of the accused according to his attestation papers is 23

The date of attestation specified in his attestation paper is 20/9/39

The accused is entitled to no military reward or decoration, (or is entitled to or in possession of (state any military decoration or reward)).

To: The Commanding Officer,
The Seaforth Highlanders of Canada.

Sir:
I Respectfully request that _____ be appointed to represent me in my forthcoming Field General Court Martial.

_____

The Prosecuting Officer in the case of K52588 Pte. Deion, F., The Seaforth Highlanders of Canada, will be Lieut J.A. Emery

The accused declines to have a defending Officer

Q[illegible]
"C" [illegible]anding,
[illegible]aforth, High. of Can.

File No. 14/106 .....

Re: K-52588 Pte. Deion, F.

1 Forwarded for your information and necessary action, please, and disposal under C. A. Routine Orders (c) No. 388 dated 28th Oct. 1943.

No complaints

London
22-Sept-43

H. W. Cowling
[illegible]
[illegible]
Gdn. Provost Corps.

W. Brooks C. Maj.
President

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No K-52588.. Rank Pte. Name ....Dalen, F.....

Unit "C" Coy. Seaforth Hgh. Of Can. was arrested at London.....(Place)

at 1900...(Hour) on 21-Sept-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~)

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer of the Commanding Officer of the portion of His Majesty's forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

(Strike out part inapplicable)

H. W. Cowling Lieut.
Officer i/c Detention Room
No. 6 Cdn. Provost Coy.

W. Brooks [illegible]

Expense Voucher Re— Ref: K.R. & O. (Can) 539

Reg. No. K 51588 Rank Pte. Name Dixon, F. Unit Sea High

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
22/9/42	Escorts return fare from LONDON To Lewes (1/3 portion)		5	2
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes.		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		9	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H. W. Leowang Lieut.

Officer Issuing Railway Warrant and Expense memos
No. 6 Provost Company, Canadian Provost Corps, London

C.M.H.Q. 1000.53
40/P & S/482

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the 26th day of September 1942, and duly tried the person~~s~~ named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

B. Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses

~~(3. The interpreter)~~ W.B.

~~(4. The officers under instruction)~~ W.B.

were duly sworn.

* Omit if not applicable.

Signed this 26th day of September 1942.

W. Crooks Maj

President of the Court Martial.

~~I certify that the terms of A.C.I. 579 of 1918 have been~~ complied with.

C. Certificate in case of death sentences. W.B.

Signed this day of 19 .

President of the Court Martial.

* See footnote (k) on page 762 M.M.L. 1929.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

D. Confirmation.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ W.B.

* To be omitted unless penal servitude, line, prisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 27th day of September 1942.

Brigadier,

~~Comdg 2 Cdn. Inf. Bde.~~

Confirming Officer.

Promulgated and extracts taken in the case of K52588 Pte Deion F

(a) (Dated) 29 Sept 42 (Signed) [signature]

Promulgated and extracts taken in the case of

(Dated) SEP 30 1942 (Signed) D.W. McLean Capt for C. Vokes Brigadier, Comdg 2 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(Dated) 2 - DEC 1942 (Signed) [signature] MAJOR, COMMANDANT, MILITARY PRISON AND DETENTION BARRACK.

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

260

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Sixteenth day of December, 1940.

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—]

PROCEEDINGS CHECKED AND FOUND TO BE IN ORDER.

(A. W. EMBURY) MAJOR
J.A.G.3., C.M.H.Q.

ENTERED IN RECORDS OF C.M.

President.

Rank.	Name.	Regiment.
Major	R.A. Lindsay	P.P.C.L.I.

Members.

Rank.	Name.	Regiment.
Lieut.	R. N. Keen	Seaforth of C
Lieut.	A. [illegible] Greene	2 Cdn Recce Sqn

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Archer D Potts Brigadier,
Commanding Comdg. 2 Can. Inf. Bde.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M.16156 Pte. Walsh, James Edmn R	Sec. 18 Army Act W.O.A.S. Stealing property belonging to a person subject to military law, in that he at Oxted, Surrey between 31 Oct. 40 and 16 Nov 40, stole a .25 caliber automatic pistol, the property of Capt. John Harold Adams of the Edmonton Regiment, C.A.S.F a person subject to military law.	Guilty	Thirty days detention	QSP

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) Arthur E Potts (Signed) R A Lindsay Major P.P.C.L.I.
Brigadier Commanding 2 Cdn Inf Bde President.
Confirming Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of December, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 24th day of December 1940.

R A Lindsay Major P.P.C.L.I.
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (d) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2 day of Jan 1941

Arthur E Potts
Confirming Officer.

Promulgated and extracts taken in the case of M 16156 Pte James Walsh Edmonton Lt Col

(a) (Dated) January 3 1941 (Signed) Edmonton Regt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

E 1

CHARGE SHEET

The accused No.E.16156 Pte. Walsh, James, The Edmonton Regiment, a soldier of the Canadian Active Service Force, is charged with:-

Stealing property belonging to a person subject to military law.

in that he

Dec. 18 Army Act

at Oxted, Surrey between 31st Oct. 40 and 16th Nov 40, stole a .25 caliber automatic pistol, the property of Capt. John Harold Adams of the Edmonton Regiment, C.A.S.F, a person subject to military law.

Commanding Edmonton Regiment.

Oxted, Surrey.
14 Dec 40.

To be tried by Field General Court Martial.

Arthur Potts

Commanding,
2 Canadian Infantry Brigade.

14 Dec 40

Summary of Proceedings of a Field General Court Martial.

E.6 R.A. Lindsay

Held at "Hay Wain" Oxted Surrey December 24. 1940.

The Court assembled at 1000 hours.
President Major. R.A. Lindsay. P.P.C.L.I.
Members Lieut: R.N. Keen. S.H. of C.
" Lieut: A.J. Greene. 2 Cdn Recce Sqn.

The Order convening the Court, the charge sheet, and the summary of evidence were laid before the Court, the members of which satisfied themselves that the Court was legally constituted as provided by the Rules of Procedure 22 and 23.

The accused was brought before the Court and the order convening was read to him. To the question by the President "Do you object to be tried

11 by me as President, or by any of the officers whose names yr have heard read over" the accused answered "No."

The members of the court were duly sworn - The accused was then arraigned on the charge - On the question being put "Are yr guilty or not guilty of the charge against yr which yr have heard read" the accused pleaded Guilty. Before recording the plea of Guilty, the charge and the effect of the plea were explained to the accused as laid down by R.P 35(b). The plea of Guilty was then recorded.

The accused elected to call witnesses as to character and elected to make a statement himself.

The prosecution then produced a certified copy of the accused's M.7 M.6 and submitted a written statement of character on behalf of the accused's platoon Sergeant. (E. 10 mm 7 attached)

E.S. Rahindsay

III The defending officer then made a plea in mitigation of sentence. He stated that this was the first offence committed by the accused, and from his personal contact with the accused who worked in the mess of which he was a member he could ~~state~~ testify to the accused's honesty and integrity. He could only assume that being in need of money he yielded to sudden temptation on seeing the revolver. He begged the court to take this into consideration when passing sentence.

The court was then closed for consideration of sentence.

I hereby certify that to the best of my knowledge the foregoing is a true summary of the proceedings.

R.A. Lindsay Major
President.

E9 Rohrdsay Major

7-12-40

Statement of
Pte J. Walsh / Reg #16156

approximately three weeks ago. whilst cleaning out the kitchen of the officers mess. A boy I picked up a automatic off the kitchen shelf and gave some to Pte Rees to sell for me. He later gave me a pound in payment which he got from some one he sold it to.

J Walsh

Exhibit 1
Summary of Evidence
re 16156 Pte. Walsh J.
Pte Surrey
Rec'd
[illegible]

E. 3. Re Indictment

SUMMARY OF EVIDENCE

IN THE CASE OF M.16156 Private Walsh, James of Headquarters Company, Edmonton Regiment taken by Capt. A.A. Gilchrist. By direction of the Commanding Officer the Summary of Evidence is taken on oath. M.16984 Pte. Petley, Frank sworn as shorthand writer.

M.25868 Sgt. Steeves, Arthur James having been duly sworn states:

On December 7th, 1940, I received a complaint from Capt. Adams, "B" Company, Edmonton Regiment. Same date I investigated this complaint and received the following statement, voluntarily, from the accused which reads as follows:

Question: Was this statement given voluntarily?

Answer: Yes sir:

Question; Were questions of any inducement or threats used?

Answer: No sir.

Witness produced statement headed"Statement of Pte. J. Walsh Reg # 16156" dated 7-12-40. (Statement marked Exhibit 1.)

This is the automatic pistol referred to and was recovered by me, same date, from Pte. L. Hagen, Headquarters Company. It's number is 604780.

.25 Automatic Pistol - Walther, Leather Pouch and two cartridges. (Pistol marked Exhibit 2.)

Question: Is there anything further you can tell us.

Answer: Nothing sir.

M.25868 Sgt. Steeves, A.J.

The accused declined to cross examine the witness.

M.16703 Pte. Rees, Gwilym having been duly sworn states:

I received the gun from Pte. Walsh and sold it to the cook at Battalion Headquarters.

Question: When did you get the gun from him?

Answer: I am not sure sir.

Question: Have you any idea when it might have been?

Answer: Two weeks ago.

Question: Would you recognize the gun if you saw it again?

Answer: I think so.

Witness shown exhibit 2.

Question: Have you ever seen that gun before?

Answer: Yes sir. I think so sir.

Question: Could you be positive that this is the same gun as you got from Pte. Walsh.

Answer: No sir. I had the gun in my possession for about ten minutes.

Question: Did Walsh tell you where he got the gun.

Answer: No sir.

Question: Did you ask him.

Answer: No sir.

Evelyn Rees

M.16703 Pte. Rees, G.

The accused declined to cross examine the witness

M. 7097 Pte. Hagen, Lawrence having been duly sworn states: Headquarters Company, Edmonton Regiment

Well sir, in the first place I did not know there was a charge against Pte. Walsh until I picked it up this last minute.

Question: Do you know why Pte. Walsh was arrested?

Answer: Only what I have been able to grasp the last day sir; I understand he is arrested on a charge of stealing an automatic.

Question: Do you know anything about the authomatic or about Rees's connection with the automatic.

Answer: Only that I bought it off him.

Question: Now we are getting something; tell me when and where or the circumstances of your buying it.

Answer: I could not give you the date sir. It is about two weeks ago now. I was shown the gun by Rees and previous to that I have always wanted a gun and took a liking to this one and wanted to buy it. Well at first he was not going to sell it but I more or less forced him to sell it. That is I kept on that I wanted to buy the gun. I asked him how much he wanted for it and he did not know, so I said 'I will give you two pounds for it. A pound down and a pound next pay day and he agreed to that and I gave him a pound cash the day after and I took the gun.

Question: What happened to the gun as far as you are concerned?

Answer: I had the gun from that time up to when Sgt. Steeves took it away from me last Saturday.

Question: Would you know it again if you saw it?

Answer: I think I would.

Question: What kind of a gun was it?

Answer: It was an automatic, magazine up from the handle grip.

Question: What calibre.

Answer: I would judge it to be .25.

Question: What make?

Answer: I do not know the name. It was either a German or a Dutch make.

Question: When you say Rees, what Rees do you mean?

Answer: I do not know if it is Bill Rees or Taffy Rees. Taffy is what I have always called him at Headquarters Company.

Question: What does he do there?

Answer: I do not know what he does. All I know is that he is in No.3 Platoon.

Lawrence Hagen

M. 7097 Pte. Hagen, L.

The accused declined to cross examine the witness.

-X E 5

Capt. John Harold Adams "B" Company, Edmonton Regiment having been duly sworn states:

Question: I am showing you exhibit 2 in this case. Capt. Adams have you ever seen it before.

Answer: I have. This pistol and case belongs to me. I can produce the license in my own name. I first missed the pistol about November 16th. At that time I recalled that I had not seen it since moving from "A" Company on October 31. I remembered that I had left it in the officers' mess kitchen. After making enquiries at "A" Company mess and being unable to find the pistol I reported the matter to Sgt. Steeves.

Question: When did you next see the pistol?

Answer: When you showed it to me now.

Question: Did you ever sell it?

Answer: No.

Question: Did you ever give it away?

Answer: No.

Question: Did you ever give any person whatever permission to take it.

Answer: No

John Harold Adams
Capt. J. H. Adams

The accused declined to cross examine the witness.

The accused having been warned in accordance with R.P. 4(e) stated that he had nothing to say at this time.

Certified that R.P. 4 (c)(D)(E) and (F) have been complied with

Taken before me at Oxted, Surrey this 11th day of December 1940.

Capt
Edmonton R

E 19.

The Edmonton Regiment, C.A.S.F.

19 December 1940.

TO WHOM IT MAY CONCERN.

This letter is to certify that I have known Private J. Walsh, M16156, of the Edmonton Regiment, C.A.S.F. for the past 14 months, and as his Platoon Sergeant, I have found him honest, straightforward, and in every way a good, efficient soldier, who has carried his duties in a willing cheerful manner.

Yours very truly,

R.T. Johnstone,
Transport Sergeant,
The Edmonton Regiment,
C.A.S.F.

RTJ:S

E. D.
Rabindra

CERTIFICATE OF MEDICAL FITNESS

This is to certify that M.16156 Pte Walsh, J is medically fit to stand trial by Court Martial.

S C Hamilton
Major.
Edmn. R. Medical Officer.

E2 Rafindsay Major

M

No. 16156 Name WALSH, James Sqn., Battery, or Company H.Q. Coy. Corps Edmonton Regt. Date of enlistment 25 Sept 39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—8-39 (17021) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. ONE Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NIL.					

Certified true copy

G.M. Beaton, Major
O.C. Edmonton Regiment, C.A.S.F.

5N-56.

Pte. Deklyn, A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st			
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 36, RP 44 ; for alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and as to use of list see RP 44 fn 1.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... (Sgd) .....
Judge Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to execution and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 61. Quashing after promulgation : KR Con 571. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date .....
Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET NO. 1

FIELD GENERAL COURT-MARTIAL

CP416 (To face of AF A3) 40/P.N.S.-1896 (40/00)

4/38B

Convening Order of Brig J G SPRAGGE DSO OBE Comd 2 CBRG dated 18 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B53903	Pte	Arnold	DEKLEYN	Essex Scot att 1 Cdn Disciplinary Centre

CERTIFIED A TRUE COPY
ADJT

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (dates) 4, 5, 9, & 11 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~Waiting Members (if any) and Officer awaiting trial, if any~~, assemble, and the Court is closed. B

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Evidence is NOT include all relevant (see RP 44). For guidance on procedure when a variation in this form arises, see forms for CCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding entry number herein. See back of Convening Order, CF 445, for notes and notes on how to record questions, evidence etc., which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 62-70, 73, 74, 84, 102, 119, 132.) 33/133

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) B

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1700 hours trial commences. B

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) B ~~The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) and summarises the facts.~~

(1. KR Con 557. 2. AA 46(B), RP 50 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to Lieut Desnoulrr As interpreter ? Ans No Sir

The Interpreter is sworn.(1) ~~Interpreter objects to act as interpreter under s. Ans. The Interpreter is sworn.~~ B

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if not sworn (Offrs awaiting trial, if any)~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : B

President	Major	FA	Baillargeon	Gen List att 1 Cdn Dis Centre
Member	Capt	MB	Van Dine	RCASC att 1 Cdn Dis Centre
Member	Capt	KS	Aver	RCA Cdn C M Centre
B ~~Judge Advocate~~				
Prosecutor	Lieut	LA	Kitz	P1 Pus Cdn C M Centre
Defending Offr	Major	PS	Osler	RCA Cdn C M Centre

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See Dr p 3.)

A8. The accused B53903 Pte Dekleyn A before arraignment make(s) (no ~~plea~~ plea B

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Ref cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) B not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 464 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- B ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 105 ; *duty of Prosecutor see RP* 60(*A*) (*II*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) and 5 para 2. 4. MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement(1) ; the Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence appended as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 29(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 29(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans EVIDENCE AS A WITNESS Do you intend to call witnesses on your behalf ? Ans NO SIR ~~Are they witnesses as to character only ? Ans .....~~
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AA5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 44(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 108(2).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s) on the charge(s) of Not Guilty, ~~and states to the accused that the findings of the Court on him (these findings being subject to confirmation) will be announced later on, etc. The President announces that the accused is found Not Guilty on all charges and so he is discharged honourably, and that the proceedings are accordingly terminated. Part I of the Schedule is cleared and initialled.~~
(*1. AA 54(2) (a), RP 45, 120(A). 2. AA 54(2), RP 45, (1). This summary announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on page 3.~~

NOTE SEE CHARGE SHEET NOS

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C), fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 353 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is allowed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 752-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assemble and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET #2

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA8) 40/P & S/1698 (4950) 4/38B

Convened by Order of BRIG JG SPRAGGE DSO ED Comd 2CBRG dated 18 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B58903	PTE		ARNOLD	DEKLEYN	ESSEX SCOT ATT 1 CON DIS CENTRE

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ..... on (*date(s)*) .....

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by (1) as President or by any of the Members of the Court ?

Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President .....

Member .....

Member .....

Judge-Advocate .....

Prosecutor .....

Defending Offr .....

Questions by President: Is the Prosecutor a lawyer ? Ans ..... Is the Defending Offr a lawyer ? Ans .....(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 54, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. B

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see* RP 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see* RP 35(A). *As to plea when sentence may be death see* RP 35(D).

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see* RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See* MML p 744 *Instrs* (2).

3. *As to responsibility of President to accused see* RP 59, 60(C); *powers and duties of JA see* RP 103; *duty of Prosecutor see* RP 60(A) (B); *duty and privileges of accused and Defending Offr see* RP 60(C), 87(C), 91, 92; *swearing and withdrawal of witnesses from Court see* RP 81, 82; *questioning of accused see* RP 80, 87(C), 92(B), *and of witnesses see* RP 83-85; *calling or re-calling of witnesses by Court, etc, see* RP 75-79, 86, 116; *use of Summary of Evidence at Trial see* RP 17(E) *fn* 6; *and responsibility of JA or Pres to record proceedings see* RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(1)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. No I R

(1. *RP 37(B).* 2. *RP 37(D) fn 5.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E2 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (a) The Court decides (not) to allow accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so advised accordingly. (b) The Court considers the statement is relevant and has weight on charge(s) but (third) plea(s) on charge(s). The amount to (are) be enhanced.~~

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~charge~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"FAB"

CHARGE SHEET No 1

The accused, R-53903 Pte Arnold DREYFYN, Essex Scottish Regt, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with-

WHEN ON ACTIVE SERVICE DESERTED HIS MAJESTY'S SERVICE

FIRST CHARGE
Sec 12 (1) (a)
Army Act

in that he

In the Field, whilst under arrest absented himself from Prince Albert Barracks, [illegible], Belgium at 2000 hrs 27 Dec 44 until apprehended in [illegible], Belgium at 1530 hrs 7 Feb 45.

(Total absence: 41 days 19 hrs 30 minutes)

Remanded for Summary of Evidence

In the Field
23 Apr 45

(J [illegible]) Lt Col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
23 Apr 45

(J [illegible]) Lt Col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
25 Apr 45

"G S N Gostling"
(G S N Gostling) Brig
Cond
2 Cdn Base Rft Gp

To be tried by FIELD GENERAL COURT MARTIAL

"J G Spragge"
(J G Spragge) Brigadier,
Commanding
2 Cdn Base Rft Gp

In the Field
18 May 45

"FAB"

K

CHARGE SHEET No 2

The accused, H-53903 Pte Arnold [illegible], Essex Scottish Regt, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with-

[illegible] WHEN ON ACTIVE SERVICE IMMEDIATE HIS MAJESTY'S SERVICE

[illegible]
Sec 15 (1) (a)
Army Act

in that he

in the Field, whilst under arrest, absented himself without leave from 2130 hrs 8 Feb 45 until apprehended in Ostend, Belgium at 1330 hrs 20 Mar 45, wearing civilian clothes.

(Total absence: 40 days 16 hrs 30 minutes)

[illegible] WHEN ON ACTIVE SERVICE [illegible] WITHOUT LEAVE

[illegible]
Sec 15 (1)
Army Act

in that he

in the Field, whilst under arrest, absented himself without leave from 1900 hrs 15 Apr 45 until apprehended in Antwerp, Belgium at 1100 hrs 17 Apr 45.

(Total absence: 1 day 16 hrs)

Recommended for Summary of Evidence

[signature]
[illegible]
Commanding
1 Cdn Disciplinary Centre

In the Field
21 Apr 45

Recommended for Field General Court-Martial

[signature]
[illegible]
Commanding
1 Cdn Disciplinary Centre

In the Field
23 Apr 45

To be tried by Field General Court-Martial

"G S N Gostling"
(G S N Gostling) Brig
Comd
2 Cdn Base Hft Gp

In the Field
25 Apr 45

To be tried by FIELD GENERAL COURT MARTIAL.

"J G Spragge"
(J G Spragge) Brigadier
Commander
2 Cdn Base Hft Gp

In the Field
18 May 45

90

FIELD GENERAL COURT-MARTIAL

CFAMS (In lieu of CAFA 2)
40/FA8/1(S) (dated)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-53903	Pte		Arnold	DEKLEYN	Essex Scot att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 May 45 endorsed by me, ~~or by any one of us~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not desirable so to do, or that a separate trial of the~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder. JGS

~~And I am unable to appoint any officer to form the Court who holds an appointment as President, for the reasons stated in a letter~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I have also appointed / have detailed the officers mentioned hereunder~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	FA	BAILLARGEON (Must be named. RP 106.)	Gen List att 1 Cdn Dis Centre	(Unit.)

MEMBERS.

Capt	KB	Van Dine	RCASC att 1 Cdn Dis Centre	
Capt (Rank.)	KS	AUER (Named or detailed. RP 106.)	RCA	Cdn C M Centre (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

"J G Spragge" (Signed personally. RP 105 fn 2.)
(J G Spragge)

Brigadier (Rank.)

Date: 18 May 45

Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2e93.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing *see* AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 82(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. *(RP 95 fn 1.)* If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. *(RP 60(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused *(not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10))*, or evidence by accused, as to facts or his character or both. *(See RP 41 fn 3, 45 fn 1, 80.)*

(iii) Evidence of witnesses for accused as to facts or his character or both. *(See RP 46 fn 1.)*

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court *(RP 86(B))*, or to prove previous convictions when accused has called witnesses as to character. *(RP 86(C).)*

(v) Closing address *(on matters other than in mitigation of punishment)* by Defending Offr or accused. *(See RP 40 fns 8-12, 87(C), 92(C) (D).)* But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. *(When accused charged jointly see RP 61.)*

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).)*

(vii) Summing up by JA, if any. *(RP 42.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. *(On top.)*

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). *(KR Can 557.)*

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 162 (1) (g) (h).)*

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of award of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. *(AA 53(9), RP 118(C), MML p 758.)*

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 557

I certify that I have this day examined B53903

Pte DEKLEYN and in my opinion he is fit xxxxxx to

trial by Court Martial.

Station 1 Cdn Disciplinary Centre

Date 4 June 1945

"A A Toms" Ca

Medical Officer

1 Cdn Disciplinary

Unit

MEDICAL OFFICER'S CERTIFICATE (RR(Can) P

I certify that I have this day examined M53903

Pte DEKLEYN and in my opinion he is fit

trial by Court Martial.

"A A To

Medical Off

Station 1 Cdn Disciplinary Centre

1 Cdn Disci

Date 5 June 45

Unit

MEDICAL OFFICER'S CERTIFICATE (KR(Can) Para 55[illegible])

I certify that I have this day examined B53903

Pte DEKLEYN A and in my opinion he is fit xxxxxx to undo

trial by Court Martial.

Station 1 Cdn Disciplinary Centre

Date 9 June 45

"D Simms" Capt

Medical Officer

Unit

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this day examined (KR(Can) Para 6)

Pte. DeKleyn and in my opinion he is fit B53903 2 CDB

trial by Court Martial. xxxxxx to under

Station FIELD

Date 11 JUNE 1945

"AA Toms" Capt
Medical Officer

1 CDN DISC CENTRE
Unit

208

D-3

1st Witness for Prosecution

C53094 Cpl Levallec, A. 9 Sec 2 Cdn L of C Pro Coy Brussels having been duly sworn is examined by the Prosecution:

On 8 Feb 45 I was NCO i/c Guard Room at Provost HQ Brussels. I recognize the accused now. At 2130 hrs 8 Feb 45, as a result of information received, I searched the guard room and found the accused missing. I was satisfied that the accused was gone.

Cross Examination

The duty roster is posted and changed every day. The NCO i/c Guard Room is changed every day. In Feb. the guard was posted for a week at a time taking night shifts. I am sure I was on duty the 8 th Feb as I was posted in orders for duty this day and also because I reported the absence of the accused on this date.

By the Court

I again saw the accused on the morning of 4 June 45. The accused at the time of his escape was handcuffed and in a cell with 3 (2) other prisoners. When I inspected the cell after the accused escape there was only one man left in the cell and the screen grill was pushed out of the window. The accused could of escaped through the window as the door was still bolted. The one man remaining in the cell was not the accused.

RP 83 complied with.

Court Adjourns to 0930 hrs 5 Jun 45 - No other witnesses available until that time.

The Court reopens pursuant to adjournment same members in attendance.

2.

"FAB"

2nd Witness for Prosecution

Maurice Jolie, Police Commissaire, Tielt, having been duly sworn is examined by the prosecution:

My agents arrested the accused whom I now recognize on the 27 Mar 45 at approximately 2100 hrs. I searched the accused when he was brought before me by my agents on 27 Mar 45. We arrested the accused originally because of his accent. I recognize an employment card taken from the accused when I searched him. This is a Belgian civilian employment card for Brussels.

Employment card produced is marked as exhibit # 1 by the Court.

The accused was in civilian clothes when arrested. The accused was turned over to the military police of Ostend the next day 28 Feb 45, I believe.

RP 83 complied with

The Court adjourns until 0930 hrs 9 Jun 45 on account of no further witnesses being available.

The Court reassembles at 0930 hrs 9 Jul 45 pursuant to adjournment same members present.

3rd Witness for Prosecution

1036528 Cpl Sinclair, B of Provost Coy Brussels having been duly sworns is examined by the prosecution:

On 27th Dec 44 I was NCO i/c Guard at Prince Albert Barracks, Brussels, I do not know Pte Dekleyn, I recognize a document as being in my handwriting and appertaining to B53903 Pte Dekleyn of the Essex Scottish Regt., 2 Canadian Division.

The defence does not oppose the admission of the piece of paper but does oppose the admission of any facts stated therein.

The slip of paper is admitted as Exhibit # 2.

"FAB"

3.

3rd Witness (Cont'd)

Since 27 Dec 44 roughly two or three thousand prisoners have passed through my hands. When a prisoner escapes an investigation is made and a search made for the prisoner. The officer i/c is notified both verbally and by a slip of paper the same as Exhibit # 2.

Cross Examination by Defence

When a prisoner escapes the sentries carry out the search under my supervision. The sentries report any escape of prisoners to me, I would not know of their escape by my own knowledge.

HP 83 complied with

Prosecution submits certificate of apprehension which is attached as Exhibit # 3.

Prosecution submits certificate of apprehension which is attached as Exhibit # 4.

D-6
First Witness for Defence

"The Accused"
B53903 Pte Dekleyn, A, Essex Scottish Regt att 1 C D C having been duly sworn is examined by the Defence.

I was in civilian clothes when apprehended by the Belgian police because my uniform was all torn up. I was seeing some friends in Tielt. I was just visiting there. The person who lent me the civilian clothes also gave me the work ticket (Exhibit # 1). I intended to come back to the army. I was with a friend who had quite a bit of money and I intended to come back when his money was spent. I was with this friend from the first time I got leave from the hospital in December 44.

Cross Examination by Prosecution

I am 23 yrs old. I was at Prince Albert Barracks last Xmas. I escaped from there a couple of days later about 1900 hrs. I don't remember exactly how many days after Xmas but it would be within a week after Xmas. I was arrested by the Provost about a month and a half after I escaped in Brussels. It was a Provost Officer. I don't remember the exact date. I was away somewhere around forty days. I was put in the Cdn guard room in Brussels. I broke out from there the next day. I remained at liberty until I was picked up by the Belgian police at Tielt. I was handed over to the British Provost. The British Provost took me to Ostend. Until I was picked up at Tielt I was at liberty for about a month and a half. I had the work ticket to show to anyone who picked me up. I just had it for the one day when I went out to visit my friends

I wore the civilian clothes for a day and a half. Cdn Army friend gave me money. He was absent too. I did nothing for the money he was a friend whom I had known in Canada. I don't know how he got his money.

By the Court

When the Belgian Police picked me up in Tielt I had civilian clothes on. They turned me over to the British Provost in civilian clothes about two days later. I left my uniform in Brussels. I went from Brussels to Tielt in civilian clothes. I was in Tielt for about a day.

R P 83 complied with.

"FAB"

Summing Up by Prosecutor

In the first Charge we have an absence that dates from the time alleged and so recorded six months ago by th NCO i/c guard. It is verified by accused. The apprehension is by cert acc ~~verb~~ he went AWL while under arrest.

Second desertion charge starts from an escape from custody proved by NCO i/c guard and again substantiated by the accused. Apprehension by Jolie is the best time for termination of that offence, and that too covered by accused evidence.

As for the first charge there is a fairly long term of absence and it is on that alone that the court must consider desertion. On the 2nd he is in civilian clothes and fortified by a civilian identity or work card. The court could well make a finding as alleged.

Lieut "L A Kitz"

Defence Summing Up by Defending Officer

First charge sheet. First Charge. Cpl Sinclair stated that he did not know himself anything of DeKleyns alleged escape on 27 Dec. It was merely reported to him, and is of course heresay and consequently inadmissable. Thus there is no evidence to show when any absence began, and the charge should be dismissed. The accused stated he escaped after Christmas but does not remember the exact date. Thus there is still no evidence of the time and date of commencement of the absence.

Second Charge Sheet, first charge. At most the evidence shows he was arrested by the civil police in Tielt on 27 Mar 45, instead of in Ostende on 29 Mar. The police commissaire Jolie states his agents arrested DeKleyn, which i again hearsay. Thus on this charge also there is no admissable evidence as to when his absence ceased to be voluntary, and this charge should also be dismissed.

If by chance these charges are not dismissed, the question of desertion as opposed to AWL arises. The evidence which may be used to imply desertion consists of the length of absence which is in this case not long under either charge. and the fact that he was in civil clothes. He states he intended to come back to the Army when his friends money

ran out. This is again is very reasonable and I submit is the absolute truth. Thus on both charges the essential intention is missing and at most he is guilty of AWL.

"P S Osler" Maj

Plea in Mitigation - DeKleyn

"FAB"

DeKleyn came to England in the spring of 1943 and to France with the Essex Scot early in Jul 44. He stayed with his unit until he was wounded in Nov 44.

He was with friends when he was absent and failed to overcome a natural aversion to walking into a Provost office to surrender. It is so much easier to put off a decision like that from day to day, and many men do it although fully intending to give themselves up, and actually doing so when their money runs out. DeKleyn is such a case.

I submit that a relatively light sentence would therefore be fitting.

"P S Osler" Maj

Original Civilian Employment Card is attached to Original Proceedings as Exhibit 1.

EXHIBIT "2"

"G. Baillargeon" Maj

Officer Commanding
180 Provost Coy.

Report:- Prisoner escaping from confinement.

Sir,

I have to report that at BRUSSELS on the 27 Dec 44, I was NCO i/c Guard at PRINCE ALBERT BARRACKS when

No B/53903 Rank Pte Name DAYLEYN

Unit Essex Scottish Regt, 2 Can Div

escaped from confinement at about 2000 hrs.

Field
27 Dec 44

1076528 "R SINCLAIR" Cpl
NCO i/c Guard

Certified copy of Exh "A" M. Rousseau Capt

EXHIBIT "3"

CERTIFICATE IN ACCORDANCE WITH P.G 2797 of 10 Apr 42

"R.A. Baillargeon"
Maj.

I certify that No B-57903 Rank Pte Name DEKLYN NA
Unit "D" Coy ESSEX SCOTTISH REGT was arrested at BRUSSELS (place)
at 1530 (hour) on 7 Feb 45 (date) and that at the time of his arrest
he was wearing military uniform.

"J. TREMBLAY" A/Capt
OC 2 Cdn L of C Provost Coy

Certified copy of Exh "B"
"R. Baillargeon" Capt

Exhibit "Y"
"R. Gallagher" Pres

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163(1)(11)

I certify that No B-53093 Rank Pte Name KEKLEYN A of 4 Bn Essex Scottish was arrested at OSTEND at 1350 hours on 29 March 1945. He was dressed in plain clothes.

BLA
30 Mar 45

"HY AINHAN" Lieut
Cmdg 240 Hq Pro Coy CMP

Certified copy of Exhibit "A" M Rousseau Capt

Exhibit "A"
"A A Gaillardon" Rec

Summary of Evidence in the case of B-53093 Pte BERLEYN A Essex Scottish Regt, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges - Deserting His Majesty's Service
Absence without leave

By direction of the CO the Evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certificate of apprehension dated 30 Mar 45

Exhibit "B" - Certificate of apprehension dated 17 Apr 45

FIRST WITNESS G-53094 Cpl LEVALLEE A 6 Sec 2 Cdn L of C Pro Coy Brussels

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him has been read over to the accused and is attached hereto as Exhibit "C".

Maurice Rousseau Capt
(Maurice Rousseau) Capt

I do not require the attendance of Cpl LEVALLEE A for the purpose of cross-examination.

A De Bryn
(The accused)

SECOND WITNESS 14340630 L cpl BUTTON EJ 2nd NQ Pro Coy CMP Retend

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him has been read over to the accused and is attached hereto as Exhibit "D".

Maurice Rousseau Capt
(Maurice Rousseau) Capt

I do not require the attendance of L cpl BUTTON EJ for the purpose of cross-examination.

A De Bryn
(The accused)

THIRD WITNESS Maurice JOLIE Police Commissaire TIELE

I certify that in my opinion the attendance of this witness owing to the exigencies of the service, is not readily procurable, and a PRO-JUSTITIA FORM signed by him has been read over to the accused and is attached hereto as Exhibit "E" The Employment card mentioned in the Pro-Justitia Form has been shown to the accused and is attached hereto as Exhibit "F".

Maurice Rousseau Capt
(Maurice Rousseau) Capt

I do not require the attendance of Maurice JOLIE for the purpose of cross-examination.

A. De Kleyn
(the Accused)

FOURTH WITNESS

K-73919 Sjt MELLOR V C 1 Cdn Disciplinary Centre
sworn states:-
I am K-73919 Sjt MELLOR V C 1 Cdn Disciplinary Centre Cdn Provost Corps. On the evening of 15 Apr 45 I was i/c Compound. At approximately 1900 hrs I was about to call a parade of all HUS and SAT. I was standing at the South East Corner of the square talking to CSM HOLLIDAY when I saw a HUP truck going very fast down the drive toward the main gate. I then heard a shout "Stop that truck". I blew the whistle for the parade and then heard some shots fired. The parade fell in, was reported, count and body check taken and Hut 3 i/c Sjt FERGUSON F, reported that three men were unaccounted for, their names were:-

M-63127 Pte WRIGHT HM
E-14356 Pte LEVERQUE J R R
B-53903 Pte DEKLEYN A (the accused)

The accused declines to cross-examine this witness

V C Mellor
K-73919 Sjt MELLOR V C

FIFTH WITNESS

M-28719 Sjt FERGUSON F 1 Cdn Disciplinary Centre
sworn states:-
I am M-28719 Sjt FERGUSON F attached to 1 Cdn Disciplinary Centre. On the evening of 15 Apr 45 I was in charge of No 3 hut. At approximately 1900 hrs I had got my men out of their hut and was forming them up for the 1900 hr Roll Call when I saw a vehicle going down the road toward the main gates. I heard someone shout "Stop that vehicle" and my men started to stir around so I called them to attention. After that I called the roll and found I was 4 men short. I immediately reported this to Sjt MELLOR and he told me to try to locate them. One joined the squad almost at once, he had been working in the kitchen, the three missing men were:-

M-63127 Pte WRIGHT HM
E-14356 Pte LEVERQUE JRR
B-53903 Pte DEKLEYN A (the accused)

The accused declines to cross-examine this witness

F Ferguson
M-28719 Sjt FERGUSON F

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Maurice Rousseau Capt

(Maurice Rousseau), Capt

Officer detailed to take Summary of Evidence

Dated in the Field,
23 Apr 40

"FAB"

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 163(1)(j)

I certify that No. B53903 ..... Rank Pte .. Name DE KLEYN ..... A .....

of ..... ESSEX SCOTTISH REGT ..... unit was arrested at .....
2 Cdn Div

..... Brussels ... (place) at 1100 .. hrs on 17APR 45

(date). He was dressed in uniform xxxxxxxxxxxxxxxxxx

Date 17 Apr 45 ... Signature of Provost Marshal, [illegible], or other officer into whose custody [illegible] was taken on arrest.

Signature & Rank ..... "J Tweddle" A/Capt .....
Officer Commanding

Unit or appointment 2 Cdn L of C pro Coy .....

Exhibit "B"

NOTES

"M Rousseau" Capt

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer 'for' another or by anyone not holding commissioned rank.
3. In no circumstances should the place of [illegible] be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in [illegible] the place, the map reference should be given.

STATEMENT OF EVIDENCE IN THE CASE OF B-53903 Pte DEKLEY MA

Sir:

At approx 2130 hrs on 8 Feb 45, I was NCO i/c Coy HQ Guardroom when Pte Currie of the Guardroom Staff informed me that 2 soldiers under arrest had escaped. I went to investigate and found a window open and a screen pushed out. I then notified the STAND-TO and a search party organized. I climbed up the elevator weights shaft and over the roof. I saw where the soldiers had broken a bathroom window in the next building. I went through the broken window and down the stairs. The people of the house informed me that two soldiers had just gone a couple of minutes. Both these soldier, the A/M soldier being one of the two having escaped, were wearing handcuffs at the time of their escape.

"A LEVALLEE"
C-53094 A. Levalles Cpl
8 Rec 2 Cdn L of S Pro Coy

Field
9 Feb 45

Certified copy of Exh "C"
M. Rousseau Capt

[redacted]

STATEMENT OF EVIDENCE IN THE CASE :- B-53093 Pte DEKLEYN A 4 Bn Essex Scottish Regt 2 Cdn Div

Sir:

At Ostende on the 29th March 45 at about 1000 hrs, I was instructed by the Orderly Sergeant, Sergt. Plowman, to proceed to the Civil Police Station at THIELT to collect a Canadian soldier who was being detained there.

On my arrival there I saw the above named who claimed to be a Canadian soldier. He was dressed in civilian clothes and had no documents of military identification.

I conducted him to my Company Headquarters, from there he was conveyed to the Field Security Section for interrogation, where he claimedto have broken out of a guardroom in Brussels in January of February last, that his paybook was there held by the CM Police.

On further investigation I was able to ascertain from the Company's Absentee File that the above named was a Canadian Soldier, that he was reported as having escaped from the Guardroom, Prince Albert Barracks Brussels on the 27 December 1944.

I apprehended him, he was conveyed to the Town Guardroom 111 Transit Camp Ostend to be detained. Handing over receipt attached. Attached also reports from the Civil Police, the Lt and the Field Security Section Ostende.

BLA
29 Mar 45

"EJ SUTTON" L cpl
240 HQ Provost Company CMP

Certified copy of Exhibit "B"

M. Rousseau Capt

TRANSLATION OF ATTACHED PRO JUSTITIA FORM

I, the undersigned Maurice JOLIE, Police Commissaire at TIELT have to report that on the 27th March 1945 I received the following statement from Gerard VERMEIRE and Alfons VERMEERSCH both assistant Police Constable at TIELT and from Sgt. Karel VOSSDEN and Sgt Alfons JANSSENS both belonging to the 24th Bataillon Fusilliers 1st Coy stationed at TIELT, who states.

"As we were informed that a suspected person ran about in town, we made enquiries and followed him from 1900 hrs until we could arrest him in front of the Police Station. He tried to run away but Police Constable VERMEERSCH lets him fall. He made some trouble but we brought him into the Police Station."

I the Police Commissaire interviewed this person who was only in possession of a sort of work certificate on the name of STORDEUR Robert Jan, HOOGHESTRAAT No 134 BRUSSELS delivered by MEUNERIE DE VOGHEL S A 153 QUAI DE LA INDUSTRIE BRUXELLES.

This person states,

"I, am DE KLEYN Arnold, born at HILL, HOLLAND the 7/ 11/1921 living BRI Simco Ontario Canada, and I belong to the Essex Scottish Regt B.53903. I landed in Europe Approx. 15th June 1944, I was in the battle of Normandy (France) and went forwards with my Regiment into the country of BEVELAND (Holland). There I was wounded in my arm and back in October 1944. I was conveyed to the British Hospital at LOUVAIN. I left the Hospitall on the 1 st December 1944 and went to BRUSSELS , where I spent my 4 days convalescent leave. In BRUSSELS I met some girls and stayed there until yesterday 27-3-45. I left BRUSSELS by train at about 1600 hrs and travelled too TIELT. I spent the night at TIELT at a farm, but the occupiers did not see me. I came to TIELT as I did not feel safe any more in Brussels. Today I walked round. I have never been to TIELT before, and I din't know anyone. The card on the name of STORDEUR Robert Jan found in my possession I received from an unknown person in a Dance-hall at Brussels. I think I am able to recognize him. I speak Dutch as I only left Holland to go to Canada in 1937. My battle dress was used and I throw it away in Brussels and get some civil clothes there.".

I kept the a/m person under close arrest in the Town Guardroom and informed the English Military Authority.

(Sgd M. Jolie

N.B. Attached the work certificate on the name of STORDEUR Robert Jan.

Certified copy of translation of Exhibit "E"

M. Rousseau Capt

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B-53903	Pte	DEKLYN NA	Essex Scottish

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AAM ~~[illegible]~~ (1 at) 1 times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 4 Nov 42

Date of last entry in Field Conduct Sheet 20 Mar 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for ~~X~~ 49 at days in military custody, i.e., No days in open arrest, ~~X~~ 49 at days in close arrest; of which ~~No~~ 10 at days were spent in hospital.

5. The present age of the accused is 23 years 5 months old

6. The date of his attestation ~~calling up for military service~~ is 15 Jan 42

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	/////	
In the war substantive rank of	////	
In the acting rank of	/////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] Form B.296 (War) [illegible]

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
DCM	Canada 4Nov44	AWL 37 days 15 hrs 1 min AWL 8 days 22 hrs	90 days detn forf pay and allowances 132 days	----------

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

24 day of April 45

J Medhurst Lt-Col.
Canadian Disciplinary Centre

(Previous sheet destroyed 2 Jun 43 as of 15 Jul 42)

3/17 MFM 6 (AFB 122) 40/PAS/136 (5418)

No. B53903 Name DEKLEYN A | Sqn, Battery, or Company | Corps CIC | Date of enlistment 15/1/42 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Was sentenced by a District Court Martial on 4 Nov 42 to 90 days detn for:- (1) AWL from 2359 hrs 16 Aug 42 until apprehended by North Bay Det. 32 Coy CP Corps at Redbridge, Ont at 1500 hrs 23 Sep 42 (Absence 37 days 15 hrs 1 min) (2) as Deserter on DO No 90 d/10/9/42. TOS on apprehension at 1500 hrs 23 Sep 42. (Absenting himself without leave from 2200 hrs 9Oct 42 until 2000 hrs 18th Oct 42 (surrendered himself) to Guardroom No 24 CABTC Brampton Ontario. (Absent 8 days 22 hrs. Close arrest from 2000 hrs 18 Oct 1942 until 1040 hrs 4/11/42 (Total forf. 44 days. Total forf of pay and allowances 132 days. Cost of app. $18.34					
						90 days Detn	4/11/42	DO 148	forf 132 days pay
Field	18Mar44	Pte		Sec 11 out of Div area contrary to Pt 1 Orders AA 40 in possess. of pass which was not genuine	Documentary	14days forf pay	20/3/44	Lt col BJS MacDonald	cost of app $0/2/10

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified to be a true extract from the regimental books and documents in my custody

RSC WILLIAMS Lt Officer ic Recds X Cdn Sec 2 Ech HQ 21 A Gp

Certified copy of MFM 6 in my possession

Lt Col,
Comdg, 1 Cdn Disciplinary Centre

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused B53903 Pte KEKLEYN Arnold Essex Scot att 1 Cdn Dis Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
CHARGE SHEET No. 1			
1st AA 12(1)(a)	Not Guilty	Not Guilty	
B ~~AA~~			
CHARGE SHEET No. 2			
B ~~AA~~ AA 12(1)(a)	Not Guilty	Guilty	With the exception that the accused was in Ghent not in Tielt at 2100 hrs 27 Mar 45
B 2nd ~~AA~~ AA 15 (1)	Guilty	Guilty	
B ~~AA~~			
B ~~AA~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for [illegible]~~ (1) B

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 49 days, of which 10 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one (1) year and to be discharged with ignominy from His Majesty's Service

B ~~[illegible]~~ Judge-Advocate, if any. 11 Jun 45 Date awarded. (Sgd) "F A Baillargeon" President. (RP 45, 50) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1) "JSL"

(1. AA 57A. Delete if not used.)

(Sgd) "J S Lind" Brig

Date 3 Jul 45 Commanding 3 C B R Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B53903 Pte DEKLEYN, Arnold	5 Jul 45	"VSJ Richmond" Lt Col Comd 1 Cdn Discipline Centre

CR # 703/5-1
d/5 Jul 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Paper: Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~and~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great laxitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ~~Give evidence as witness~~ Do you intend to call witnesses on your behalf? Ans. NO SIR. Are they witnesses as to character only? Ans.

(1. RP 115. 2. RP 40(A); see 80(D). 3. ~~RP 40 fn 10~~ 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(b).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the FIRST charge(s) being subject to confirmation, will be promulgated later.(1) ~~(or the President announces that the accused is found Not Guilty on all charges and is to be released forthwith) and that the proceedings are accordingly terminated. Part I of the Schedule is filled and witness(es) are discharged.~~

(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO SIR

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ~~A~~ and Ex ~~C~~ respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would effect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 60. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4G-34.

Pte. Delabbio. O.J.

Missing

192.
Jos. De La Fontaine R. J.

O. H. M. S.

M. F. B. 870

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 25th day of November, 1941.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Military Headquarters, on active service, that the person named in the annexed Schedule, being subject to Military Law, has committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

I hereby convene a Field General Court Martial to try the said person, and to consist of the Officers hereunder named.

[illegible]

Judge Advocate

Lieut.	K.E.MacLauchlan	J.A.G.Branch, C.M.H.Q.

President.

Rank.	Name.	Regiment.
Major	E.J.D. Edmonds	16 Lt A.A.Bty. R.C.A.

Members.

Rank.	Name.	Regiment.
Captain	J.R.Pepall	53 Lt A.A.Bty, R.C.A.
Lieut.	G.McK.Avery	16 Lt A.A.Bty, R.C.A.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

PROCEEDINGS REVIEWED

3/1/42

Remarking Officer (Pres.)

*Signed J.C.Murchie (J.C.Murchie) Brigadier

Commanding Canadian Military Headquarters.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.1032 Gunner DE LA FONTAINE, Raymond Joseph 3 Lt A.A.Regt R.C.A.	First Charge A.A.Sec 8(1)	not guilty	guilty	
	Second Charge A.A.Sec 8(2)	not guilty	guilty	
	Third Charge A.A.Sec 11	guilty	guilty	Confirmed. P J Montague (P. J. Montague) Major Senior Officer Canadian Military Headquarters 11 DEC 1941
	Fourth Charge A.A.Sec 19	guilty	guilty	
	Fifth Charge A.A.Sec 15(1)	guilty	guilty	
	Sixth Charge A.A.Sec 22	guilty	guilty	T. — for 128 days. [illegible] 1 C Mansfield Lt Judge Advocate
(See Charge Sheet attached)				

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— no

(Signed) J.C. Murchie (Signed) [illegible] President.
(J. C. Murchie) Brigadier
Commanding Canadian Military Headquarters.
Convening Officer (d)

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of November, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. ~~The officers under instruction~~

* Omit if not applicable.

were duly sworn.

Signed this 28th day of November 1941.

President of the Court Martial

C.

Certificate in case of death sentence.

* See footnote (b) on page 762 M.M.L. 1940.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

Signed this 11th day of December 1941.

Confirming Officer
(P. J. Montague) Major
Senior Officer
Canadian Military Headquarters
11 DEC 1941

Promulgated and extracts taken in the case of C.1032 Gnr De La Fontaine R.J.

(a) (Dated) 16 Dec 41 Part I Order No. 162 (Signed) [illegible] Lt. Col. R.C.A.

Promulgated and extracts taken in the case of O.C. 3rd L.A.A. Regt. R.C.A. (A.F.)

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

PROCEEDINGS of a Field General Court Martial

assembled at Lyttel Hall, South Nutfield, Surrey

on the 28 November 1941

by order of Brigadier J.C. Murchie

for the purpose of trying C1032 Gnr. Raymond Joseph De La Fontaine, 53 Battery, 3 L.A.A. Regt., R.C.A.

PRESIDENT

Major E.J.D. Edmonds, 3 L.A.A. Regt., R.C.A.

MEMBERS

Capt. J.R. Repall 3 L.A.A. Regt., R.C.A

Lieut. G.McK. Avery 3 L.A.A. Regt., R.C.A

Judge Advocate

Lieut. K.E. MacLachlan C.M.R.Q.

The having assembled pursuant to order, proceed to

The order convening the Court, the charge-sheet, and the summary of evidence are laid before the Court.

The Court satisfy themselves as to Rules of Procedure 22 and 23.

The accused is brought before the Court at 1020 hours 28 Nov. 41.

Prosecutor. Lt. C. Pidoux

Defending Officer. Lt. G. Lash

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have hard read over?

No.

The President, Members and Judge Advocate are duly sworn.

M60985 L/Bdr. Coley V.H. is duly sworn as shorthand writer.

Question to accused. Do you object to M60985 L/Bdr. Coley V.H. as shorthand writer.

Answer. No.

The Charge Sheet is signed by the President, marked B2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Question to Accused — Are you guilty or not guilty of the first charge against you, which you have heard read?

A. Guilty

Question to — Are you guilty or not guilty of the second charge against you, which you have heard read?

A. The second charge is objected to by the accused on the grounds that the charge arises out of exactly the same set of circumstances as the first charge.

The Court is closed to consider their decision.

The Court disallow the objection.

The accused pleads not guilty to the second charge.

The accused ammends the plea on the first charge to plead not guilty.

Q. Are you guilty or not guilty of the third charge against you, which you have heard read?

A. Guilty

Q. Are you guilty or not guilty of the fourth charge against you, which you have heard read?

A. Guilty

Q. Are you guilty or not guilty of the fifth charge against you, which you have heard read?

A. Guilty

Q. Are you guilty or not guilty of the sixth charge against you, which you have heard read?

A. Not Guilty.

Q. Do you wish to apply for an adjournment on the grounds that any of the rules of procedure have not been complied with or that you have not had sufficient opportunity to prepare your defence.

A. No.

Rule 35B is complied with as regards charges to which accused pleads guilty.

Medical Certificate is accepted and signed by the President.

The Court decides that owing to the shorthand writer being present it is not necessary to comply with Rule 87B

The Prosecutor makes an opening address: We have had the charge read. Accused offered violence to his superior officer in the course of his duty. On the 31 day of Oct. 1941 he threatened L/Bdr. Gould with a loaded rifle.

PRESIDENT — Major E.J.D. Edmonds, 3 L.A.A. Regt., R.C.A.

MEMBERS — Capt. J.R. Popell, 3 L.A.A. Regt., R.C.A.

Lieut. [illegible] McK[illegible] Avery, 3 L.A.A. Regt., R.C.A.

JUDGE ADVOCATE — Lieut. K.E. MacLachlan, C.M.H.Q.

The prosecutor proceeds to call witnesses.

First Witness for the Prosecution

B6390 a/L/Bdr. Gould T.K., 53 L.A.A. Bty., R.C.A., being duly sworn is examined by the Prosecutor

Q. Do you remember the 30th day of October 1941?

A. Yes.

Q. Where were you on that day?

A. At Site L 160, Biggin Hill Camp.

Q. Do you know the accused?

A. Yes.

Q. Was Gnr. De La Fontaine under your command on that day?

A. Yes.

Q. Will you tell the Court just what happened on your site between the hours of 1200 hours to supper time?

A. I received a report from Bdr. Wood that Gnr. De La Fontaine was absent. Gnr. De La Fontaine returned to the site and I placed him under open arrest. There were several of us talking there, and I went to phone to Troop Office to report. I did not immediately phone, and he went to his bed and got his rifle, unnoticed by us, and he loaded it, and before I noticed him I heard a noise and he was coming along the aisle between the beds. He shot the bolt home and I noticed there was one round in the chamber. I told him he was acting foolishly and he had better put the rifle back. We talked to him for a few minutes trying to persuade him to put his rifle back. He would not do that. We got to our feet, myself and L/Bdr. Tompkins. Gnr. De La Fontaine thought we were going to take the rifle away so he said it would be better if we didn't bother him, that he would shoot his way out if he had to. Gnr. Street was in a position to take the rifle away from him. L/Bdr. Tompkins and myself stepped out of the doorway. Gnr. De La Fontaine went out. I went to the phone and phoned Sgt. McKay at the Troop Office and told him what had happened. A short time later Sgt. McKay and several others came and I explained to them. Later Gnr. De La Fontaine came back.

Q. Did you see him pick up the rifle?

A. I did not see him pick up the rifle. I heard a noise and saw Gnr. De La Fontaine coming with a rifle and was close enough to see the bolt shot home and a round in the chamber.

Witness is cross examined by the Defending Officer.

Q. What number is the accused on the gun?

A. No. 4. He is a good No. 4; quite smart on the gun. I was with him all the time on the gun site and his conduct was very good. He was pretty drunk when he came in. He was under arrest for being A.W.L. I actually saw the round going into the chamber. He was holding the rifle (demonstrated by the witness at about the port) when loading. I was about ten feet away. He was holding the rifle (demonstrated by the witness at about the port) with one finger on the trigger when threatening. He was weaving around some.

Q. How drunk do you think he was?

A. Very drunk.

Q. Do you think he was too drunk to know what he was doing?

A. I couldn't say he was that drunk, but he didn't know the seriousness of it.

The Witness is questioned by the Court.

Q. Why did you think him very drunk?

A. When I placed him under open arrest I could smell alcohol on his breath and noted his general actions. The accused wouldn't have used the rifle unless drunk. His speech was thick. He was not very steady on his feet; he could walk allright but was staggery.

Second Witness for Prosecution

B6460 a/Bdr. Wood G. 53 L.A.A. Bty., R.C.A. being duly sworn ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ the Prosecutor does not wish to question the witness.

The Witness is cross-examined by the Defending Officer.

Q. Are you in the same detachment as the accused?

A. Yes

Q. Was he a good gunner?

A. Very good.

Q. How was his conduct up to the night of Oct. 30th.

A. Very good.

Q. It was most unusual for him to pick up a loaded rifle and threaten an N.C.O. with it?

A. Yes.

The Witness is questioned by the Court.

Q. You were on duty on the night of 30th Oct. at Site L160 Biggin Hill?

A. Yes.

Q. Can you tell us anything about the accused?

A. He came off duty at 1230 hours, had his dinner at approximately 1245 hours. I came back in at approximately 1400 hours and the accused had gone out. I did not know his whereabouts. He should have been in the hut. He was not to be found anywhere around the hut.

Q. What action did you take when you found that the accused was missing?

A. As soon as I found that accused was missing I telephoned to the Troop Office. I advised nobody else, except L/Bdr. Tompkins and L/Bdr. Gould.that accused was A.W.L.

Third Witness for Prosecution

C316 Gnr. Street H.C., 53 L.A.A. Bty., RLC.A. being duly sworn is examined by the prosecutor.

Q. Do you know the accused?

A. Yes.

Q. Do you remember the day of the 30 Oct. 1941?

A. Yes. I was on Gun Site L160.

Q. Tell the Court what happened.between 1200 hours and supper time.

A. After dinner we were in the hut, off duty. The accused was found missing between 1230 hours and 1400 hours and was reported absent by Bdr. Wood. Accused came back later in the afternoon under the influence of liquor and made a little trouble messing around. He threatened a few of us with a rifle, a .303. This happened inside the hut.

Q. How did he threaten?

A. When he went to go out again we tried to stop him; he insisted on going out. Then he brought the rifle and insisted on going outside the hut. I was in a position to have taken the rifle away from him but it would have endangered L/Bdr. Gould and L/Bdr. Tompkins. I was in no danger myself. When he left he went down through the bush. He was later reported by L/Bdr. Gould. I saw the accused after he was found, lying on the ground, out cold.

Q. How do you know the rifle was loaded?

A. I saw him shove the bolt home, with the round entering the chamber.

Q. Did you have an opportunity to examine the rifle after.

A. No. The rifle was beside him when he was lying on the ground.

The witness is cross-examined by the Defending Officer.

Q. How long after the accused left the hut (after threatening with the rifle) did you see him?

A. About twenty minutes or half an hour.

Fourth Witness for Prosecution

B9097 a/L/Sgt. Long J. 53 L.A.A. Bty., R.C.A. being duly sworn is examined by the Prosecutor.

Q. Do you know the accused?

A. Yes.

Q. Has he ever been under your command?

A. No.

Q. Do you remember the day of the 30 Oct. 1941? Would you tell the Court what you remember between the hours of 1300 hours and supper time?

A.

I found the accused lying on the ground beneath some trees sleeping. A rifle was in one hand, and a .303 round in the other hand. I was looking for the accused and was in charge of one of the searching parties. He was asleep, apparently under the influence of liquor when found. He just had one round of ammunition when found.

The witness is cross-examined by the Defending Officer.

I had a telephone call at Troop H.Q. to the effect that the accused was in the woods. I found accused about thirty minutes after ~~it~~ receiving the phone call.

Q. Can you give us the condition in which he was lying?

A. Flat on his back with his arms to the sides. When the accused woke up he did not know where he was, did not know anything at all. We had to assist him. This was about 1600 hours. He was lying on the ground, surrounded by small bushes. The rifle was in one hand. He had apparently collapsed under the influence of the liquor. The round and the rifle were both kept for evidence.

The Defending Officer waives production of the rifle and ammunition.

Q. Was there any other ammunition around.

A. No. None on his person. Rifle had not been fired.

The witness is questioned by the Court.

Q. How did you know the rifle had not been fired?

A. I examined the rifle. One round was in the accused's hand and nothing in the barrel.

The Prosecuting Officer applies for an adjournment on the ground that B9124 a/L/Bdr. Tompkins L.F and C19509 a/Sgt. McKay B.C., material witnesses who gave evidence when the summary of evidence was taken are not present, Sgt. McKay being on course and Bdr. Tompkins is in hospital.

The Defending Officer states that as far as the presence of Bdr. Tompkins is concerned Bdr. Gould, whose eviden we have already had was present with Bdr. Tompkins in all the material occurrences and as the accused is not challengine the evidence given by Bdr. Gould, and as the accused will be put to the inconvenience of detention, it does not appear to be necessary to have Bdr. Tompkins present, and that the same considerations apply in the case of Sgt. McKay, as far as Defence knows, all the evidence given by him has been given by Sgt. Long.

The Prosecutor disagrees entirely.

The Court states that the evidence given is not contested. There is no need of further evidence.

Defending Officer: The facts are clearly not in dispute; there is only the interpretation to be put on them. The witnesses are not contested at all. The point is admitted that everything that Bdr. Gould says and what Sgt. Long says is admitted.

The Court is closed to consider their decision.

The Court is re-opened, and the following decision is made known.

The Court has given full consideration to the motion of the Prosecution to adjourn to procure the attendance of two material witnesses. They have also taken into account the fact that very full evidence has been given by the proceeding witnesses and in view of the fact that the evidence has not been contested the Court decides that the two other witnesses are not material witnesses.

The Court question the accused. Do you apply yourself to give evidence as a witness.

A. Yes.

Q. Do you intend to call any other witness in your defence?

A. Yes.

Q. Is he a witness as to character only?

A. Yes, in defence, but not in mitigation of punishment.

The accused C1032 Raymond Joseph De La Fontaine, 53 L.A.A. Bty., R.C.A. being duly sworn being examined by Defending Officer states:

On Oct. 30 1941 I was on duty at the gun site from 0730 hours in the morning till 1230 that afternoon, whereas when I got released from duty I went in and had dinner, then Gnr. Waukey (he is a replacement on the gun site with me) and myself went down to the pub at Down, Kent and had some beer, whereas before I got down to the pub I had a bottle of wine which I drank. I also had a small bottle of gin; I drank it too. It is approximately two and a half miles to the pub. The bottle of gin was a half bottle (cost 9/6). I drank it all myself. The wine was Australian Wine, about a forty ounce bottle (cost 8/-). I drank all the wine myself. I was feeling pretty high at the time of going into the pub.but remember ordering three beers for myself and three for Gnr. Waukey. I drank five myself. The woman running the pub asked us to go outside. I had not finished my beer so I said I would go as soon as I had finished my beer. There was an argument about her losing her licence account of serving us. I left about twenty minutes later. I left the hut at about 1400 hours. I felt pretty high after leaving the pub. I knew that I was due to go on duty at 2230 hours. While coming back a L/Bdr. and a gunner, whom I do not know, came up to us and said that we were wanted at the Battery Office account of being A.W.L. As far as I can remember after leaving the Bombardier I left Gnr. Waukey to come back to the gun site. While on the way back I felt pretty sick and had to go across a field to where a farmer was plowing and he had to help me back to the bush; I was very sick. This was about half a mile from the gun site. I went through the bush and went into the hut intending to go to bed and an argument about my being A.W.L. started and the heat in the hut started to make it worse and everything went blank. After that I remember when Sgt. Long and Sgt. McKay and Gnr. Street lifted me up and asked me what I was doing there. I did not know. They asked me if I wanted to go back to the hut and I did. Sgt. McKay put me under close arrest and took me to the guard house. I do not remember having a rifle. They did not mention anything about the rifle when they woke me up.

The accused is cross-examined by the Prosecutor.

Q. When you went down to the pub do you remember going back to the hut?

A. I remember being helped back by the farmer. I walked back by the fields and not by the road.

The accused is questioned by the Court.

Q. You had had very much wine, gin and beer by the time you left the pub. you were going back to the hut because you had to go on duty that night. You had just as much liquor then as when you were in the hut and could not remember instances that occurred in the hut.

A. I was in the cold air outside the pub, and was near a hot stove in the hut.

Second Witness for Defence

Lieut. C. W. Couch, 53 L.A.A. Bty., R.C.A. being duly sworn is examined by the Defending Officer.

Q. Do you recognise the accused?

A. Yes.

Q. What was your relationship to him in the Army?

A. I am Troop Commander and he is under me.

Q. Were you familiar with his work?

A. Yes. He was a very eficient gunner, quite conscientious. He got along quite well; was one of the better gunners. Was in no serious trouble before.

Q. There is a lot of evidence that he picked up a loaded rifle and threatened an N.C.O. with it. Do you think it was likely that he would have done it?

A. Not likely.

The witness is questioned by the Court.

Q. Was the accused in the habit of getting very drunk.

A. No.

The Prosecutor in summing up draws the attention of the Court to the Manual of Military Law, Page 25, Para. 47, Lines 5 & 6.

The Defending Officer makes the following summing up. The defence in this case is that the accused, while it is admitted that he did the physical acts that were described by the witnesses, was in such a state of drunkenness that he was not in a state to know what he was doing and it amounts to a defence in this case. It is very difficult to establish that point but I feel that in this case it is warranted. You have a gunner who in the words of his Troop Commander was a good conscientious gunner. Both Bdr. Wood and Bdr. Gould gave very good evidence as to his character as a gunner and as a soldier. He goes out with another gunner on pay day, and as the accused told the Court, he drank a large quantity of Australian wine, gin and beer.

He came back to the hut, and out of the relatively cold air into the warmth of the hut, and it is quite obvious the effect that that would have on him with all the alcohol he had consumed. He has no recollection of either picking up the rifle, loading it, or pointing it at his superior officer. To be guilty of that charge he must have intention of committing the action. I submit that he had no such intention. Read the Manual of Military Law Page 106, Chapter 7, Para. 9. As soon as he left the hut he wandered some distance into the bush and he was found approximately half an hour later lying on his back asleep. Both what the witnesses state about him and the condition he was found in show that there was not any intention to do what he did. I submit that there is evidence to show incapacity to form the intention. A man cannot be found guilty of crime unless he formed the intention of committing that crime. I feel that a verdict of not guilty should be found on the three charges.

The Judge advocate makes the following summing up. In arriving at your conclusions you should take into your consideration the evidence before you and you may take any military knowledge that you have in making your conclusions. In the first charge, threatening Bdr. Gould with a loaded rifle, the offence of offering violence may be established though there is no actual battery, although the Manual of Military Law mentions the pointing of a loaded rifle as being a from of offering violence. The offence of using threatening language to a superior officer. While you can if you wish certainly consider the evidence sufficient to show it as arrising out of the same set of circumstances as the first charge, or you could take the fact that there were two separate transactions in the event of his being found guilty of the first charge. On the sixth charge, having been placed under open arrest, escaped. That just depends on whether you are satisfied that he escaped after being placed under open arrest. The Defence has asked for an acquittal on the ground that the accused was so drunk as being unable to form the intention and could not form a guilty intent. Intent is an element of all crimes of this nature. Drunkenness cannot excuse crimes of this nature. But Defence points out that he was so drunk as being incapable of forming the intention of offering violence. In a similar civil case the judge stated that ability to perform the act showed ability to intend the act. On reasonable doubt, the Prosecution must prove all the facts it alleges and must prove them beyond possiblity of reasonable doubt. As one writer puts it, such a doubt as an honest heart would suggest to a reasonable mind.

The Court is closed for consideration of the findings.

The Court find that the accused C1032 Gnr. Raymond Joseph De La Fontaine, 3 L.A.A. Regt., R.C.A. is guilty of the first, second and sixth charges.

The Court being re-opened the accused is again brought before it.

The Court considers charges three, four and five to which the accused pleaded guilty.

Question to accused: Do you wish to make any statement relative to the charges to which you have pleaded guilty?

Answer: No.

Insert above

Charges three, four and five are read over again, and the close of the case for the prosecution. Rule of Procedure 40 was complied with.

The Summary of Evidence is read and attached to the record.

The Court is closed for consideration of the finding.

The Court find that the accused C1032 Gnr. Raymond Joseph De La Fontaine, 3 L.A.A. Regt., R.C.A. is guilty of charges three, four and five.

The Court is re-opened and the accused is again brought before it.

The Judge Advocate asks the Prosecutor if he has any documentary evidence.

The Prosecutor calls on Lieut. D.S. Gillies, A/Adjutant, 3 L.A.A. Regt. to identify the documents.

Lieut. D.S. Gillies, 3 L.A.A. Regt., R.C.A. is duly sworn.

Q. Have you any evidence to produce as to the character and particulars of service of the accused?

A. I have. They are A.F. B.296 Statement as to Character and Particulars of Service of the accused and M.F.M. 6.

Q. Is the accused the person named in the statements you have?

A. Yes.

Q. Have you compared the contents of the above statements with the Regimental Books?

A. Yes.

Q. Are they a true extract from the Regimental records?

A. With one exception. The period of time during which the accused has been in detention has not been ammended to date.

The witness now ammends the documents.

The Judge Advocate asks if the Defence has any questions.

Defence examines the M.F.M. 6.

The Judge Advocate asks the Defence if he has any character witnesses to call.

The Defending Officer officer asks that the evidence of Lieut. Couch be considered.

The Judge Advocate asks if the Defending Officer has any statement to make in mitigation of sentence.

A. Although the Court did not see fit to bring in a verdict of not guilty on the more serious charges, it has been shown conclusively that alcohol has been at the base of these offences. The fact that he was very drunk whould be taken into consideration and the punishment should be given on the basis of being drunk and not on the basis of holding up an N.C.O. with a loaded rifle. Since he has come to the battery the only entry on his crime sheet is thirteen hours A.W.L. He has had a very good record. The fact that he has now spent twenty eight days in detention should also be taken into consideration.

The Court is closed for the consideration of the sentence.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C.1032	Gunner	De La Fontaine R.J.	3 Lt. A.A. Regiment, R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absence without leave	one times	three times.
For Conduct to the prejudice	times	three times.
For Insubordinate language	times	once times.
For Escaping from custody	times	once times.
For Committing a civil offence	times	once times.

~~Number of instances of gallantry or distinguished conduct~~

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been convicted by~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused is at present undergoing a sentence of~~ ~~imprisonment~~ ~~detention~~ ~~days~~.

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~twenty nine (29)~~ days in military custody, making a total of twenty-nine (29) days, of which no days were spent in hospital.

5. The present age of the accused according to his ~~last~~ attestation paper is 20 years, ~~109~~ 119 days

6. The date of his ~~enlistment~~ attestation specified in his ~~last~~ attestation paper is 7 September 1939

7. ~~The accused was convicted on the following occasions by civil authority:~~

8. ~~The accused is entitled to the following rates of~~

9. The accused is entitled to reckon 2 years ~~73~~ 82 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(and has the right to wear the ribbon of the)~~.

11. ~~(If a recommendation is made.) The accused should be recommended for~~

12. ~~(If necessary.) The accused's~~

(P1646) Wt.32240/3662 75,000 12/40 A.& E.W.,Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C.1032 Rank Gunner Name De La Fontain R.J. of 3 Lt. A.A. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~27th~~ 28th day of November, 1941

(D.S.GILLIES) Lieut.
A/Adjutant,
3 Lt. A.A. Regiment, R.C.A.

SUMMARY OF EVIDENCE

In the case of C-1032 Gnr. DELAFONTAINE, R.J.
53 Battery, 3 Lt. A.A. Regt., R.C.A.

1st WITNESS B-6390 A/L/Bdr. Gould, T.K., having been duly sworn, states:

"On the 30th. October, 1941, I was present at Site L.160, Biggin Hill, Kent. At about 1230 hours Gnr. Delafontaine was reported as absent. To my knowledge, he did not have a pass. At approximately 1600 hours Gnr. Delafontaine returned. There were several of us sitting in the hut at the time. I placed Gnr. Delafontaine under open arrest. He went to his bed at the other end of the hut and got his rifle and loaded it un-noticed to us until we heard the click. As he came up towards us I saw him close the bolt with a round in the chamber. We told him he was acting foolishly and to put the rifle back. We could not persuade him to put it back. L/Bdr. Tompkins and I stepped into the doorway and he said, "Don't try to stop me, or I'll shoot my way out" or words to that effect. He had obviously been drinking a lot. We stepped out of the doorway and Gnr. Street who was behind and to the left could have stopped him but not without endangering the rest of us. He walked to the doorway, turned around with the rifle pointed at us and said, "It wouldn't be advisable for anyone to try and follow me" - or words to that effect. I went to the 'phone and told Sgt. McKay the circumstances and he came up with a search party. Later the search party brought back Gnr. Delafontaine who appeared quite peaceable.

(Signed) L/Bdr. Gould T.K.

Accused declines to cross-examine.

2nd. WITNESS B-6460 A/Bdr. Wood, G., having been duly sworn, states:

"On the 30th October, 1941 I was present as acting D.C. on Site L.160, Biggin Hill, Kent. At about 1230 hours I noticed that Gnrs. Weakey and Delafontaine were absent. They did not have a pass. At 1400 hours I 'phoned Troop H.Q. and reported them as absent. I do not know for certain when they were apprehended."

(Signed) Bdr. Wood G.

The accused declines to cross-examine.

3rd. WITNESS B-9124 A/L/Bdr. Tompkins, L.E., having been duly sworn states:

"On 30th October, 1941 I was present at Site L.160 when Gnr. Delafontaine was reported absent by Bdr. Wood at about 1230 hours. As Bdr. Wood was proceeding on pass that afternoon, I was to succeed him as acting D.C. To my knowledge, Gnr. Delafontaine was not in possession of a pass." At about 1600 hours on 30 October, 1941 Gnr. Delafontaine returned to Site L.160 and I could tell that he was very intoxicated. He was muttering incoherently and I don't believe he knew what he was doing. As soon as he came in L/Bdr. Gould placed him under open arrest. He proceeded to the other end of the hut to his own bed. He came back with his rifle and was loading it on the way up and he put a round in the chamber. L/Bdr. Gould, Gnr. Street, myself, and 2 other Gnrs. talked to him and tried to advise him that what he was doing was very foolish, but he insisted on going out with the rifle and dared us to stop him. At this time he was pointing the rifle at L/Bdr. Gould and myself and was holding the rifle from a hip position. The other two gunners were off to his left side and he was facing the door leading outside. Gnr. Street was behind him. He told us to get out of the doorway or that he would fire. We might have been able to intercept him but thought that someone might have been injured if we did.

Summary of Evidence in the case of C1032 Gnr. Delafontaine, E.J. (cont)

3rd. WITNESS B-9124 A/L/Bdr. Tompkins. (cont)

(if we did) "So we walked over to the side by the two gunners and he walked by pointing the rifle as he went. He warned us not to follow him and headed into some nearby bushes behindthe hut. L/Bdr. Gould went to the 'phone and 'phoned Troop H.Q. and reported the incident to Sgt. McKay, who came out and formed a search party to look for Delafontaine."

QUESTION:- "How do you know a round was in the chamber?"
ANSWER:- "By the time he got to us with the rifle he was close enough for us to see him drive it home."

(Signed) L/Bdr. Tompkins E.

4th. WITNESS C 316 Gnr. Street, H.C., having been duly sworn, states:

"I was present in the hut at L.180 when Gnr. Delafontaine returned. After he came up the hut with the loaded rifle, from the position I was standing, I might have been able to intercept him but L/Bdr. Tompkins and L/Bdr Gould were in the line of fire and I thought the danger involved was not worth the chance of trying to intercept him as I had seen him shove home a round into the chamber and he was using threatening language. I joined the search party when it came and assisted in bringing Delafontaine back into the hut."

(SIGNED) Gnr. Street H.C.

5th. WITNESS C19509 A/Sgt. McKay, D.C., having been duly sworn, states:

"At approximetely 1400 hours on the 30th October, 1941 Gnr. Delafontaine was reported absent by telephone by Bdr. Wood, E.J. informed Battery. At approximetely 1615 hours, by telephone, L/Bdr. Gould informed me that Gnr. Delafontaine had returned to Site and informed me that Gnr. Delafontaine had held up L/Bdr. Tompkins, himself, and others at the point of a loaded rifle and was last seen proceeding into the woods north of Site L.180. I ordered L/Bdr. Gould to remain on the Site and proceeded from Troop H.Q. to Site 180 accompanied by L/Sgt. Belisle, L/Sgt. Long, and Gnr. Turner, J.". At Site 180 we met Bdr. Gould who informed me again of what had transpired and that the accused, who was daffinitely under the influence, had a bit of ammunitionwith him. I then ordered L/Bdr. Tompkins and Gnr. Street to take loaded rifles and accompany the party I already had with me. Gnr. Turner was also equipped with a rifle. Gnr. Turner found Delafontaine approximetely 700 yards north of the Site near Site 189. I was called to the scene. The accused was in a state of unconsciousness with a rifle in one hand and one round of ammunition in the other. I confiscated the rifle and ammunition. There was no ammunition in the rifle, on his person or in the immediate vicinity. I then awakened Delafontaine and escorted him to the Site 180, had him fed and then took him to the M.A.T. Guard Room. The accused was in a state of extreme mentral depression and claimed to have no memory of what had transpired at the hut. He came willingly to the Guard Room.

(Signed) B/Sgt. McKay

The accused declined to cross-examine.

Summary of Evidence in the case of C1032 Gnr. Delafontaine, R.J. (cont)

6th. WITNESS B-9097 A/L/Sgt. Long, J., having been duly sworn, states:

"At about 1600 hours on 30th. October, 1941, a phone call came from 160 to the effect that Delafontaine, after holding up the hut, had gone out into the bush with a loaded rifle. As a result of this, I went out on a search party led by Sgt. McKay. Gnr. Turner and myself heard a noise in the bush. We looked in the bush and found Delafontaine lying on his back, sound asleep with a rifle in one hand and a round of ammunition in the other. There was no ammunition on him or in the rifle. We took him back to the hut and thence to the R.A.F. Guard Room. By the time he was at the Guard Room he was considerably more sober than when we found him.

(Signed)...J.Long.....

Accused declined to cross-examine.

7th. WITNESS Lieut. W.P. Robinson, having been duly sworn, states:

Question by the Court:- "Was Battery Order No. 203, dated 18 Oct. 41 brought to the attention of personnel stationed at Biggin Hill."

Answer:- "Yes, one copy was given to each D.C. and it was their responsibility to see that the personnel knew the contents or it."

8th. WITNESS B-9094 A/L/Bdr. Yewman, C., having been duly sworn, states:

"Between 1600 and 1630 hours on 30 October, 1941 I was in the Battery Office as Orderly Bdr. when a phone call came from Troop that Gnrs. Waukey and Delafontaine were reported A.W.L. I was informed that they were on the Bromley bus. I proceeded to the bus with Gnr. Walker, which was at Downe Hall, and informed them that they were to report to Battery Office. I had my rank badges on at the time. Delafontaine asked me why and I said they were A.W.L.. They got off and asked me to go ahead. As they were not following I came back. Gnr. Waukey wanted to fight and I said no. He was intoxicated at the time. Delafontaine seemed more sober. Waukey grabbed me by the neck and shoved me against a brick wall. ~~XXXXX~~ Delafontaine told me to go ahead and he would bring him up. I turned around and both were walking rapidly down the road away from the Battery Office. That was the last I saw of Delafontaine..

(Signed)...C.Yewman.....

Accused declines to cross-examine.

9th. WITNESS KX92414 Gnr. Walker, C., having been duly sworn, states:

"At 1500 hours 30th October, 1941 I was instructed by L/Bdr. Yewman to accompany him to the London Transport Bus No. 146b to bring back Gnrs. Delafontaine and Waukey whose absence had been reported to Battery H.Q. by Troop H.Q. by phonogram at 1415 hours. When the two men were instructed to report to Battery H.Q. they asked why. When told that they were A.W.L., Gnr. Delafontaine appeared puzzled. When Gnr. Waukey got aggressive Gnr. Delafontaine tried to calm him and suggested to L/Bdr. Yewman and myself to go ahead and he would bring Gnr. Waukey. We did so. After proceeding a few yards we turned to see both men walking rapidly away. L/Bdr. Yewmantold them to come back. When Gnr. Waukey again showed signs of aggression, Gnr. Delafontaine waved us to go on. L/Bdr. Yewman then told me to get a man and a truck.

Summary of Evidence in the case of C1032 Gnr. Delafontaine, R.J. (cont)

9th. WITNESS K92414 Gnr. Walker, C. (cont)

(a truck) "By the time I got to Battery M.T. to deliver the message, L/Bdr. Yewman arrived and ordered Gnr. Widerick and Gnr. Banks to accompany us. With Gnr. Banks driving, we proceeded along the main road to Keston looking for the accused. We could not find Gnr. Delafontaine."

Question by the Court:- "Was Gnr. Delafontaine, at the time these events transpired, in a drunken condition?"

Answer:- "He seemed alright to me."

(Signed) Clifford Walker

The accused declines to cross-examine.

10th. WITNESS Mrs. D. Hobson, of Queens Head, Downe, Kent, having been duly sworn, states:

"I can identify Gnr. Waukey and Gnr. Delafontaine. They came into the Queens Head Public House, of which I am proprietress, about 2:30 p.m. on 30th October, 1941. As it was closing time, I asked them to go but they refused. They finally went after remaining about 20 minutes. Both were the worse for drink.

(signed) D. Hobson

The accused declines to cross-examine.

Taken down by me at Biggin Hill, Kent these 5th and 6th day(s) of November, 1941 in the presence of the accused. Rule of Procedure 4 complied with.

J R C Powdell Lieut., R.C.A.,
53 Battery, 3 Lt. A.A. Regt., R.C.A.

8 Nov. 16, 194.

I, No C1032 Gnr Delafontaine R.J. desire an officer to represent me at my trial. I desire the services of Lt. Pickson if he is available

Gnr De La Fontaine R.J.
C1032 53 Light A/A Bty
3 reg RCA

November 28th 1941.

This is to certify I have this date examined C.1032

Gnr. Dela Fontaine, R.J. FIT, mentally and physically

to undergo Trial by Court-Martial.

H. Scott

(H. SCOTT.) CAPTAIN, R.C.A.M.C.
M. O. 3 L. A. A. Regt., R.C.A.

CHARGE SHEET

The accused, No. C.1032, Gunner Raymond Joseph De La Fontaine, 3 Light Anti-Aircraft Regiment, Royal Canadian Artillery, a soldier of the Canadian Army (A.F.) is charged with:-

First Charge
Sec. 8 (1) Army Act.

Offering violence to his superior officer being in the execution of his office.

in that he

at BIGGIN HILL, KENT, on 30 October, 1941 threatened A/1/Bdr. Gould T.K. with a loaded rifle.

Second Charge
Sec. 8 (2) Army Act.

When on Active Service, using threatening language to his superior officer

in that he

at BIGGIN HILL, KENT, on 30 October, 1941, said to A/1/Bdr. Gould T.K. and A/1/Bdr. Tompkins L.E., "Don't try to stop me, or I'll shoot my way out." or words to that effect.

Third Charge
Sec. 11 Army Act

Neglecting to obey Battery Orders.

in that he

at DOWNE, KENT, at 1445 hours, on 30 October, 1941, was in "The Queen's Head" Public House, contrary to 3 Light Anti-Aircraft Battery Order No. 203 dated 15 October 41 directing all persons to abstain from entering that place.

Fourth Charge
Sec. 12 Army Act.

When on Active Service, drunkenness.

in that he

at DOWNE, KENT, on 30 October, 1941 was drunk.

Fifth Charge
Sec. 15 (1) Army Act.

Absenting himself without leave

in that he

at BIGGIN HILL, KENT, on 30 October, 1941, absented himself without leave from Site L.160 from 1400 hours until arrested at 1615 hours.

Sixth Charge
Sec. 22 Army Act.

Being in lawful custody, escaping

in that he

at BIGGIN HILL, KENT, on 30 October, 1941, having been placed under open arrest, escaped.

(B.R. KER) Lieut.-Colonel, R.C.A.
Commanding,
3 Lt. A.A. Regiment, R.C.A.

Guildford, Surrey.
19 November, 1941

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

[illegible] Brigadier
Commanding
Canadian Military Headquarters

London
25 Nov 41

QQ-31
SPR DELAGE R

QQ-31 D7

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 18th day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1B C.E. Works, First Cdn Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~(and that it is not practicable to delay the trial for reference to a superior qualified officer)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~* (I am unable to appoint)~~

~~*(1) Three Officers to form the Court~~

~~*(2) A Field Officer as President~~

~~for the following reasons, namely:—)~~

Judge Advocate
Major W.B. Bate.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj	G.R. McClintock	3 Cdn Const Coy RCE

Members.

Rank.	Name.	Regiment.
2 Lieuts	to be detailed by C.O.	1 Bn RCE

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Col
Commanding C.E. Works, First Cdn Army
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
Dis 971 Spr Delage R. 3 Fd RCE	First charge. AA 18 (a) Wilfully maiming himself.	NOT GUILTY	NOT GUILTY	
	Second Charge AA 40 (alternative) Neglect to the prejudice	NOT GUILTY	NOT GUILTY	
			22 Sept 43 H.A. McCuaig Lt Col RCE President. W.B. Bate Major. Judge Advocate.	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) ..... (Signed) .....
Commanding ..... Col
C.E. Overseas Base Fd Sy Army
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The ~~officers under instruction~~ Judge Advocate)

were duly sworn.

*Omit if not applicable.

Signed this 22nd day of September 1943.

W.B. Bate major. Judge Advocate.

H.A. McCuaig Lt Col RCE
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ..... day of ..... 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*[I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 23 day of Sept. 1943

Confirming Officer.
Col
C.E. Western Army

Promulgated and extracts taken in the case of

(*a*) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused D.15791 Spr. Delage, R 'C' Coy, 3 Bn RCE a soldier of the Canadian Army Overseas placed on Active Service, is charged with:-

E A Merritt
Mgr RCE
President.
J. B. Poats Major
Judge Advocate.

FIRST CHARGE
Sec 18 (2)
Army Act

WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

IN THAT HE

In the field at about 2300 hours on 3 May 43 did wilfully fire his rifle and injured himself by blowing the bullet through the toes of his right foot, with intent thereby to render himself unfit for service.

SECOND CHARGE
Sec 40
Army Act
(ALTERNATIVE)

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

IN THAT HE

in the field at about 2300 hours on 3 May 43 so negligently handled a rifle as to cause it to be discharged and thereby injured his right foot and rendered himself temporarily unfit for service.

(GEO. W. SMITH)LT.COL.
Officer Commanding,
3 Bn R.C.E.

To be tried by Field General Court Martial

In the field
13 Sep 43

Capt RCE

S.C/A D.H. STORMS Col.
Mr. CE (Works) RCE.

MEDICAL OFFICER'S REPORT

I certify that No. D.15791 Sapper DELAGE, R.
of 3rd Bn R.C.E. is in a good state of health,
and fit to undergo Trial by Court martial.

Medical Officer

Station In the Field

Date 22 Sep 43

M. F. B. 246

Accused D.15741 SPR R DELAGE 3 BN RCE
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in ENGLAND on 22 SEP 43
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	MAJOR	G.A. McCLINTOCK	5 CDN CONST COY RCE
MEMBERS:	LIEUT	A.G. SHORE	1 BN RCE
	LIEUT	G. REID	1 BN RCE

JUDGE ADVOCATE: (If any) MAJOR W.B. BATE H.Q. FIRST CDN ARMY

OFFICERS UNDER INSTRUCTION: NIL

PROSECUTING OFFICER: LIEUT J.M. JORDAN 3 BN RCE Lawyer? Ans. NO

DEFENDING OFFICER: LIEUT A.E. DOWDEN 3 BN RCE Lawyer? Ans. NO

(The following procedure must be actually carried out.)

The Convening Order; the ranks, names and corps of Officers appointed to serve on the Court; the Charge Sheet(s) and the Summary of Evidence are laid before the assembled Court by the President. (Rs.P. 17(E), 22(A).)

The Court, in private (R.P.22 fn.1), satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted; that the accused is/~~are~~ amenable to Military Law and that each charge discloses an offence. (R.P.106)

The accused is/~~are~~ brought before the Court and at 1040 hours the trial commences.

The Prosecuting Officer produces a Medical Certificate (K.R. (Can)557; CMHQ Circular Letter 173) that the accused is/~~are~~ fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused (R.P.110).

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? (R.P.110(B)) Ans. No.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (Rs.P. 26, 27 and 111.) (Form of oath on Page 'D'.)

President to accused:
Do you object to LIEUT. H. DE PIERRO as interpreter? Ans. NO.

The interpreter is duly sworn.

~~Do you object to _____ as shorthand writer? Ans. _____~~

~~The shorthand writer is duly sworn. (Forms of oath on Page 101.)~~

The Charge Sheet(s) is/~~are~~ initialled by the President.

The Prosecuting Officer informs the Court that the accused ~~have~~/has not elected trial by Court Martial (A.A.46(8)).

If special plea(s) is/are made for separate trial on one or more charges (R.P. 62(E),108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36), or as to accused's mental fitness to stand trial (A.A.130, R.P.57), record such pleas and evidence (if any) on separate sheet(s), to be initialled by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112).

He pleads as follows:

First Charge NOT GUILTY
Second Charge NOT GUILTY
Third Charge _____
Fourth Charge _____
Fifth Charge _____
Sixth Charge _____
Seventh Charge _____
Eighth Charge _____
Ninth Charge _____
Tenth Charge _____

(For procedure on alternative charges, see R.P.37, fn.2.)

Further proceedings are recorded on Pages hereto attached.

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all charges.)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President.)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P. 39(A).) Ans. NO.

2. The Prosecutor's opening address (if any) (R.P. 39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D'.)

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P. 40 fn.1; R.P. 70 fn.1.)- See p. 5.

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn.2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P. 40(D)(ii)(a))

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans ____
Q. Do you intend to call any other witness in your defence? Ans ____
Q. Is he a witness as to character only? (R.P. 40(B)) Ans ____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs.P. 40, 41 and 42.)

8. The Court is now closed to consider the Finding (Rs.P. 43, 117).

9. The Court being re-opened, the accused is again brought before it and the Findings of 'Not Guilty' (if any) are pronounced and (if Findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B))

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A. Sec. 163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked ' ', and ' ', initialled by the President and attached to the Proceedings. (R.P.46; Overseas R.O. 3131.)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P.40) Ans____
(No cross-examination.)
(Record address, if any, on separate sheet, initialled by the President and attached hereto.)

12. President to accused:
The Court is closed for consideration of the Sentence. The Sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated. (Overseas R.O.3262)

(Record Finding and Sentence on Page 2 of A.F.A.3.)

(Punishments - A.A.44, K.R.(Can) 563-566; Sentences of F.G.Cs.M. - R.P. 118; one sentence only to be awarded - R.P.48; sentence should be dated.)

(Signature of President)

G.A. McCuaig RCE

W. B. Scott Major
Judge Advocate

CAMC

First Witness for the Prosecution } Lieut M.M. Dixon 3 Bn. R.C.E.

being duly sworn is examined by the Prosecutor.

On 3 May 43 I was A/C.O. 'C' Coy. I recognise the accused. He was a member of 'C' Coy on that date. That evg. I was acting as Orderly Officer. As a result of a conversation I had with the Orderly Corporal I ascertained that the accused was shot in the foot. There was a hole in the boot which he had taken off. There was bleeding between the toes of Spr. Delage's foot. I had the medical orderly bandage the accused's foot and called the doctor. I had Spr. Delage's rifle ~~brought~~ given to me by the Orderly Corporal. I examined it to see if it had been fired. The barrel was blackened and it smelt of powder. We searched the ground beside the accused's bed and found an expended cartridge. I then questioned Spr. Delage as to how the event occurred. I had no intention of charging him at that time. He told me that he had been cleaning his rifle and that the end of the rifle was resting on the toe of his boot at the time. The rifle went off. He disclaimed any knowledge as to where the cartridge came from and claimed he did not know it was in the rifle. I understand that the accused had been properly instructed in handling a rifle and the cleaning of it. His section officer would know that better than I. 'C' Coy at that time was preparing for an inspection by Gen. McNaughton. I am not certain now if the accused ever spoke to me about his participation in the inspection.

Cross examined:

I knew the rifle was the accused's because the number on it corresponded with the number of the rifle issued to him as checked by the C.Q.M.S. I did not check the number of the rifle before I examined it. I can definitely say that that rifle had been fired. I only know that the rifle had just been fired and the empty cartridge which was found had just been used. The accused may have said "I was beginning to clean my rifle".

Re-examined:

I was satisfied that the rifle ~~brought~~ given to me by the orderly corporal was the one involved in this affair.

By the Court:

I am not certain now which of the accused's feet was the injured one. At that particular time we were inspecting the company about four or five times a day. The rifles were inspected often. I am almost certain that the rifles were inspected that day. The only time the men had live cartridges was when they were on the range. After firing an officer inspected each rifle to see if there were any cartridges in it. I have no explanation as to how a cartridge got in the accused's

rifle.

By the Judge Advocate:

When I examined the accused's foot, he was sitting on his bed in his tent. It was around 2300 hrs. The tent was illuminated by one hurricane lamp. About 20 soldiers slept in the tent. It was a marquee. All 20 of the soldiers had been issued with rifles. I did not ask the accused whether or not he had proved his rifle before starting to clean it.

The witness states that he checked the number of the accused's rifle before he examined it, but did not check it against the number of the rifle issued to the accused until afterwards. I do not now remember the number of the rifle that was handed to me by the orderly corporal.

R.P. 83(B) complied with.

Second Witness for the Prosecution { Capt. A. Lorne R.E.D.M.C. att'd. 3 Bn RCE.

being duly sworn is examined by the Prosecutor.

On 3 May 43 I was M.O. of the 3 Bn. I recognize the accused. That night I was called to attend the accused. I found him with an injured foot caused by a bullet wound. I was satisfied the injury was caused by a bullet. I am not sure now which foot it was that was wounded injured.

Cross examined:

I think the accused was sitting on a bed when I examined him. I do not remember whether Lt Dixon was present or not at the time. Several soldiers were present.

No re examination.

By the Court:

It was between 11 o'clock & midnight. The accused did not explain how the accident occurred. The wound six itself was not serious. I feared that the bone in the little toe might be injured so I sent him to the hospital.

By the Judge Advocate:

I do not know how long the accused was rendered unfit for service as the result of the accident, nor how long he was in hospital. The injury was between the bone of the fourth and fifth toes. There was nothing in the nature of the wound which led me to believe it was self inflicted.

R.P. 83(B) complied with.

Third Witness for the Prosecution { E. 20442 C.Q.M.S. Maguey J.A. 3 Bn R/E

being duly sworn is examined by the Prosecutor.

On 3 May 43 I was in charge of a platoon.

I recognise the accused. He was a member of my platoon & had been since the previous Nov. The accused had been properly instructed in loading, unloading and cleaning the rifle. The men seemed to know the proper way to handle a rifle. They were not taught to put the muzzle of a rifle on the foot before cleaning it. At this time, we were getting ready for Gen. McNaughton's inspection. The accused knew the inspection was coming on. I do not remember whether the accused and I talked about the inspection or not. The accused's rifle was inspected on that day. We inspected rifles every day. The accused's rifle was not loaded when I inspected it. I did not pay particular attention to his rifle. As far as I know all the rifles in the platoon were in good shape.

Cross examined:

All the platoon were not always on parade when I gave lectures. Some were on duty - guards etc. I gave rifle instruction to the platoon. The accused was in the platoon. I instructed the platoon not one man in particular but to everybody. There was instruction given in daily cleaning and in cleaning after firing. I cannot say that the accused was present during this instruction. He may have been. The section was told that there was to be an inspection by Gen. McNaughton but not the men individually.

By the Court:

I do not know if the accused has passed his T.O.E.T. in the rifle. I was not in the tent the night of the accident. I do not remember if Gen. McNaughton's forthcoming inspection was put in orders.

By the Judge Advocate:

I joined the Army as an N.C.O in Sep '39 and have given instruction in the rifle from time to time ever since. The first thing a soldier who is about to clean his rifle should do is to see if it is loaded. When instructing I give this instruction to the men. This is usually the first thing the men are told.

R.P. 83 (B) complied with.

The Court adjourned at 1250 hrs.
The Court re-opened at 1345 hrs

Fourth Witness for the Prosecution } D.129598 Sgt. Fournier J.A.Y. 1 C.E.R.U.

being duly sworn is examined by the prosecutor.

I recognise the accused. On 3 May 43 I was in the same platoon as the accused. I slept in the next bed to the accused. I was asleep in bed. I heard a shot fired and

I woke up. I got up and went to the accused's bed. Others arrived I wasn't alone. We picked the accused up. They put a field dressing on his foot. After that the MO arrived. They took the accused away. When I first saw the accused he was leaning against the bed. A rifle was on the ground. I did not notice if the bolt was open or closed. I had no conversation with the accused prior to the incident.

No cross examination.

By the Court:

It was between 10.30 and 11 o'clock. I'm not quite sure. I do not know anything about Spr. Delage's attitude towards the inspection. When Mr. Dixon arrived they took the boots away. There was a hole in the right boot. I did not notice any other marks on the boot. I had always been in same platoon as the accused. I had spoken to the accused before but not that evg. before the accident.

By the Judge Advocate:

The accused seemed to me to be quite normal during the three or four days before the accident. To my knowledge he did not have any worries. Everybody talked about the coming inspection by Gen. McNaughton. I do not know what the accused had to say about it.

R.P. 83(B) complied with.

Fifth Witness for the Prosecution } B.29661 Spr. Viennean H., 3 Bn RCE

Being duly sworn is examined by the Prosecutor. on 8 May 43

I recognise the accused. He and I were in 9 Elec. I was sleeping in the same tent with the accused. I was preparing to go to bed when I heard a shot. I shouted "Who fired that rifle". Someone, I don't know whom, said "It was Delage". There was a smoky lantern in the tent. After hearing the shot I went to the accused's bed which was not very far away. He was leaning against the top of bed. I did not notice a rifle. After I arrived, the accused fell down. He was wounded. I looked for the wound. I found a hole in his boot. I saw the wound. It was between the small toe & the next one on the accused's right foot. I could not tell from looking at the wound whether it was a bullet wound or not. I had not any conversation with the accused prior to the accident. There was quite a bit of talk in the platoon about the coming inspection. I do not recall what was the accused's attitude towards the inspection. I had no conversation with the accused after the accident nor did I overhear anything he said.

Cross examined:

Visibility in the tent was quite poor as there was only one smoky lantern lit.

No re-examination.

By the Court:

I've know the accused ever since I've been in the 3 Bn. At that time it was about 10 months. The accused was a smart soldier. I helped take the boot off the accused's foot. There was a hole in it. I noticed no discoloration. The accused was lying on his back. He was not saying a word.

By the Judge Advocate:

I noticed nothing unusual about the accused two or three days before the accident occurred. I do not know what time the accused came into the tent that night. I do not remember having any conversation with the accused that night.

R.P. 83(B) complied with.

Sixth Witness for the Prosecution { D. 15769 Spr. Picard J.A. 7 Cdn. Const. Coy RCE

being duly sworn is examined by the Prosecutor

I recognise the accused. On 3 May 43 I was sleeping in the marquee in the bed facing the accused. I saw him come into the tent that night. He went to his bed. I got up to go to the bathroom. The accused said "I am going to clean my rifle for to-morrow morning". I did not see exactly what the accused did as I was on my way out. Just before I got outside I heard a shot fired. I turned about. The accused had fallen on the floor. Spr. Kinneau came to pick him up. We took his shoe off and bandaged his foot - I do not remember which one - between the little toe & the next. I did not see a rifle when I first turned around, nor when we were bandaging the accused's foot. Everyone in the platoon was talking about the coming inspection. I did not hear the accused talking about the inspection.

No cross examination.

By the Court.

No one brought another light

By the Judge Advocate:

I have known the accused since Aug. 41. For several days prior to the accident the accused was in a good humour

By the Court:

I did not hear the accused express a desire to return to Canada, at any time ~~during the~~ prior to the accident.

R.P. 83 (B) complied with.

The defending officer addressed the Court, contending that the prosecution had failed to establish a prima facie case with respect to both charges. There is no evidence of intent to wilful injury. Nor does the evidence show that the accused was negligent in any way. Negligence has not been proved.

The Prosecution addressed the Court, admitting there is no evidence to support the first charge; but contended that there is evidence of negligence on the part of the accused with respect to the second charge.

The Defending Officer made no reply.

The Court is closed at 1515 hrs.

The Court allow the application

The Court is re-opened at 1545 hrs and the accused is advised of the Court's decision. The accused is found not guilty by the first and second charges.

S U M M A R Y O F E V I D E N C E

in the case of

D 15791 Spr DELAGE R C Coy 3 Bn RCE

a soldier of the Canadian Army Overseas

placed on active service

SUMMARY OF EVIDENCE

in the case of

D 15791 Spr Delage R. C Coy 3 Bn R C E, a soldier of the Canadian Army placed on active service

CHARGES 1 Wilfully maiming himself with intent thereby to render himself unfit for service.

1 (Alternative charge) Neglect to the prejudice of good order and military discipline.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

G 18833 L/Sgt Hebert R, C Coy 3 Bn RCE having been duly sworn, states:

Tout ce que je me souviens de Spr Delage est qu'il etait en 'open arrest', ayant ete AWL. Vers quatre heures et demi quand j'ai ete pour le parader, il n'etait pas present. J'ai ete le chercher dans le camp et je n'ai pas pu le trouver.

All I can remember about Spr Delage is that he was under 'open arrest', having been AWL. About four-thirty when I went to parade him, he was not there. I went to look for him around the camp but I was unable to find him.

The accused declines to cross-examine.

R. Hebert.

(G 18833 L/Sgt Hebert R)

SECOND WITNESS

E 48533 Spr Gallien P, C Coy 3 Bn RCE having been duly sworn, states:

Quand le coup est arrive j'etais couche. J'ai simplement entendu un coup de fusil. J'ai reste sur mon lit pour quatre ou cinq minutes, et quand le Sgt-Major est arrive je me suis leve et j'ai ete a l'autre bout de la tente et j'ai vu que Spr Delage etait dechausse et j'ai vu une petite tache entre les deux orteilles. C'est tout ce que j'ai vu, et je me suis couche.

When the shot happened I was in bed. All I heard was a rifle shot. I remained on my bed four or five minutes, and when the Sgt-Major arrived I got up and went to the other end of the tent, and I saw that Spr Delage was barefoot and I saw a little stain between his two toes. That is all I saw, and then I went to bed.

The accused declines to cross-examine.

(E 48533 Spr Gallien P)

C Coy 3 Bn RCE

THIRD WITNESS

D 63711 Cpl. Gratton JP, having been duly sworn, states:

J'etais le caporal qui feasit le tatoo cette soir la, et j'ai commence mon tatoo a onze heures, dans les trois tentes, et Spr Delage entrait en meme temps que moi. J'etais surpris parce que il etait suppose d'etre en 'open arrest'. Je me suis apercu que Spr Delage etait ivre, alors je me suis rendu a ma hutte pour faire le total du tatoo, et j'ai entendu un coup de fusil. J'ai sorti quand le Lieut. Dixon est arrive et amenait Spr Delage a L'M O. Spr. Fournier J.A.Y. qui se couchait audessus de Delage m'a dit qu'en nettoyant sa carrabine le Spr Delage s'etait blesse a la jambe. Il faisait tres noir.
Etant curieux je me suis rendu chez l'M O et ils m'ont envoye chercher des bas propres. Il y avait chez l'M O le L/Cpl Otis, le CSM, le Capt. M Φ, le Sgt. M O, et Spr Godin. J'ai retourne deux fois chercher des bas, et apres ca je me suis retourne coucher.

I was the corporal who was taking the tatoo on that night, and I began my tatoo at eleven o'clock in the three tents, and Spr Delage was coming in at the same time as I. I was surprised because he was suposed to be under open arrest. I noticed that Spr Delage was drunk, and then I returned to my hut to total up my tatoo, and I heard a rifle shot. I came out when Lieut Dixon arrived and brought Spr Delage to theM O. Spr Fournier J A Y who slept above Delage told me that while cleaning his rifle Spr Delage had wounded himself in the leg. It was very dark.
To satisfy my curiosity I went to the M O and they sent me to get some clean socks. With the M O were L/Cpl Otis. CSM, the Medical Officer, the Medical Sgt, and Spr Godin. I returned to get socks twice and after that I returned to bed.

The accused declines to cross-examine.

Jean Paul Gratton

(D 63711 Cpl Gratton J P)

C Coy 3 Bn RCE

FOURTH WITNESS

E 2042 CQMS Gagney JA, having been duly sworn, states:

J'etais en charge de la section 9 a laquelle appartenait le Spr Delage, depuis deux ou trois mois. Une couple de semaines avant que l'accident arrive, Spr Delage agissait drolement. J'ai attribue ca a l'entrainement preparatif a l'inspection du Gen. Macnaughton.
Quand l'accident est arrive Spr Delage etait en 'open arrest'. J'ai su qu'il s'etait tire dans le pied. On m'a donne soin des bottines percees et la carrabine qu'il avait employe. Les bottines ont etees demandees du CERU pour la cour d'enquet. La carrabine est au Q.M.

I was in charge of section 9, to which Spr. Delage belonged, since two or three months. A couple of weeks previously to the accident, Spr Delage had been acting strangely. I thought that due to the training preparing for Gen. Macnaughton's inspection. When the accident occurred, Spr Delage was under open arrest. I learned that he had shot himself in the foot. The punctured boots and the rifle he used were put in my care. The boots were required by the CERU for the Court of Inquiry. The rifle is at the quartermaster's.

The accused declines to cross-examine.

(E 2042 CQMS Gagney J A)

FIFTH WITNESS

B 29661 Spr Vienneau H C Coy 3 Bn RCE having been duly sworn, states:

Je me preparais a me coucher et j'ai entendu un coup de carrabine. J&ai crie: C'est qui qui a tire ce coup la? Quelqu'un a repondu: C'est Delage. Tout de suite j'ai ete a son lit, il etait penche sur le lit, et a tombe a terre. Alors j'ai cherche et j'ai trouve la blessure sur le pied. Il y en a dautres qui ont ete chercher l'M O. Apres ca je me suis couche.

I was getting ready for bed when I heard a rifle shot. I shouted: Who fired that shot? Someone answered: It's Delage. Immediately I went to his bed; he was lying leaning on the bed and fell on the floor. I searched and found the wound on the foot. Someone else went to look for the doctor. After that I went to bed.

The accused declines to cross-examine.

H Vienneau

(B 29661 Spr Vienneau H)

SIXTH WITNESS

D 15769 Spr Picard J A ~~C Coy & Dir HQR~~ 7 C C C having been duly sworn, states:

Le soir de l'accident, vers onze heures, j'etais couche sur mon lit, et Spr Delage est arrive dans la tente. Il a pris sa rifle pour la nettoyer, et j'etais pour sortir de la tente pour aller au toilette quand le coup est parti. Les Sprs. Vienneau H et L ont ramase Spr Delage qui etait tombe a terre. Quelqu'un est alle chercher l'M O. L'Officier Dixon est venu a la tente aussi. Quand ils sont partis je me suis couche de nouveau.

At about eleven o'clock on the night of the accident I was lying on my bed and Spr Delage came into the tent. He took his rifle to clean it, and I was about to go out of the tent to the lavatory when the shot went off. Sprs. Vienneau H and L picked Spr Delage up who had fallen on the floor. Someone went to call the M O. Mr. Dixon also came into the tent. When they had left I went to bed again.

The accused declines to cross-examine.

J. A. Picard

(D 15769 Spr Picard J A)

SEVENTH WITNESS

D 123209 Spr Gagnon M 6 Pioneer Coy, having been duly sworn, states:

J'etais couche dans mon bed vers dix heures et demi du soir, un coup de fusil me reveilla. Surpris du coup de fusil, j'ai reste couche quelques minutes avant de pouvoir me lever. J'ai vu Spr Vienneau H, il etait apres examiner Spr Delage. En suite j'ai vu qu'il etait blesse d'un pied. Toute suite, on s'est empresse de lui mettre un field dressing. Apres cela l'MO a arrive et l'officier Dixon, et a questionne Spr Delage. Ils sont sortis, et je me suis couche.

I was lying in bed about half past ten in the evening when a rifle shot woke me up. Surprised at the shot I remained lying there for several minutes before I was able to get up. I saw Spr Vienneau H, he was examining Spr Delage. Then I saw that he was wounded in his foot.

(Cont'd on sheet 4)

(C'ont'd from sheet 3)

Immediately, we hurried to put on a field dressing. After that the M O and Mr. Dixon arrived and questioned Spr Delage. They left, and I went to bed.

The accused declines to cross-examine. Gagnon M.

(D 123209 Spr Gagnon M)

EIGHTH WITNESS D 129598 Spr Fournier J A Y 1 CERU, having been duly sworn, states:

J'etais couche ce soir et j'ai entendu partir un coup de carrabine. Je me suis leve et j'ai ete ramasser Spr Delage de terre, et Spr Vienneau H. a place un Field Dressing sur le pied du Spr Delage. Sgt. Metayer est venu, et ils sont sortis. Apres cela je me suis couche. Il faisait noir.

I was in bed that night and I heard a rifle shot. I got up and went to pick Spr Delage up from the floor, and Spr Vienneau H placed a field dressing on Spr Delage's foot. Sgt. Metayer arrived, and they went out. After that I went to bed. It was dark.

The accused declines to cross-examine. Jay Fournier.

(D 129598 Spr Fournier J A Y)

NINTH WITNESS Lieut. Content A. C Coy 3 Bn RCE, having been duly sworn, states:

Spr Delage had been in my platoon for approximately six months when this accident happened. A few days before the accident, I had made a rifle inspection after a range practice and noticed that Spr Delage's rifle was very dirty and empty of cartridges. When the accident occurred he was under open arrest with two charges against him. One of AWL and another of breaking out of barracks. It seems to me that he had been drinking but not to a great extent for the last few days before the accident. I was absent when the accident occurred and when I arrived with the M O, I found Spr Delage in the medical orderly's room and saw that he was wounded.

The accused declines to cross-examine.

(Lieut. Content A.)

TENTH WITNESS Capt. Larue A. M.O. 3 Bn RCE, having been duly sworn, states:

On the night of 4 May 45 at Elms Court, I was called for a man who had a live round shot between the fourth and fifth toe of the right foot at the root. The round had gone through his boot and stocking and had sheared the tissues and bone of the small toe.

I disinfected the wound, made a bandage, and evacuated the wounded to 14 Cdn Gen Hos.

The accused declines to cross-examine.

(Capt. Larue A.)

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and be given in evidence.

ANSWER BY ACCUSED

I have nothing to say.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

I also certify that the above statements given in French have been translated to the best of my ability.

Taken down by me in the presence of the accused in the field this 8th day of September 1943.

H. De Pierro

(Lieut. De Pierro H.)
C Coy 3 Bn R C E

I certify that £48533 Spr. Gallien P. Second witness's statement was given in my presence. The A/M is now on leave.

H.DP.

LIST OF WITNESSES

	L/Sgt	Hebert	R	G 18833	C Coy 3 Bn RCE
	Spr	Gallien	P	E 48533	C Coy 3 Bn RCE
	Cpl	Gratton	J P	D 63711	C Coy 3 Bn RCE
✓	CQMS	Gagney	J A	E 2042	C Coy 3 Bn RCE
✓	Spr	Viennesu	H	B 29661	C Coy 3 Bn RCE
✓	Spr	Picard	J A	D 15769	7 C C C
	~~Pte~~	Gagnon	M	D 123209	6 Pioneer Coy
✓	Spr	Fournier	J A Y	D 129598	1 C E R U
	Lieut	Content	A		C Coy 3 Bn RCE
	Capt	Larue	A		M O 3 Bn RCE 3 Bn RCE
	Lt	DIXON	M M		

LIST OF EXHIBITS

~~Boots, army, prs 1~~

Rifle.

Boots were traced as far as CERU. They have been condemned and done away with.

WDP

PPR40
SPR DELAGE R

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D. 15791 SPR DELAGE, RAYMOND 3 BN. R.C.E.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd	NOT GUILTY	GUILTY	
4th	NOT GUILTY	GUILTY	
5th	NOT GUILTY	GUILTY	
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on date~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR 109 DAYS

(Sgd) _____ 5 JUNE 44 (Sgd) A. A. Ayer Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 32(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"Confirmed"

~~I direct that the accused be not committed to prison or detention barracks for a total further sentence~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) _____

Date 10 JUN 44 Commanding _____ Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

D 15791 Spr DELAGE, RAYMOND 16 Jun 44 A. Edwards Capt 3 Bn R.C.E.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 PPP 40

FIELD GENERAL COURT-MARTIAL

CPA90 (In lieu of AF A22) 6/44 & B/1606 (2664)

Convened by Order of LT. COL. W. A. CAPEALE Comd 2 BN. R.C.E. dated 1 ST JUNE 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substituted rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 15791	SPR	RAYMOND	DELAGE	3 BN R.C.E.

PROCEEDINGS REVIEWED J.A. Campbell Major 27 Jun 44 DEPUTY D.J.A. 21 Army Gp

RECEIVED 27 JUN 1944 JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED D.J.A. Odn Sec GHQ 21 Army Gp Date 22 JUN 44

PROCEEDINGS OF TRIAL.

Held in the F.I. (in ~~Country~~) ENGLAND, on (date(s)) 5 JUNE 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2/40

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Army ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 41-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 0945 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to LT. G.H. GARIEPY as interpreter? Ans NO

The Interpreter is sworn.(1) ~~The accd objects to~~ ~~as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 26, 68, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A.A. AYER	2 BN. R.C.E.
Member	CAPT	G.L. KYLE	2 Corps Const Coy R.C.E.
Member	LT.	W.I. FISHER	2 BN. R.C.E.
Judge-Advocate	-	-	-
Prosecutor	CAPT	G. LEFEBVRE	3 BN. R.C.E.
Defending Offr	LT.	A.E. DOWDEN	3 BN. R.C.E.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Convg Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dr p 3.)

A8. The accused D-15791 SPR RAYMOND DELAGE before arraignment makes(s) (no) (his) plea

(2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) ~~There is an amendment to be made to the Charge Sheet.(3)~~ The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, discuss and decide appropriate course(s) per Notes.) ~~Where more than one Charge Sheet see RP 62; where several accused to be tried together, see RP 71(C), and use separate copies of CF A96 to record proceedings.~~

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D "E"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) in use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making or appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~his~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the THIRD charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the THIRD charge(s), ~~and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. DO NEITHER Do you intend to call witnesses on your behalf ? Ans. NO Are they witnesses as to character only ? Ans. YES
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIVE charge(s), being subject to confirmation, will be promulgated later.(1)
~~(Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.)~~(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. YES - WITNESS AS TO CHARACTER
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NO (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-346, Overseas RD 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), (d)(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, D15791 Spr DELAGE, Raymond, 'C' COY, 3 Bn RCE a soldier of the Canadian Army (Overseas) placed on Active Service is charged with:-

FIRST CHARGE
Army Act 8(1)

WHILE ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS DUTY.

IN THAT HE,
in the Field, at or about 2130 hrs on 18 May 44, did strike with a bottle G49071 Cpl ARSENAULT, who, as Orderly Cpl, was ordered to apprehend him.

SECOND CHARGE
Army Act 8(2)

WHILE ON ACTIVE SERVICE, USING VIOLENCE TO HIS SUPERIOR OFFICER.

IN THAT HE,
in the Field, at or about 0815 hrs on 18 May 44, when ordered to keep the peace by D63711 Cpl GRATTON, J.P. seized by the neck ~~on throat~~ and with his hands the said corporal.

THIRD CHARGE
Army Act 10(3)

WHILE ON ACTIVE SERVICE, RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM.

IN THAT HE,
in the Field, at or about 2200 hrs on 18 May 1944 resisted by struggling Cpl ARSENEAULT, and the guards, whose duty it was to apprehend him.

FOURTH CHARGE
Army Act 10(4)

WHILE ON ACTIVE SERVICE, BREAKING OUT OF BARRACKS,

IN THAT HE,
in the Field, between 1700 hrs and 2030 hrs on 18 May 44 broke out at Camp lines while being under open arrest.

FIFTH CHARGE:
Army Act 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

IN THAT HE,
in the Field, absented himself without leave from Tattoo roll call at [illegible] hrs till 2330 hrs on 16 May 44 (abs 30 mins.)

(GEO.W. SMITH) LT.COL.RCE
Commanding Officer,
3 Bn RCE

To be tried by F.G.C.M.

O.C. 3 Bn R.C.E. LT-COL R.C.E.
1 Jun 44

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA8)
49/PAS/1697 (2865)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D15791	Spr	—	— Raymond	DELAGE	3 Bn RCE

H.Q. DIV. 2 BATTALION
ORDERLY
2 JUN 1944
ROOM
C.E. - A.F.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Jun 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~).
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge-Advocate the not the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.A. Ayer	2 Bn RCE

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by O.C.	2 Bd. Coast. Coy.
Capt or Lt	to be detailed by O.C.	C Coy 2 Bn. RCE

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	to be detailed by O.C.	C Coy 2 Bn RCE

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	Nil	

On Active Service in the Fd

in England
(Country.)

Date 1 Jun 44

(Signed) [signature] (Rank.) Lt.-Col.

Commanding R.C.E.
O.C. 2 Bn. R.C.E.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. D15791

of Clay 3 Bn RCE is in a good state of health,

and is fit to undergo Trial by Court martial.

[illegible] Capt

Medical Officer

Station Field

Date June 5/44

M. F. B. 246

25M-6-41 (792)
H.Q. 1773-39 880

Notes on Proceedings

in the case of

D 15 791 Spr Delage R.
C coy 3 Bn R CE

Court opened at 0945 hrs.

Opening Address by the Prosecutor

No address. Application made for a typographical error in Fifth charge to be corrected i.e. times stated to be changed from 2300 and 2330 hrs to 1230 and 1320 hrs respectively

Convening authority granted alteration and trial proceeded.

D3 First Witness for the Prosecution

D63711 Cpl Patton J.P. 3 BN R.O.E. sworn, states:

I was Orderly Corporal on 16 May 44. Spr Delage was absent for Datos Roll Call at approx 2230 hrs. I ordered Spr Collette, a guard on the billet gate to report at what time Spr Delage reported in.

Cross-exam: None

R.P. 83(B) complied with.

D3 Second Witness for the Prosecution

D15608 Cpl Burt L. 3 BN R.O.E. sworn, states:

On 16 May 44 Cpl Patton reported to me that Spr Delage was absent from Datos Roll Call at approx 2230 hrs. I checked by going to Spr Delage's billet. He was not there.

Cross-exam: None

R.P. 83(B) complied with

D3 Third Witness for the Prosecution

G52545 Spr Collette A 3 BN RCE sworn, states:

I was a guard on the billet gate on 16 May 44 at approx 2245 hrs Cpl Patton ordered me to report to him at what time Spr Delage reported in. Spr Delage returned to billets approx 2300 hrs.

Cross-exam: None

R.P. 83(B) complied with

Fourth Witness for the Prosecution

D3 Major G. Blandet 3 BN RCE sworn, states:

It was published in Pt 1 Orders approx 4 May 44 that Tattoo Roll Call would be at 2230 hrs.

Pt 1. Orders are placed on Notice Boards in Mens Mess Hall and are also read on morning parades.

Cross-exam: None

R.P. 83(B) complied with.

D3

First Witness for Prosecution

D63711 Cpl Gratton J.P. 3 Bn R.C.E.
being re-called states

I placed Spr Delage under
open arrest on 17 May.

On 18 May after morning
parade I was speaking to Spr
Carette when Spr Delage came
Spr Delage overheard me and
used abusive language. As
we entered our billets he
continued using bad language
I warned him to stop or
I would place another charge
He said if I did he would
throw me out of the window.
I said you are on another
charge. He came down the
stairs, grabbed me by the
throat and pushed me
towards the window

I struggled with him Cpl Brunet came down the stairs took Spr Delage by the shoulders and told him to leave me alone. I placed another charge against Spr Delage

Cross-exam: None

R.P 83(B) complied with

D3 Second Witness for Prosecution

D 15608 Cpl Brunet L. 3 Bn RCE. being recalled states.

On morning of 18 May I overheard Cpl Shatton and Spr Delage in an argument Cpl Shatton was telling Spr Delage that he was lucky there was only one charge against him. Spr Delage grabbed Cpl Shatton by the throat and pushed him towards

the window. I separated them

Cross-exam: Spr Delage had Cpl Patton by the throat approx 7-8 secs. Cpl Patton had not been picking on Spr Delage

Re-exam: none

R.P. 83(B) complied with.

D3 First Witness for Prosecution D 63711 Cpl Patton J.P 3 Bn RCE being recalled states

After supper on 18 May I was ordered by CSM to parade Spr Delage. I could not locate Spr Delage in camp.

Cross-exam: none

R.P 83(B) complied with.

4

D3 Fifth Witness for Prosecution

G 49071 Cpl Arseneault L.J. 3 Ar RCE

Sworn, states

I was Cpl of the guard on 18 May. C.S.M. ordered me to apprehend Spr Delage and [illegible] under close arrest for breaking camp on open arrest. I saw Spr Delage outside the camp area at approx 2130 hrs so I called one of my guards and went after Spr Delage. He started to run and when I caught up to him he turned on me and swung a beer bottle which smashed against my elbow. Spr Delage then ran off.

At about 2210 hrs it was reported to me that Spr Delage was outside the

billets. I went out to place him under close arrest. He argued and resisted. I grabbed him, called the guards and after a struggle forcibly put him in the guardroom. Three beer bottles were taken from his turnee by the guards.

Cross-exam: none

R.P. 83(B) complied with.

D3 Sixth Witness for the Prosecution

D168SA Spr Dionne A 3 Bn RCE

On 18 May I was a guard with cpl Arseneault. He ordered me to help him apprehend Spr Delagre at about 2130 hr. We chased him and I saw Spr Delagre turn on Cpl Arseneault and smash a bottle on his arm.

At 2200 hrs I was called to assist Cpl Arseneault who was struggling

with Spr Delage and after removing three bottles from Spr Delage's tunic forcibly placed him in the guardroom.

Cross-exam none

R.P. 83(B) complied with?

D5 None

Court closed at 1605 hrs.

CHARACTER WITNESS
FGCM 5 June 44 D15791 Spr Delage R 3 Bn RCE

Lt J A Aubin, 3 Bn RCE having been duly sworn states:-

I have known this man for some time, about 6 months. He is a good worker but not very reliable. He is a nervous type. He was working in the kitchen most of the time I knew him. I don't think he is a very good man.

(R.P.83 complied with)

FIRST WITNESS:

D-63711 Cpl Gratton J.P. 3rd Bn., R.C.E. "C" Coy having been duly sworn states:-

On the 16 May 1944 I was on duty as Fire Piquet and Orderly Cpl. At 2230 hrs I made the Tattoo report for No.9. Pl. and found that Spr Delage R was not present for my roll call. I went to see Cpl Brunet and asked him to certify for himself that the Spr in question was absent. Around 2245 hrs I returned again to check on the accused, he was still absent so I put him AWL on my report. As Cpl of the Guard I told the guard on duty Spr Collette to report to me the time that Spr Delage came in.
On the 17 May 1944 Spr Delage was put on Guard Duty. About 1200 hrs I went to see him, and informed him in the presance of Spr Taillon, the other guard, that he was under open arrest being charged with being AWL the previous night. I told him that he must consider himself under open arrest, and he said that I would have to relieve him from his Guard duties I replied that it was impossible that he would have to carry on with his duties even tho gh being open arrest.
At 0830 hrs on the 18 May 44 Spr Collette reported to me that Spr Delage had come in at about 2300 hrs on the 16 May 1944, so I advised Spr Collette that he would be a witness against Spr Delage's charge of AWL. While I was talking to him the accused Spr Delage was going by, and he stopped, as he was finished his guard duty, and was proceeding to his billets. He spoke to me saying: "it takes a depraved ("esocurant") man to put a Spr AWL for a half an hour". I turned to him and said, that it was my duty to put a charge against him, and that I was the one who was responsible if the Provosts had picked him up. As we proceeded up stairs in the building, he used abusive language to me. When I noticed that he was treating me with such names I told him to keep quiet or he would force me to place another charge against him. And then he turned around on the stairs, came down them towards me, and ~~xxidxinxi~~ grabbed me by the throat, and said that if I'd put another charge against him he would throw me through the window. While he talked ~~xixxxx~~ thus he edged me over towards the window which was about three feet behind me. I said nothing, and struggling attempted to move away from the window. Cpl Brunet who was near the top of the stairs when Spr Delage took hold of me came down to help me, but Spr Delage finally let me go before he could interfere. I then told Spr Delage that I would have to charge him, and proceeded to do so.
Later about 1800 hrs Spr Delage was absent from the OC Parade, so I went back in the building to look for him he was missing so I reported as AWL to the CSM. The duty Cpl and the Cpl Provost were advised that Spr Delage was absent, and were ordered to bring him back and place him under ~~obbse~~ arrest. That same night around 2100 hrs I was looking out the window when I saw Cpl Arseneault struggling with the accused, and calling the Guards to help him. With the help of a Guard and a another man they were holding Spr Delage on the sidewalk, and were taking away the beer bottles from his tunic, then they raised the accused, and brought him struggling towards the guard house.

THE ACCUSED DECLINES TO CROSS EXAMINE

J.P. Gratton
(D-63711 Cpl Gratton JP)

SECOND WITNESS:

D-15608 Cpl Brunet L "C" Coy 3 Bn., R.C.E. Having been duly sworn states:-

On the 16 May 44 at about 0815 hrs I was in front of the Birdham Hotel. When I was going into the house I noticed Cpl Gratton and Spr Delage who were arguing together. I heard Cpl Gratton say: "You are lucky to have escaped with so little". The Spr Delage entered the house followed by Cpl Gratton with me behind them, as I was going up the first part of the stairs I noticed that Spr Delage was continually arguing with Cpl Gratton on the second section of the stairs. As Spr Delage reached the hallway Cpl Gratton had reached the platform between the two sections of the stairs. Spr Delage turned and said to Cpl Gratton "Don't bother me any more with your charges, or I will throw you out the window". As he had said this I had reached the platform, passed Cpl Gratton and was proceeding up the second section. Cpl Gratton asked him to repeat what he had said. Spr Delage then again repeated the same thing, and Cpl Gratton told him that for his insubordinate language he would have an additional charge. Spr Delage on hearing this called Cpl Gratton a "Baveux" and at the same time rushed down the stairs and grabbed Cpl Gratton by the throat or collar. As he grabbed him he attempted to drive Cpl Gratton towards the window which was two or three feet away. When I noticed that he was threatening Cpl Gratton I came down the stairs to them and told Spr Delage to let Cpl Gratton go. Spr Delage released the Cpl and proceeded up stairs.

(D-15608 Cpl Brunet L)

THE ACCUSED REFUSES TO CROSS-EXAMINE:

THIRD WITNESS:

G-52545 Spr Collette A. "C" Coy 3 Bn R.C.E. having been duly sworn states:-

I was on guard duty on the evening of 16 May 1944 when Spr Delage reported to me at about 2300 hrs.
At or about 0230 hrs on the 17 May 1944 I was going up the stairs at Birdham Hotel behind Cpl Gratton and Cpl Brunet and Spr Delage. Passing them by on the stairs I could see that they were having words, that is Cpl Gratton and Spr Delage. When I was half way up the stairs I heard Spr Delage call someone a "Baveux" and then I heard Cpl Gratton say "Would you repeat those words" the Spr Delage turned around and went down the stairs to Cpl Gratton. By this time I had reached the upper hallway took two steps down to see what it was all about, and noticing that they were arguing turned around and proceeded to my room. If anything happened it must of happened before I looked back, or after I had proceeded to my room.

(G-52545 Spr Collette A)

THE ACCUSED DECLINES TO CROSS EXAMINE:

FOURTH WITNESS:

D-133014 Spr Taillon P. "C" Coy 3 Bn., R.C.E. having been duly sworn states:-

On the 17 May 1944 I was present when Cpl Gratton informed Spr Delage that he was on a charge of AWL and that he must consider himself under open arrest.

(D-133014 Spr Taillon P)

THE ACCUSED DECLINES TO CROSS-EXAMINE:

FIFTH WITNESS:

E-41440 CSM Metayer W. "C" Coy 3 Bn R.C.E. having been duly sworn states:-

On the 16 May 1944 at 1700 hrs I called the parade for the OC's ~~XX~~ Parade. They were seven men on this parade including the accused. The latter was not on this parade and I sent Cpl Gratton to check why he was not there. He came back and reported that Spr Delage was missing. Under order for the OC Coy, I notified the Cpl of the Provosts that as soon as the accused was apprehended he was to be put under close arrest. Around 2030 hrs I saw Spr Delage walking out of the building and proceeding up the street. I immediately ordered Cpl Arseneault who was Ord. Cpl and Cpl of the Guard to take a guard and to place the accused under close arrest.

Q.1. Would you consider that this man was drunk?

A.1. He was not so much under the influence of liquor that he did not know what he was doing, for he could walk properly.

(E-41440 CSM Metayer W)

THE ACCUSED DECLINES TO CROSS- EXAMINE:

SIXTH WITNESS:

Major Beaudet G. OC "C" Coy 3 Bn RCE having been duly sworn states:-

On the 18th May 1944 at about 1000 hrs I saw a charge against Spr Delage and gave instructions that he be paraded to me at supper time. ~~At~~ I was at my desk at about 1715 hrs when CSM notified me that the accused was AWL and that he could not be paraded. I gave instructions that the orderly Cpl and the Provost Cpl be notified that as soon as Spr Delage was apprehended he was to be placed under close arrest. At about 2130 hrs Cpl Arseneault reported tome that he had attempted to apprehend Spr Delage, and that the latter had struck him. A little later between 2200 hrs and 2230 hrs I saw Cpl Arseneault outside the building holding Spr Delage on the ground, and with the help of the guards was removing beer bottles from the tunic of the accused. I also saw Cpl Arseneault holding the accused while he directed him to a room in the Birdham Hotel. Spr Delage was resisting Cpl Arseneault and when he saw me demanded to be released. I told him that it was too late, and that I could do nothing for him.

Q.1. How was Spr Delage resisting?

A.1 He was struggling to get away.

Q.2 Would you consider that the accused was drunk?

A.2 He was not drunk, but I would say that he was slightly under the influence of liquor.

THE ACCUSED WISHES TO CROSS-EXAMINE:

Q.1 Where did they place me after I was placed under close arrest?

A.1 The first room next to the kitchen at Birdham Hotel.

Guy Beaudet Maj R.

(Major G.Beaudet)

SEVENTH WITNESS:

G-49071 Cpl Arseneault L.J. "C" Coy 3 Bn RCE having been duly sworn states:-

Between 2130 hrs and 2145 hrs 18 May 1944 I was ordered by the CSM to go outside and put Spr Delage under close arrest. I was on duty as Cpl of the Guard. As I was going out of the building, I called the guards and Spr Dionne came up the road with me. Spr Delage was going in the opposite direction away from the building. He turned around and saw us coming, and began to run. The guard and I took chase. He ran about 500 yards, and stopped and turned around. I talked to him saying, "Come with me as I have been ordered to put you under close arrest, and you must consider yourself as such". He replied to me that he was not coming because he did not want to come back, and then he pulled out an empty beer bottle and started to swing it. I saw the bottle was going to hit me, so I put up my arm to protect my head, and the bottle hit my elbow. I was stunned as I though my elbow was broken, and he got away as the other guard was about 50 feet behind him trying to make him listen to reason. After he had hit me with the bottle, I still tried to reason with him telling him that he was only making matters worse for himself, but he would not listen. He then escaped and I went back to the Ord. Rm., reported to the CSM and proceeded up to see the MO. About 15 minutes later Spr Delage came back in front of the building, and I went out to him again. I told him he had better come quietly as things were bad enough as they were. He said he wanted to go to his own room, but I told him this was impossible as he was under close arrest. He said he would not go into the guard room, so I called the guards, and we over came him as I thought he would escape again. After overpowering him, Spr Dionne took three empty beer bottles out of his tunic on my orders. He resisted but when finally overpowered, and put to the ground, he ceased. When in the guard room at about 2215 hrs he escaped by putting his blankets through the barbed wire in the window and crawling through them, Spr Verville who was on guard came and reported this to me. He was recaptured soon after in the kitchen.

Q.1 Would you consider that this man was drunk?

A.1 He was not drunk, but had some liquor.

Q.2. Why do you say he was not drunk?

A.2 Any man who can run 500 yds as fast as he did certainly was not drunk.

L.J. Arseneault
(G-49071 Cpl Arseneault L.J)

THE ACCUSED DECLINES TO CROSS-EXAMINE:

EIGTH WITNESS:

D-16854 Spr Dionne A. "C" Coy 3 Bn., R.C.E. having been duly sworn states:-

At about 2150 hrs 18 May 1944 I was outside the Birdham Hotel on guard duty. I received orders from Cpl Arseneault to come with him and apprenend Spr Delage who was running away. I ran after the accused, but Cpl Arseneault caught up to him first, as I came up to them I heard Spr Delage tell Cpl Arseneault to leave him alone. Then I saw Spr Delage strike Cpl Arseneault on the arm with a bottle, and the bottle broke. Cpl Arseneault held his hurt arm in his other hand, and tried to reason with Spr Delage telling him not to be foolish that he would be alright, and that he was only bringing him back to the barracks. Spr Delage said he was tired of the Army, and that he was leaving. Spr Delage then ran awayin my direction. Cpl Arseneault gave me orders to stop him. I yelled to Spr Delage not to be crazy, and to give himself up. Then a motorcycle came along, and I yelled "Here comes the CSM". Then Spr Delage ducked into the woods. About 20 or 25 minutes later he came back onto the road. Cpl Arseneault, myself, and Spr Dextraze saw him. Cpl Arseneault grabbed him by the arm, and holding him ordered the guards to apprehend him. Then he ordered me to look into his tunic to see what was there, and I took out 3 empty beer bottles. Then we took him into the guard room.

Q.1. In your opinion was this man drunk?

A.1. I could not say Yes or No.

THE ACCUSED WISHES TO CROSS-EXAMINE:

Q.1. Where do you think I was going?

A.1. Up the little lane along side the bombed house.

(D-16854 Spr Dionne A)

NINTH WITNESS:

D-51076 pr Dextraze R. "C" Coy 3 Bn.,R.C.E. having been duly sworn states:-

At about ~~2030~~ 2100 hrs on 18 May 1944 I was inside the building resting from my guard duty when I heard Cpl Arseneault yell for the guards. I immediately went outside,and Saw Cpl Arseneault holding the accused on the ground. The latter was struggling and the Cpl yelled to me to hold one of his arms, which I did. The other guard was also helping. We took three beer bottles out of his tunic and brought him to the guard room. Later while I was eating in the guard room, Cpl Arseneault came in and told us to come with him to apprehend the accused who had escaped. As we were about to do so in the kitchen the RP picked him up.

Q.1. Would you consider that his man was drunk?

A.1. Yes he would not have done such things if he had been sober.

THE ACCUSED DECLINES TO CROSS-EXAMINE:

Richard Dextraze
(D-51076 Spr Dextraze R)

TENTH WITNESS:

D-13143 Spr Verville M "C" Coy 3 Bn R.C.E. having been duly sworn states:-

At or about 2300 hrs 18 May 1944 While I was on guard duty I looked through the xxxxxxxx opening in the door of the guard room and noticed Spr Delage halfway through the window. I immediately turned around and advised Cpl Arseneault that the prisoner was breaking out of the guard room. We went around through the kitchen where he was apprehended, and returned him to the guard room.

Q.1. Was the accused under the influence of liquor?

A.1 I could not say.

M Verville
(D-13143 Spr Verville M)

THE ACCUSED DECLINES TO CROSS EXAMINE:

QUESTIONS TO THE ACCUSED

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and be given in evidence against you.

ANSWER BY THE ACCUSED

I wish to give evidence upon oath.

D-15791 Spr Delage R. "C" Coy 3 Bn., R.C.E. having been duly sworn states:-

On the 16 May 1944 at 2300 hrs I reported to the guard on duty as I was late for the tattoo report. He told me that he had orders from Cpl Gratton to report the time of my arrival so I proceeded to bed. I was nervous from the bombing of the night previous, and I awoke with a start, and could not get back to sleep. At 0800 hrs on 17 May 1944 I was placed on guard duty at Birdham Hotel. I did my duties all that day, and all that night when my turn came. It was cold, and it had rained all day, and part of the night. Cpl Roux, Spr Desautels, and Spr Taillon were with me on guard duty. We had nothing to make a fire with to keep ourselves warm, and shivered all day and all night in an effort to keep warm. I was on the last shift in the morning. About 0805 hrs the 18 May 1944 as I was coming off guard I met Cpl Gratton in the stair way and he told me I had a charge and that I could consider myslef pretty lucky to get away with it with so little. I don't know just how I took the news and I told him not to bother me with any charges, and that if he did have any charges to place, to go ahead and make them, but leave me alone about them. He kept on talking, and I continued up the stairs. I then turned around, and began abusing him; he then told me that I would have an additional charge for what I had just said. Then I must have lost all control and cannot certify as to what I did after that. Cpl Brunet told me to come with him, and I proceeded up stairs to get undressed. A few minutes later Cpl Brunet returned, and told me to come down and parade to Major Beaudet. I waited all morning, and at noon I was told that I would be paraded later. I left and went over to the Social Club to have a drink of liquor to help take away the shivers thinking it would do me good. It had no effect, it was like taking water. I had more drinks, but not many. There were a few civilians there to whom I talked. Then I lost all reason, something that had never happened to me before. I remember waking up about 6 o'clock in the evening. I saw Spr R Lefebvre who came and saw me, and said that I looked sick and nervous. I told him that I was. He offered me a bottle of beer telling me that it would do me good, so we drank it, and then proceeded to the Pub where we had more beer. There I met Spr Rioux D. and Spr Blais C. with whom I had some more. I never noticed too much how many, as we were drinking and talking. I again lost my memory. I woke up all of a sudden like out of a bad dream, and I was having a cup of tea and a piece of bread in the kitchen. L/Cpl Cloutier came in, and told me to come along with him to the little room behind. I came out of the kitchen, and and with Major Beaudet's permission slept in the Gd Rm.

R. Delage
(D16791 Spr Delage R.)

I certify that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

Taken down by me in the presence of the accused in the Field this 24 day of May, 1944.

E V Donegan A

(E.V. Donegan) Lieut. RCE
C Coy 3 Bn RCE

In the Field
24 May 1944.

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2962)

No. D.15791 Name DELAGE, R. Sqn., Battery, or Company — Corps RCE Ex "B" Date of enlistment 16.7.41 G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 1.12.41 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet No. 1 destroyed on completion of six months in accord. with KR(Can)1524(c)					
Petawawa	17-3-42	Spr		A.A.Sec15(1) AWL 6 days 23 hrs 10 mins.	Sgt.Metayer L/C Gratton WCA	7 days pay FR&I.149(2)	24.3.42	LM Nantel Major	7 days pay FR&I.149(1)(a)
Petawawa	20.4.42	Spr		A.A.Sec15(1) AWL 18 days	Doc Evid	14 days CB	6.5.42	LM Nantel Major	18 days pay FR&I.149(1)(a)
Field	15.2.43	Spr		A.A.Sec.15(1) AWL 2 hrs 5 mins	Sgt.Moore L/C Gratton	4 days pay FR&I.149(2)	15.2.43	GJ Cote Major	1 days pay FR&I.149(1)(a)
Field.	28.4.43.	Spr		A.A. Sec.15(1) A.W.L. 3 hours	CSM Metayer Cpl Roux	2 extra days of gd duty	26.4.43	WM Dixon Lieut.	1 days pay FR&I.149(1)(a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16.1.44	Spr		A.A.Sec.15(1) AWL 14 hrs 31 mins	L/S Hebert Cpl Brunet	Admonished	17.1.44	G Beaudet Capt.	1 days pay FR&I.149(1)(a)
Field	20.2.44	Spr		A.A.Sec.15(1) AWL 2 hours	Sgt. Miller L/S. Hebert	7 days C.B.	22.2.44	G Beaudet Capt	
Field	2.3.44	Spr		A.A.Sec.15(1) AWL 8 hrs 21 mins	Cpl Brunet Cpl Desautels	5 days FR&I149(2)	4.3.44	G Beaudet Capt	1 days pay FR&I.149(1)(a)
Field	15.3.44	Spr		A.A.Sec.15(1) AWL 1 hour, 45 mins.	L/S Hebert L/C Brassard	14 days C.B.	20.3.44	Lt.Col. Geo.W.Smith.	

CERTIFIED TO BE A TRUE AND CORRECT EXTRACT FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

(HC EDWARDS) Capt. RCE
Adjt. 3 Bn RCE

EX "A"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-15791	Sapper	Raymond DELAGE,	C Coy, 3 Fd Sqn RCE

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true **summary** of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15(1) (AWL) eight(8) times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 1 Dec 42

Date of last entry in Field Conduct Sheet 15 Mar 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused ~~is the person who was~~ was sentenced to _____ imprisonment beginning on the _____ day of _____

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 19 days in military custody, *i.e.*, nil days in open arrest, 19 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 22 years 2 months (3 Apr 22)

6. The date of his ~~attestation~~ calling up for military service is 16 Jul 41

7. The service which the accused is allowed to reckon is n/a

8. The accused is in possession of‡

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
n/a	
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.8497/888 100,000 4/42 A. & E. W. Ltd. Gp.698 Forms/B.296(War)/1
(23459) W1.29926/1573 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 29th day of May 1944

(HC EDWARDS) Capt, Adjt, 3 Bn RCR

4457

Pte Delahunt, C.L.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C77817 Pte Delahunt C. SEAF OF C

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12(1)(a)	Not Guilty	Not Guilty of desertion but guilty of absence without leave.	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and on loss of kit see RP 44 fn 6.)

~~At present under sentence for...~~ beginning on (date). (1) JAD

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 30 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for twenty one months.

(Sgd) ..... 6 Feb 45 (Sgd) " J A Dougan " Major

Judge Advocate, if any. JAD Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, AF 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) MFB

(1. AA 57A. Delete if not used.)

(Sgd) " W.P. Bogert " Brig

Date 10 Feb 45 Commanding 2 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C77817 Pte Delahunt C.L. SEAFORTH OF C	11 Feb 45	" J O Moxon " Lt A/Adjt. Seaforth of C

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4Y-57.

CFA66 (To take place of AFA) 4888
40 F & S Section (1940)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig W.P. Bogert Comd 2 Cdn Inf Bde dated 1 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C77817	Pte	Charles Leslie	DELAHUNT	SEAF OF C

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 5 & 6 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/82

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. JAD

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmc RDs. For guidance on procedure when a variation in this form arises, see Form for CCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding form number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) JAD
The Court is satisfied that it is properly convened and constituted(3), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(4) JAD

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~was~~ brought before the Court. At 1545 hours trial commences. JAD

A4. The Prosecutor produces a Medical Certificate that accused is ~~was~~ fit to undergo trial by court-martial.(1) JAD
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ JAD

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused~~ Do you object to an interpreter? Ans JAD
~~The Interpreter is sworn (1).~~ Do you object to the shorthand writer? Ans JAD
~~The shorthand writer is sworn.~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: JAD

President	Major	J A Dougan	L E R
Member	Captain	A M Campbell	PPCLI
Member	Lieut	R M Lodge	L E R
~~Judge Advocate~~ JAD			
Prosecutor	Lieut	A Foulds	SEAF of C
Defending Offr	Lieut	D E McKay	SEAF of C

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 84 (E) and fn 2 were not followed. See Dir p 3.)

A8. The accused C77817 Pte Delahunt C.L.- Seaf Before arraignment make(s) (no) ~~of~~ plea. JAD (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the successive pleas in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. JAD

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is advised and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D JAD

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

G149

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 90(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 32 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

• File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1) JAD
(1. *RP 35(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST charge(s).(2) The Court JAD is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the FIRST charge(s), and allowed on the ~~charge(s) and that, accordingly, the trial will proceed on the former, but the accused is~~ (are) found Not Guilty on ~~the latter charge(s).~~(4) JAD
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 80(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I WILL BE A WITNESS Do you intend to call witnesses on your behalf? Ans YES. Are they witnesses as to character only? Ans NO
(1. *RP 115.* 2. *RP 40(A), see 80(C).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CA 461. Evidence for accused as to his character should, if to his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42.* 103(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. JAD
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) JAD
(1. *The President announces that accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.*)
(1. *AA 54(3) (b), RP 45. 120(A).* 2. *AA 54(3), RP 45. 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true JAD copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for JAD examination, and then to the Court for admission in evidence. The Court is satisfied that these documents (neither) to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and JAD marked Ex A and Ex B respectively.(3)
(1. *MFR 255 or AFB 2742.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in JAD mitigation of punishment?(1) Ans YES
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2) JAD
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 130, 563-566. Overseas RO 309, 1323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see insstrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined C77817 Pte DELAHUNT C.L. of SEAFORTHS OF CANADA and in my opinion he is fit to undergo trial by Court Martial.

In the Field
5 Feb 45.

" ????????????? " Capt
Medical Officer
Unit Seaf of C.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined C77817 Pte DELAHUNT C.L. of SEAFORTHS OF CANADA and in my opinion he is fit to undergo trial by Court Martial.

In the Field
6 Feb 45

" K L Shapiro " Capt RCAMC
Medical Officer
Unit 1 CBD Survey Regt RCA.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C77617	Pte	Charles Leslie	DELAHUNT	SEAF OF C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.		(Must be named. RP 106.)	Unit.
Major	J A Dougan MC		L E R

MEMBERS.

Rank.			Unit.
Capt	A M Campbell		PPCLI
Lt	R W Lodge	(Named or detailed. RP 106.)	L E R

WAITING MEMBER.

Rank.		(Named or detailed, if any. RP 106.)	Unit.
Lt	A F Tucker		PPCLI

~~JUDGE-ADVOCATE.~~

Rank.		(Must be named, if any. RP 106.)	Unit.

On Active Service in the Fd

in ITALY (Country.)

Date 1 Feb 45

" W P Bogert " (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 2 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/3BA (PAM (In Duplicate) AFA3) 46-7 & 47-1607 (4681)

CHARGE SHEET

The accused No C77817 Pte Charles Leslie DELAHUNT, The Seaforth Highlanders of Canada, a soldier of the Canadian Army Overseas (CMF) on active service, is charged with:

FIRST CHARGE WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE
Sec 12(1)(A) Army Act. in that he

In the Field, in Italy, on 19 Oct 1944 at 1600 hrs after having been warned to proceed for service in a forward area with intent to avoid so proceeding, absented himself without leave from the Seaforth Highlanders of Canada, until apprehended by 200th Provost Coy CMP in PERUGIA, at 1500 hrs 28 Dec 44. Absent 69 days, 23 hours.

" H L Clendinning "
(H L Clendinning) Major
A/OC The Seaforth Highlanders of Canada

In the Field
27 Jan 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

" M P Bogert "
(M P Bogert) Brig
Comd 2 Cdn Inf Bde

In the Field
1 Feb 1945

OPENING ADDRESS OF PROSECUTION

In the case of C77817 Pte Charles Leslie DELAHUNT a soldier of the Seaforth Highlanders of Canada, I will prove that the accused after having been warned to proceed to a fwd area did absent himself without leave to avoid so proceeding, and remained absent without leave until apprehension by a Provost in PERUGIA, a town some 200 miles south of this fwd area, some 69 days and 23 hours later.

I will call as witnesses: K53509 CSM Elaschuk J.
Capt. D. E. Cameron
" A Foulds " Lieut.

Field General Court Martial. 5 Jan 45

C77817 Pte DELAHUNT C.D. - Seaforth Highlanders of Canada

FIRST WITNESS FOR PROSECUTION K53509 CSM Elaschuk J, SHCC, having been duly sworn states:

I am K53509 CSM Elaschuk J. CSOC, HQ Coy. At 1600 hrs 19 Oct 44 I was sending reinforcements up to the unit. I lined the men up and had a roll call, and found that Pte Delahunt was missing off parade. I sent the reinforcements forward and checked the area to see if Pte Delahunt was in it. I could not find him so I placed him on the absentee report. I recognzie the accused as Pte Delahunt.

Cross examination by Defense.

The last time before the roll call that I had seen Pte Delahunt was at noon that day on meal parade.

I had issued no warning order but Capt Cameron had.

Examination by Court

At the time (19 Oct 44) the Bn was fighting.

R.P. 83 (b) complied with

SECOND WITNESS FOR PROSECUTION Capt D B Cameron having been duly sworn states:

I am Capt D B Cameron, QM SHOC. When the Bn is in the line I am OC 'B' Echelon. At approx 1600 hrs 18 Oct 44 a draft of reinforcements arrived at 'B' echelon. The roll was checked and all personnel were accounted for. At that time I told the reinforcements that they would not be going forward for a day or so but that xxx they would remain in the area and be prepared to move forward on short notice. The accused whom I now recognzie was present on that parade. The following day at approx 1600 hrs I received word to send reinforcements forward. Before embussing the reinforcements I had the nominal roll checked. The accused Pte Delahunt and one other soldier were absent. I had not since seen or heard of the accused until 27 Jan 45.

Cross examination by Defense

I ordered the draft to remain in the area and be prepared to go forward at a moments notice.

R.P. 83 (b) complied with.

Examination by Court - None

The Prosecutor produces, Certificate of Apprehension purporting to refer to the accused which he submits to the Defending Officer for examination and then to the court for admission as evidence.

Admitted in evidence and marked Exhibit "A".

DEFENCE D4

The prosecution have not established a Prima Facie case against Pte Delahunt. He is charged with desertion and facts brought out by the Prosecutions witnesses tend to point towards the non compliance with an order relating to an indefinite duty followed by absence.

" Lieut D.A. McKay " Lieut.

Submission by Defence that prosecution has not established a Prima Facie case. The court did not consider it necessary to hear from the prosecutor in reply.

" J A D ".

FIRST WITNESS FOR THE DEFENCE D77817 Pte Delahunt C.L., SHOC, having been duly sworn states:

I am C77817 Pte Delahunt C.L., SHOC, having been duly sworn, states:

I am C77817 Pte Delahunt C.L. SHOC. On the 18 Oct 44 when the order to stay in the area was given the Captain stated there was no neccessary fighting going on up forward and it would be a day or two days before we went forward. So after staying in the area, all that night and up till 1500 hrs on the 19 Oct 44 I decided to go down the road a short distance to have some Italian Food. When I returned to the area, I found the reinforcements had gone forward I decided then if I were to be charged with probably 2 hrs AWL, I decided to have a few more days. I think I heard Capt Cameron say we were going forward at a moments notice. I can't clearly remember. Had I known I were to be charged with Desertion I would never have left.

Cross examination by Prosecution - None

Examination by Court.

There were two or three officers in the party I dont remember any NCO's.

I did not ask permission to leave the area.

On returning I noticed two of the company trucks were missing. I thought the reinforcements had gone forward. I did not report to anyone.

R.P. 83 (b) complied with.

The Court adjouned at 1700 hrs 5 Feb 44. The same Court reassembled at 1300 hrs 6 Feb 45. The prosecutor produced MOs certificate that accused is fit for trial by Court Martial.

" JAD"

SECOND WITNESS FOR DEFENCE K37029 S/Sgt Duddle J.H. XXXXX D C M, SHOC having been duly sworn states:

I am K37029 S/Sgt Duddle J.H.,DCM. I recognige the accused as Pte Delahunt. The accused with me when I was CSM of 'C' Coy from Crtona until he was wounded in the Gothic line. During the time he gave us no trouble whatsoever and I found him at all times willing to co-operate in anything we wanted to have done. During the rough battle of the Hitler Line he remained with us all day and was one of the very few men who arrived at the objective. He helped evacuate the wounded, did everything I think a soldier could possibly do in that battle. When he was wounded in the Gothic Line, he tried his best to stay up in the line instead of being evacuted. With regards soldiering in the Coy he was alwasys willing to co-operate with his pln and I have seen him many times preparing food and at all times being a help in that respect. One of the men in a pln who has the spirit I would be willing to take him back in the company.

R.P. 83 (b) complied with.

Cross examination by Prosecution - None

Examination by Court - None

CLOSING ADDRESS BY PROSECUTION

In the case of C77817 Pte Charles Leslie Delahunt, I have shown by evidence that the accused after having been warned to proceed to a fwd area absented himself without leave to avoid so proceeding until apprehended in Perugia, 69 days 23 hours later.

I fell that it is the duty of the court to find the accused guilty as charged.

" A Foulds " Lieut.

CLOSING ADDRESS BY DEFENCE

I would like to point out the following facts to the court.

(A) Firstly that Pte Delahunt had no intention of deserting.

(B) Secondly that he had no idea of the seriousness of the offence at the time it was committed.

(C) Thirdly the duty to which he is accused of avoiding was not definitely defined in the order given to him or the consequences of same.

" Lieut D H McKay "

PLEA OF MITIGATION

Pte Delahunt has had practically four years service with the Canadian Army. Which he joined voluntarily. He spent 3 yrs as a Cpl instructor at an Officers Training School. Reverting voluntarily to a Pte again in order to take his place more easily in the field. He was wounded in serving with a rifle coy in the Gothic line. He feels that his efforts are wasted as a rifleman and has repeatedly tried to obtain work in the transport in which he has been thoroughly trained and proven efficient. He has dependents at home whom he does not wish to bring disgrace upon and desires to atone for his mistakes as quickly as possible in order that he can return to his comrades who want him back. He has had an excellent record up and until the occurrence of the offence with which he is charged and since his apprehension has served with his comrades in a forward area.

" Lieut D. H. McKay "

CERTIFICATE IN ACCORDANCE WITH ARMY ACT, SECTION 163(1) (11)

I certify that No C77817 Pte DELAHUNT C.L. of "C" Coy SEAFORTH HIGHLANDERS OF CANADA was arrested at PERUGIA at 1500 hrs on 28 Dec 44.

Sgt " C Patten " Capt DAPM 71 Sub-Area

OC 200 Provost Company C.M.Police

Signature of Provost Marshall A.P.M or other officer into whose custody the above named person was taken on arrest.

EXHIBIT "A".

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
C22817	PTE	Charles Leslie DELAHUNT	Seaforth of C.

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers therein stated should correspond with the number of entries in the Field Conduct Sheet, preference being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recommended special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For A.A.Reg.15(1) ..... 1 ..... times

For .... times

For .... times

For .... times

2. ~~Previous convictions of the accused by a court martial or civil court are set out in the schedule overleaf.~~

3.* ~~The accused has forfeited (and is liable~~ ..... to forfeit) service for the purpose of ..... days ....

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
NIL		NIL	NIL	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ...5..... day of ..Feb 45.....

" R L McDougall " Capt
.....
Adjt of Seaf of C

MFM 6
(AFB 122)
40/P&S/136 (3458)

No C77817 Name L/Cpl Delahunt Charles Leslie | Sqn. Battery or Company | C | Corps CIC | Date of enlistment | 9-2-41 | OC Badges | Service or Proficiency Pay |

Company Conduct Sheet Date of last entry in | No and Date of last drunk | Period not reckoning towards freedom from extra fine | nil | Sheet No | Signature OC Unit or Adjutant | ?????? Capt for Commandant C.T.C. | Character (EC)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				FIRST SHEET DESTROYED 9 AUG 41 ENTRIES NIL 3-9-43.					
Peterboro Field	7 Feb 44	Cpl		AA Sec 15(1) AWL from 0800 hrs 7 Feb 44 until 1020 hrs 7 Feb 44 Total time absent 2 hrs 20 mins.	Capt D.L. Thompson Maj J.S. Whyte	Severe Rep.	8-2-44	CS Hadley Lt Col	
				CERTIFIED TRUE COPY THIS 27TH DAY OF JANUARY 1945. " J C Moxom " Lieut.					

EXHIBIT "C".

OPTO

Summary of Evidence in the case of C77817 Pte Charles Leslie Delahunt a soldier of the SH of C, CAO, CMF.

By direction of the CO the evidence was taken on oath.

FIRST WITNESS - K53509 CSM Elaschuk J having been duly sworn states:

I am K53509 CSM Elaschuk J CSM HQ Coy. At 1600 hrs 19 Oct 44 I was sending reinforcements to the unit. I called the roll and Pte Delahunt whom I now recognzie was missing. I sent the reinforcements on fwd and made a further check in the area. I could not find him in the area and I reported him absent.

" J Elaschuk "

The accused declines to cross examine this witness.

SECOND WITNESS - Capt D B Cameron QM SHOC having been duly sworn states:

I am Capt D B Cameron QM SHOC, I was OC "B" Echelon on 19 Oct 44 and I warned the reinforcements draft that they were to be prepared to move fwd at any moment and they were not to leave the area. The accused whom I now recognize was a reinfocement was present and was warned.

The accused declines to cross examine witness" D B Cameron " Capt

THIRD WITNESS Capt R L McDougall having been duly sworn states:

I am Capt R.L. McDougall, Adjutant of the SH of C and I produce the following document which relates to the accused whom I recognize. (1) Certificate of Apprehension in accordance with AA 163 (1)(jj) which states that C77817 Pte Delahunt C.L. was apprehended at Perugia at 1500 hrs 26 Dec 44. This document is attached and marked exhibit "A".

" Robert L McDougall " Capt

The accused declines to cross examine this witness

The accused was cautioned as follows "Do you wish to make any statement or give evidence under oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make any statement.

" Charles L Delahunt "

This page and the preceding page taken down by me in the presence of the accused this 27th day of Jan 1945. RP 4 (C)(D)(E)(F) & (G) have been complied with.

In the Field
27 Jan 45.

" A Foulds " Lt.
(Officer taking Summary.

List of witnesses in the case of C77817 Pte Charles Leslie DELAHUNT,
The Seaforth Highlanders of Canada.

K53509 C&M Elaschuk J. - Seaforth of C

Capt D B Cameron - Seaforth of C

Capt R L McDougall - Seaforth of C

List of exhibits in the case of C77817 Pte Charles Leslie DELAHUNT,
The seaforth Highlanders of Canada.

Certificate in accordance with AA Sec 163 (1)(jj) - Exhibit "A".

O.C. Seaforth Of C

Sir:

I respectfully request that Lt D H McKay represent me at my forthcoming F.G.C.M.

" Charles L Delahunt "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C77817 Pte Delahunt C. SEAF OF C

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 12(1)(a)	Not Guilty	Not Guilty	of desertion but guilty of absence without leave.
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1) JAD
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 30 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To be imprisoned with hard labour for twenty one months.

(Sgd) ..... Judge-Advocate, if any. JAD 6 Feb 45 Date awarded. (Sgd) " J A Dougan " Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) MPB
(1. AA 57A. Delete if not used.)

(Sgd) " M.P. Bogert " Brig
Date 10 Feb 45 Commanding 2 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C77817 Pte Delahunt C.L. SEAFORTH OF C	11 Feb 45	" J O Moxon " Lt A/Adjt. Seaforth of C

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA 69 (To face of AFA 31) 40/P Ar St/1998 (40/01)

4Y-57

Convened by Order of Brig M.P. Bogert Comd 2 Cdn Inf Bde dated 1 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, (fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/B or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C77817	Pte	Charles Leslie	DELAHUNT	SEAF OF C

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 5 & 6 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/82

A1. The President, Members, waiting Member, ~~J.A. if any, and Offrs under instr, if any~~ assemble, and the Court is closed. JAD

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 693, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 101, 119, 123.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) JAD
The Court is satisfied that it is properly convened and constituted(3), accused is ~~are~~ amenable to military law, and JAD
each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1545 hours trial commences. JAD

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) JAD
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ JAD

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused :~~ Do you object to ..... as interpreter ? Ans ..... JAD
~~The interpreter is sworn.(1)~~ (Do you object to ..... as shorthand writer ? Ans ..... JAD
~~The shorthand writer is sworn.(1)~~ JAD

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 21, RP 23, 71, (8, MML p 742.))

A7. The President, Members, ~~J.A. if any, and Offrs under instr, if any~~, are sworn.(1). The following are the JAD
ranks, names and units of the offrs comprising the Court, etc :

President	Major	J A Dougan	L E R
Member	Captain	A M Campbell	PPCLI
Member	Lieut	R W Lodge	L E R
JAD ~~Judge-Advocate~~			
Prosecutor	Lieut	A Foulds	SEAF of C
Defending Offr	Lieut	D H McKay	SEAF of C

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See D/ p 3.)

A8. The accused C77817 Pte Delahunt C.L.- Seaf of C before arraignment make(s) (no) (~~a~~) plea JAD
..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All ranks and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ JAD
not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A56 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourned and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- JAD
ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C149

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. *RP 35(B).* 2. *RP 37(D) fn 5.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para D3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1) JAD

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the FIRST charge(s), ~~and allowed on the charge(s), and that accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4) JAD

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Make a statement on oath. Do you intend to call witnesses on your behalf? Ans. Defence. Are they witnesses as to character only? Ans. Defence.

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 465. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is ~~(are)~~ recorded in Part I of the Schedule.(2) The Court is re-opened. JAD

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the FIRST charge(s), being subject to confirmation, will be promulgated later.(1) ~~For the President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2) JAD

(1. *AA 54(7), (8), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)

Ans. NO

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified ~~true~~ copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3) JAD

(1. *AA 54(7), (8), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans. Defence.(2) JAD

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2) JAD

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 809, 2323, MML p 90, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to remove from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined C77817 Pte DELAHUNT C.L. of SEAFORTHS OF CANADA and in my opinion he is fit to undergo trial by Court Martial.

" ???????????? " Capt
Medical Officer
Unit Seaf of C.

In the Field
5 Feb 45.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined C77817 Pte DELAHUNT C.L. of SEAFORTHS OF CANADA and in my opinion he is fit to undergo trial by Court Martial.

" K L Shapiro " Capt RCAMC
Medical Officer
Unit 1 Cdn Survey Regt RCA.

In the Field
6 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to seperate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
C77817	Pte	Charles Leslie	DELAHUNT	SEAF OF C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Feb 45 endorsed by me, ~~(or by an offr of my staff for me),~~ "To be tried by Field General Court-Martial". MPB

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ MPB
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. MPB

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President,~~ for the reasons I have attached hereto: MPB
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat~~ the Offr mentioned hereunder. MPB
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J A Dougan MC (Must be named. RP 106.)	L E R (Unit.)	
MEMBERS.			
Capt	A M Campbell	L E R (Unit.)	PPCLI
Lt (Rank.)	R W Lodge (Named or detailed. RP 106.)		
WAITING MEMBER.			
Lt (Rank.)	A F Tucker (Named or detailed, if any. RP 106.)	[redacted] (Unit.)	PPCLI
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)	

On Active Service in the Fd

" M P Bogert "
(Signed personally. RP 105 fn 2.)

Brig (Rank.)

in ITALY (Country.)

Commanding 2 Cdn Inf Bde
Convening Officer.

Date 1 Feb 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Para. 1 to 3001 of AFA2; 60/P & R/1867 1601)

CHARGE SHEET

The accused No C77817 Pte Charles Leslie DELAHUNT, The Seaforth Highlanders of Canada, a soldier of the Canadian Army Overseas (CMF) on active service, is charged with:

FIRST CHARGE WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE
Sec 12(1)(A)
Army Act. in that he

In the Field, in Italy, on 19 Oct 1944 at 1600 hrs after having been warned to proceed for service in a forward area with intent to avoid so proceeding, absented himself without leave from the Seaforth Highlanders of Canada, until apprehended by 200th Provost Coy CMP in PERUGIA, at 1500 hrs 28 Dec 44. Absent 69 days, 23 hours.

In the Field
27 Jan 1945.

" H L Clendinning "

(H L Clendinning) Major
A/OC The Seaforth Highlanders of Canada

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
1 Feb 1945

" M P Bogert "

(M P Bogert) Brig
Comd 2 Cdn Inf Bde

OPENING ADDRESS OF PROSECUTION

In the case of C77817 Pte Charles Leslie DELAHUNT a soldier of the Seaforth Highlanders of Canada, I will prove that the accused after having been warned to proceed to a fwd area did absent himself without leave to avoid so proceeding, and remained absent without leave until apprehension by a Provost in PERUGIA, a town some 200 miles south of this fwd area, some 69 days and 23 hours later.

I will call as witnesses:

K53509 CSM Elaschuk J
Capt. D. B. Cameron

" A Foulds " Lieut.

Field General Court Martial. 5 Jan 45

C77817 Pte DELAHUNT C.D. - Seaforth Highlanders of Canada

FIRST WITNESS FOR PROSECUTION K53509 CSM Elaschuk J, SHOC, having been duly sworn states:

I am K53509 CSM Elaschuk J. CSOC, HQ Coy. At 1600 hrs 19 Oct 44 I was sending reinforcements up to the unit. I lined the men up and had a roll call, and found that Pte Delahunt was missing off parade. I sent the reinforcements forward and checked the area to see if Pte Delahunt was in it. I could not find him so I placed him on the absentee report. I recognzie the accused as Pte Delahunt.

Cross examination by Defense.

The last time before the roll call that I had seen Pte Delahunt was at noon that day on meal parade.

I had issued no warning order but Capt Cameron had.

Examination by Court

At the time the Bn was fighting.

R.P. 83 (b) complied with

SECOND WITNESS FOR PROSECUTION Capt D B Cameron having been duly sworn states:

I am Capt D B Cameron, QM SHOC. When the Bn is in the line I am OC 'B' Echelon. At approx 1600 hrs 18 Oct 44 a draft of reinforcements arrived at 'B' echelon. The roll was checked and all personnel were accounted for. At that time I told the reinforcements that they would not be going forward for a day or so but that xxx they would remain in the area and be prepared to move forward on short notice. The accused whom I now recognzie was present on that parade. The following day at approx 1600 hrs I received word to send reinforcements forward. Before embussing the reinforcements I had the nominal roll checked. The accused Pte Delahunt and one other soldier were absent. I had not since seen or heard of the accused until 27 Jan 45.

Cross examination by Defense

I ordered the draft to remain in the area and be prepared to go forward at a moments notice.

R.P. 83 (b) complied with.

Examination by Court - None

The Prosecutor produces, Certificate of Apprehension purporting to refer to the accused which he submits to the Defending Officer for examination and then to the court for admission as evidence.

Admitted in evidence and marked Exhibit "A".

D4

DEFENCE

The prosecution have not established a Prima Facie case against Pte Delahunt. He is charged with desertion and facts brought out by the Prosecutions witnesses tend to point towards the non compliance with an order relating to an indefinite duty followed by absence.

" Lieut D.A. McKay " Lieut.

Submission by Defense that prosecution has not established a Prima Facie case. The court did not consider it necessary to hear from the prosecutor in reply.

" J A D ".

FIRST WITNESS FOR THE DEFENCE D77817 Pte Delahunt C.L., SHOC, having been duly sworn states:

I am C77817 Pte Delahunt C.L., SHOC, having been duly sworn, states:

I am C77817 Pte Delahunt C.L. SHOC. On the 18 Oct 44 when the order to stay in the area was given the Captain stated there was no neccessary fighting going on up forward and it would be a day or two days before we went forward. So after staying in the area, all that night and up till 1500 hrs on the 19 Oct 44 I decided to go down the road a short distance to have some Italian Food. When I returned to the area, I found the reinforcements had gone forward I decided then if I were to be charged with probably 2 hrs AWL, I decided to have a few more days. I think I heard Capt Cameron say we were going forward at a moments notice. I can't clearly remember. Had I known I were to be charged with Desertion I would never have left.

Cross examination by Prosecution - None

Examination by Court.

There were two or three officers in the party I dont remember any NCO's.

I did not ask permission to leave the area.

On returning I noticed two of the company trucks were missing. I thought the reinforcements had gone forward. I did not report to anyone.

R.P. 83 (b) complied with.

The Court adjouned at 1700 hrs 5 Feb 44. The same Court reassembled at 130 hrs 6 Feb 45. The prosecutor produced MOs certificate that accused is fit for trial by Court Martial.

" JAD"

SECOND WITNESS FOR DEFENCE K37029 S/Sgt Duddle J.M. DCM, SHOC having been duly sworn states:

I am K37029 S/Sgt Duddle J.M.,DCM. I recognize the accused as Pte Delahunt. The accused with me when I was CSM of 'C' Coy from Ortona until he was wounded in the Gothic line. During the time he gave us no trouble whatsoever and I found him at all times willing to co-operate in anything we wanted to have done. During the time he gave us Line he remained with us all day and was one of the very few men who arrived at the objective. He helped evacuate the wounded, did everything I think a soldier could possibly do in that battle. When he was wounded in the Gothic Line, he tried his best to stay up in the line instead of being evacuated. With regards soldiering in the Coy he was alwasys willing to co-operate with his pln and I have seen him many times preparing food and at all times being a help in that respect. One of the men in a pln who has the spirit I would be willing to take him back in the company.

R.P. 83 (b) complied with.

Cross examination by Prosecution - None

Examination by Court - None

CLOSING ADDRESS BY PROSECUTION

In the case of C77817 Pte Charles Leslie Delahunt, I have shown by evidence that the accused after having been warned to proceed to a fwd area absented himself without leave to avoid so proceeding until apprehended in Perugia, 69 days 23 hours later.

I fell that it is the duty of the court to find the accused guilty as charged.

" A Foulds " Lieut.

CLOSING ADDRESS BY DEFENCE

I would like to point out the following facts to the court.

(A) Firstly that Pte Delahunt had no intention of deserting.

(B) Secondly that he had no idea of the seriousness of the offence at the time it was committed.

(C) Thirdly the duty to which he is accused of avoiding was not definitely defined in the order given to him or the consequences of same.

" Lieut D H McKay "

PLEA OF MITIGATION

Pte Delahunt has had practically four years sercie with the Canadian Army. Which he joined voluntarily. He spent 3 yrs as a Cpl instructor at an Officers Training School. Reverting voluntarily to a Pte again in order to take his place more easily in the field. He was wounded in serving with a rifle coy in the Gothic line. He feels that his efforts are wasted as a rifleman and has repeatedly tried to obtain work in the transport in which he has been thoroughly trained and proven efficient. He has dependents at home whom he does not wish to bring disgrace upon and desires to atone for his mistake as quickly as possible in order that he can return to his comrades who want him back. He has had an excellent record up and until the occurrence of the offence with which he is charged and since his apprehension has served with his comrades in a forward area.

" Lieut D. H. McKay "

CERTIFICATE IN ACCORDANCE WITH ARMY ACT, SECTION 163(1) (ii)

I certify that No C77617 Pte DELAHUNT C.L. of "C" Coy SEAFORTH HIGHLANDERS OF CANADA was arrested at PERUGIA at 1500 hrs on 28 Dec 44.

Sgd " C Patten " Capt DAPM 71 Sub-Area

OC 200 Provost Company C.M.Police

Signature of Provost Marshall A.P.Mer other officer into whose custody the above named person was taken on arrest.

EXHIBIT "A".

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number C77817 Rank PTE Charles Leslie DELAHUNT Regiment (or as the case may be) Seaforth of C

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

AA Sec 15(1) 1 times

For .... times

For .... times

For .... times

For .... times

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

3.* ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charge for nil days in civil custody; and for 30 days in military custody, making a total of 30 days of which nil days were spent in hospital.

5. The present age of the accused is 28 yrs 6 m & 22 dys

6. The date of his attestation is 9 Feb 41

7. The service which the accused is allowed to reckon is 3 yrs 11 mos 22 days

8. ~~The accused is in possession of #~~

\# State the military decorations (if any) held by accused.

~~9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -~~

~~Date of Promotion~~

~~In the substantive rank of ....~~

~~In the war substantive rank of ....~~

~~In the acting rank of ....~~

~~INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.~~

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
NIL		NIL		NIL

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5 day of Feb 45

" R L McDougall " Capt

Adjt of Sqaf of C

No C77817 Name L/Cpl Delahunt Charles Leslie | Sqn. Battery or Company C | Corps CIC | Date of enlistment 9-2-41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in | No and Date of last drunk | Period not reckoning towards freedom from extra fine nil | Sheet No | Signature OC ?????? Capt Adjt for Commandant O.T.C. (EC) Charge

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				FIRST SHEET DESTROYED 9 AUG 41 ENTRIES NIL 3-9-43.					
Peterboro Field	7 Feb 44	Cpl		AA Sec 15(1) AWL from 0800 hrs 7 Feb 44 until 1020 hrs 7 Feb 44 Total time absent 2 hrs 20 mins.	Capt D.L. Thompson Maj J.S. Whyte	Severe Rep.	8-2-44	CS Hadley Lt Col	

CERTIFIED TRUE COPY THIS 27TH DAY OF JANUARY 1945.
" J C Moxom " Lieut.

EXHIBIT "C".

(PTO)

Summary of Evidence in the case of C77817 Pte Charles Leslie Delahunt a soldier of the SH of C, CAO, CMF.

By direction of the CO the evidence was taken on oath.

FIRST WITNESS - K53509 CSM Elaschuk J having been duly sworn states:

I am K53509 CSM Elaschuk J CSM HQ Coy. At 1600 hrs 19 Oct 44 I was sending reinforcements to the unit. I called the roll and Pte Delahunt whom I now recognzie was missing. I sent the reinforcements on fwd and made a further check in the area. I could not find him in the area and I reported him absent.

" J Elaschuk "

The accused declines to cross examine this witness.

SECOND WITNESS - Capt D E Cameron QM SHOC having been duly sworn states:

I am Capt D E Cameron QM SHOC, I was OC "B" Echelon on 19 Oct 44 and I wanred the reinforcements draft that they were to be prepared to move fwd at any moment and they were not to leave the area. The accused whom I now recognize was a reinforcement was present and was warned.

The accused declines to cross examine witness" D E Cameron " Capt

THIRD WITNESS Capt R L McDougall having been duly sworn states:

XXXX I am Capt R.L. McDougall, Adjutant of the SH of C and I produce the following document which relates to the accused whom I resognize. (1) Certificate of Apprehension in accordance with AA 163 (i)(ii) which states that C77817 Pte Delahunt C.L. was apprehended at Perugia at 1500 hrs 28 Dec 44. This document is attached and marked exhibit "A".

" Robert L McDougall " Capt

The accused declines to cross examine this witness

The accused was cautioned as follows "Do you wish to make any statement or give evidence under oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make any statement.

" Charles L Delahunt "

This page and the preceding page taken down by me in the presence of the accused this 27th day of Jan 1945. RP 4 (C)(b)(E)(F) & (G) have been complied with.

" A Foulds " Lt.
(Officer taking Summary.

In the Field
27 Jan 45.

List of Witnesses in the case of C77817 Pte Charles Leslie DELAHUNT, The Seaforth Highlanders of Canada.

K53509 CSM Elaschuk J. - Seaforth of C

Capt D B Cameron - Seaforth of C

Capt R L McDougall - Seaforth of C

List of exhibits in the case of C77817 Pte Charles Leslie DELAHUNT, The seaforth Highlanders of Canada.

Certificate in accordance with AA Sec 163 (1)(jj) - Exhibit "A".

O.C. Seaforth Of C

Sir:

I respectfully request that Lt D H McKay represent me at my forthcoming F.C.C.M.

" Charles L Delahunt "

DD-150 (case #2)

PTE DELANEY A.E.

See K-151 for 1st case.

Missing

22.72
TPR DELANEY F.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C93060 Tpr J Delaney HQ Sqn(6H) 5 Cdn Armd Div

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 9(2)	Not guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for 14 days C.B. beginning on (date) 18 Dec 43. (1)
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of nil days, of which nil days were spent in hospital.(1)
(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo field punishment for a period of 60 days and to forfeit 60 days pay.

(Sgd) Gwillonson Capt 27 Dec 43 (Sgd) G.S. Sterling Maj.
Judge-Advocate. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 64. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court

I direct that the accused be not committed to penal or detention barracks until further orders.(1)
(I. AA 57A. Delete if not used.)

Date 31 Dec 43 (Sgd) J.L. Sparling Lt Col.
Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of

C93060 Tpr J Delaney HQ Sqn(6H) 5 Cdn Armd Div — 2 Jan 44 — V.R. Richardson Capt. HQ, Sqn(6H) 5 Cdn Armd Div.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

22-72

CPA98 (In lieu of AP43) 40/P & S/1008 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col J.L. Sparling RE 5 Cdn Armd Div dated 25 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C93060	Tpr	F.	DELANEY	HQ Sqn (6H) 5 Cdn Armd Div

PROCEEDINGS REVIEWED
27 Jan 44
W.H. Mary L Capt
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 27 Dec 1943.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns in ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 485, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1530 hours trial commences. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)
(1. KR Can 557. 2. AA 46(6), RP 60 fn 1. For effect see KR Can 561(1). Delete, if not applicable.)

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1)

A5. President to accused: Do you object to ~~Sgt~~ Capt Gwillonson as interpreter? Ans Not ~~The Interpreter is sworn.~~ Do you object to Sgt B.W. Reynolds as shorthand writer? Ans No
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans .....(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.S. Sterling	5 Cdn Armd Div Sigs.
Member	Capt	R.P. Weese	3 Cdn Armd Recce R (B) 13705
Member	Capt	D.S. Nicholson	11 CIB Coy RCASC
Judge-Advocate	Capt	E. Gwillonson	HQ 5 Cdn Armd Div
Prosecutor	Capt	H.W. Hill	HQ Sqn(6H) 5 Cdn Armd Div
Defending Offr	Capt	L. McIntyre	8 CB Kingston

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) ~~no~~ the plea(s) set out in Part I of the Schedule.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 128), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes. 3. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings.)

A10. The Court (is sworn and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Page C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A), (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial continues precisely as complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) [illegible] opening address.(1) ~~Not~~
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ ..... charge(s).(2) ~~The Court is closed, and considers the submission.~~(3) The Court is re-opened, and the ~~President~~ announces that the submission is ~~disallowed on the~~ ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter~~ charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 71 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans I prefer to give evidence ~~first~~ under oath. Do you intend to call witnesses on your behalf?
Ans ~~I first~~ Are they witnesses as to character only? Ans No.
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
In the opinion of the Court and the Judge Advocate it is not necessary for the Judge Advocate to sum up.

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See notes in Part I of Schedule. 2. RP 44(6).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and as he has removed further that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 8. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No.
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 120(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 96(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

GES. 3

CHARGE SHEET

The accused, C-93060 Tpr Delaney F., Div HQ Sqn 5 Cdn Armd Div, a soldier of the Canadian Army Central Mediterranean Force, is charged with:

FIRST CHARGE
Sec 9 (2) A.A.

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field, on 17 Dec 43, when ordered by Sjt. Greenhill A.J., Div HQ Sqn 5 Cdn Armd Div to repair a tire, refused to do so, and did not do so.

In the Field
20 Dec 43

(R.J.Graham) Captain
OC Main Div HQ. 5 Cdn Armd Div.
HQ Sqn.

/Overleaf

4
C.

To be tried by Field General Court Martial.

J. L. Sparling

(J L Sparling) Lt-col
Commanding
5 Cdn Armd Div RCASC

In the Field,
25 Dec 43

G&I 5

FIELD GENERAL COURT-MARTIAL

CFA80 (In lieu of AFA3) 40/P&S/1697 (2862)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Permt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C93060	Tpr		F.	DELANEY	HQ Sqn (6H) 5 Cdn Armd Div

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 25 Dec 43 endorsed by me, [redacted] "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	G.E. Streb (Must be named. RP 106.)	5 Cdn Armd Div Sigs (Unit.)

MEMBERS.

Captain	To be detailed by	11 Cdn Inf Bde Coy RCASC
Captain (Rank.)	To be detailed by (Named or detailed. RP 106.)	3 Cdn Armd Recce Regt (Unit.) (GGHG)

WAITING MEMBER.

Captain (Rank.)	To be detailed by (Named or detailed, if any. RP 106.)	13 Cdn FDS RCAMC (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	G.M. Morrison (Must be named, if any. RP 106.)	ADJA 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 25 Dec 43

J.L. Sparling (Signed personally. RP 105 fn 2.)

(J L Sparling) Lt-col (Rank.)

Commanding 5th Cdn Armd Div RCASC

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

G&S 1

MEDICAL CERTIFICATE

C-93060 TPR DELANEY F

This is to certify that the m/n soldier has been examined by me, and is medically fit to undergo trial by Field General Court-Martial.

R.B. Rae Capt RCAMC
(W R Delziel) Capt MO
Hq 5 Cdn Armd Div

27 Dec 43
In the Field

4mm.

7
A.G

The Court is satisfied that the officer detailed by 11 Cdn Inf Bde Coy RCASC in accordance with the Convening Order was unable to serve due to the exigencies of the service. The President appoints Capt. H. Gislason, 13 Cdn FDS RCAMC, the waiting member, to fill the vacancy.

D.2

OPENING ADDRESS BY THE PROSECUTING OFFICER

The accused is charged with disobeying the order of a superior officer and is charged under Sec 9(2) which states that anyone subject to military law who commits the following: disobeys any lawful command given by a superior officer. I want to show that there was a disobedience, that the disobedience was immediate and that there was actual non-compliance with the order given by his superior officer, Sgt Greenhill.

D.3

EVIDENCE FOR THE PROSECUTION

First Witness, B61409 Sgt A.J. GREENHILL, HQ Sqn (6H), 5 Cdn Armd Div, having been duly sworn is examined by the Prosecuting Officer:

Q. 1 Will you state in your own words just what happened on the night of 17 December?

A. 1 On the night of 17 December at approximately 1800 hrs while working at my job down at the barracks, I met the accused coming out with a motorcycle and he said he was going up to the garage to repair a flat tire. The motorcycle belonged to Tpr Harper who was on duty at Main Div and apparently the accused had told Tpr Harper he would fix the tire. I gave the accused permission to repair the tire. At approximately 2330 hrs I thought I had better go up and see if the motorcycle had been repaired owing to the fact that on the morning of 18 December, Main Div was leaving on a scheme. I went up to the garage and found that the motorcycle had not been worked on. I went back to the barracks and found the accused sleeping. This was around 2400 hrs. I woke him up and asked why he had not repaired the tire and he said he had had words with Cpl Bromhead and would not repair any tire around where Cpl Bromhead was. It was midnight and I thought the accused was the most eligible to repair the tire owing to the fact that he had started the job. When I asked him why he had not repaired the tire he replied that he had had words with Cpl Bromhead and that he was not fixing any tire around where Cpl Bromhead was, so I explained to him that the tire had to be fixed for the scheme before morning and that he was to get up, put his clothes on and go on up and fix it. He rolled over, pulled the blankets over his shoulder and said he was not fixing any tire that night. I told him he would either fix the tire or I would place him in the guard house. He repeated what he had said about not fixing any tire so I told him to get out of bed and I woke up Tpr Mannoch and marched him up to the guard house. On the way up to the guard house I gave him two opportunities to reconsider his decision and he said he had started this thing and was going to see it through and did not want any chances whatsoever and that he was not going to fix the tire.

Cross Examination by the Defending Officer

Q. 2 Would you mind repeating to the Court your exact words to the accused?

A. 2 I came into the room and the accused was sleeping so I said "Get up and put your clothes on and repair the tire".

No re-examination.

By the Judge Advocate

Q. 3 What were your duties in the Sqn on this night in question?

A. 3 I was and still am DR Sgt for HQ Sqn.

Q. 4 What are your duties?

A. 4 To train the DRs as a troop when not on scheme and I more or less control them under Capt Hill's supervision.

Q. 5 Was the accused a DR?
A. 5 Yes, he is one of my men.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Second Witness, M49927 Cpl O.L. BROMHEAD, HQ Sqn (6H), 5 Cdn Armd Div, having been duly sworn is examined by the Prosecuting Officer:

Q. 6 Will you tell the Court in your own words what happened on the night of 17 December so far as the accused is concerned?
A. 6 I had just come in from towing a truck and I noticed the accused taking a wheel from our truck which was packed for the scheme in the morning. I told him to leave it on as that wheel and tire was for the scheme. I also told him there was patching material to repair the motorcycle tire. I decided then to let him have the tire and wheel as he put up an argument. Then the accused went around to the back of our fitters' truck and when I came around there he was in one of the boys' boxes which I told him to stay out of. I told him that if one of the boys caught him in there, they would bounce a hammer off his head. We refuse to allow anyone to monkey with any of the tool boxes. The accused then left.

Cross Examination by the Defending Officer

Q. 7 When you went around to the rear of the truck you found the accused looking in one of your tool boxes. Can you tell me the conversation which took place?
A. 7 I asked him what he was doing in the box. He said he was looking for tools to change his motorcycle wheel. I told him to leave the box as we had tools to remove tires from wheels. I told him he had no business being in the boys' boxes.

Q. 8 Did you in any way threaten him?
A. 8 No, sir.

Q. 9 Did you say "Get out of there or else"?
A. 9 No, sir.

No re-examination.

By the Judge Advocate

Q. 10 Did you see the accused working on a motorcycle tire?
A. 10 No, sir, the only tire I saw was the one on the front of our truck.

Q. 11 What was he doing with it?
A. 11 He was removing it.

Q. 12 Did he put it back again when you told him?
A. 12 I remember tying it back on myself and then I decided to let him have it.

Q. 13 What happened then?
A. 13 From then I could not say what happened to it.

Q. 14 You do not know where he took that wheel?
A. 14 No, sir.

Q. 15 You said you had tools to fix tires?
A. 15 Yes, sir, we carry them.

Q. 16 Are these apart from the individual's tools?
A. 16 Yes, sir.

Q. 17 Do you know whether the accused knew where these were?

A. 17 No, sir.

Q. 18 How would the accused get these tools which were in the tool boxes?

A. 18 He would have to ask the boys permission to get them.

Q. 19 Who do you mean by the "boys"?

A. 19 Anyone of the four fitters around there.

Q. 20 Did he do that?

A. 20 No, sir, not to my knowledge.

By the Court

Q. 21 What time did this occur?

A. 21 In the evening after supper. I had been out picking up a truck. I would say it was about 7.30 or 8 o'clock.

Q. 22 These tool kits you speak of, are they fitters' kits?

A. 22 Yes, sir.

Q. 23 Would any of the DRs have similar kits?

A. 23 They have a tool kit on their motorcycles.

Q. 24 Did the accused have one?

A. 24 I do not know. We repair their motorcycles but do not keep track of their tools.

Q. 25 Was this the accused's motorcycle?

A. 25 I do not know.

Q. 26 I presume you have worked a good deal with the accused?

A. 26 Yes, sir.

Q. 27 Would you consider him a willing worker or did he seem to be willing to have obstacles thrown in his way?

A. 27 I might have discouraged him by not allowing him to get in the tool boxes.

Q. 28 Would you have left the job unfinished if you had been in his place or would you have asked permission to use the tools?

A. 28 I think I would have asked permission to have the tools.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

The Prosecution is closed.

EVIDENCE FOR THE DEFENCE

The Defending Officer declines to make an opening address.

First Witness, C93060 Tpr F. DELANEY, HQ Sqn (eH), 5 Cdn Armd Div, having been duly sworn is examined by the Defending Officer:

Q. 29 Would you tell the Court what happened on the night of 17 December?

A. 29 On the night of 17 December I was in my room with Tpr Mannoch when he told me that Tpr Harper had a flat tire on his motorcycle and was going to need the motorcycle in the morning. As a result of what Tpr Mannoch told me I decided to fix Tpr Harper's flat tire. Tpr Harper was out with my bike at the time which has the only complete set of tools. I decided to push his motorcycle from the barracks to the fitters' shop. I went to Tpr McKeown and asked his permission for the use of the spare wheel which was on the front of the truck and some tools. I got permission to have the wheel and tools. I went over to the front of the

1st Guard

A. 29 truck and started to take the wheel off the lorry. I had taken it just about half off when Cpl Bromhead came up and asked me what I was doing with the wheel. I told him I needed the wheel to replace Tpr Harper's wheel because it was flat. He asked me if Tpr Harper was drunk. I told him that Tpr Harper was out on a run. He took the wheel from me and put it back on the truck and I started to explain to him that we needed the wheel for the scheme in the morning. He then decided to let me have it. I took it off again and went to the back of the lorry. There were about three tool boxes sitting at the back of the lorry none of which were locked and one had the lid wide open. I was looking in this tool box when Cpl Bromhead came up and told me to get away from the tool boxes or I would get a hammer bounced off my head. That was enough for me. I went back to barracks and tried to find Sgt Greenhill but could not find him so I went to bed. I knew Tpr Harper would fix his own tire when he came in. About a quarter to twelve Sgt Greenhill came in the room and woke me up. When I was sitting up he yanked the blankets off me and threw them on the end of the bed. He asked me whether I had fixed the tire and I said "No". I started to explain what had taken place with Cpl Bromhead after my attempt to fix the tire. He cut me short and would not listen to me. He told me that either I would fix the tire or I would go to the guard house. I decided to go to the guard house as I did not feel like getting a hammer bounced off my skull. On the way up he asked me whether I had changed my mind and I replied "No".

Q. 30 Do you recall quite clearly Sgt Greenhill coming in the room?
A. 30 Yes, sir.

Q. 31 Did he order you to get up, put your clothes on and go repair that tire?
A. 31 No, sir, he said either you go up and fix that tire or you go to the guard house.

Q. 32 Did your motorcycle have a set of tools?
A. 32 My machine did.

Q. 33 Was the machine you were repairing your own?
A. 33 No, sir.

Q. 34 Did it have any tools?
A. 34 Not the ones I wanted.

Q. 35 Did you have permission to take the wheel and tools?
A. 35 Yes, sir.

Cross Examination by the Prosecuting Officer

Q. 36 Did you inform Cpl Bromhead that you had asked and received permission from Tpr McKeown to use the tools?
A. 36 I told him I had permission to use the stuff.

Q. 37 You did not tell him who had given you permission?
A. 37 Tpr McKeown was the only fitter at the car park at the time.

Q. 38 Give your exact words to Cpl Bromhead.
A. 38 I said to Cpl Bromhead that I had already had permission to use the tools.

Q. 39 Both the tools and the wheel?
A. 39 Yes, sir.

Q. 40 Do you think if you had asked Cpl Bromhead for permission you could have used the tools?
A. 40 I think so, sir.

Q. 41 You did not ask Cpl Bromhead's permission?
A. 41 When I went to the truck in the first place Cpl Bromhead said

A. 41 that he came very close to putting Tpr Harper on charge for that wheel in the first place. He thought Tpr Harper had sent me.

Q. 42 You did not ask Cpl Bromhead for the tools?
A. 42 I asked Tpr McKeown who had the authority to lend the tools.

No re-examination.

By the Judge Advocate

Q. 43 You say the Sgt first came in and pulled the blankets from you?
A. 43 I was asleep and when I woke I sat up.

Q. 44 Did you have any conversation before he yanked the blankets off you?
A. 44 Yes, he asked me whether I had fixed the wheel and when I said I had not, he said I would either fix the tire or go to the guard house.

Q. 45 What did you say?
A. 45 I did not say anything.

Q. 46 Why did you not go and fix that tire?
A. 46 I had already been threatened by a NCO and I tried to explain that to Sgt Greenhill.

Q. 47 Had you any reason to believe that Cpl Bromhead would not have given you any tools to fix the tire?
A. 47 I do not know. As soon as he said he would hit me on the head I walked around and put the wheel back on.

Q. 48 What did he say?
A. 48 He said if I did not get away from the tool box I would get a hammer bounced off my head.

Q. 49 He did not say he would actually do it?
A. 49 No, sir.

By the Court

Q. 50 Were you fixing the tire more as a favour for a friend or did anyone order you to fix it?
A. 50 Tpr Harper and I have been DRs together for a long time and he does things for me if I am busy and I do the same for him.

Q. 51 Have you ever found Cpl Bromhead uncooperative?
A. 51 No, sir, not up until then. I had fixed a tire up there that morning.

Q. 52 Everything was alright then?
A. 52 Yes, sir.

Q. 53 Why did the Sgt chose you to fix that tire?
A. 53 The Sgt is a little down on me.

Q. 54 Why should Cpl Bromhead be so short with you?
A. 54 I could not say sir. I do not think he had any reason to be. I did not insult him but only explained to him why I needed that wheel and then he decided to let me have it.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Second Witness, H26509 Tpr A.G. MANNOCH, HQ Sqn (6H), 5 Cdn Armd Div, having been duly sworn is examined by the Defending Officer:

Q. 55 On the night of 17 December, were you sharing the same sleeping quarters as the accused?
A. 55 Yes, sir.

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Q. 56 At about 2330 hrs did you hear Sgt Greenhill come into your quarters?

A. 56 No, I did not hear h'm enter the room. I was asleep.

Q. 57 Will you tell what happened?

A. 57 I awakened to the sound of voices. What I heard was Sgt Greenhill saying "Will you go and fix the tire or will you go to the guard house?". I was told to get up as the accused sa'd he was not go'ng to fix the tire. I did not know just what to make of it at the time.

Q. 58 The first conversation you heard was Sgt Greenhill saying "Will you fix the tire or go to the guard house". I did not know just what to make of it at the t'me.

Q. 59 The first conversation you heard was as you quoted Sgt Greenhill as saying "Will you fix the tire or go to the guard house?

A. 59 Yes, sir, It must have been the first conversation for I am a very light sleeper.

No Cross Examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The w'tness w'thdraws.

The Defence is closed.

CLOSING ADDRESS BY DEFENDING OFFICER

It is the contention of the Defence in the case of the accused that he never was given the actual order "Get up, put on your clothes and fix the tire". We have Sgt Greenhill's evidence but to counter that we have the accused's own evidence. While there is non compliance, I submit, anyone of us would be inclined to be uncooperative if awakened by having the blankets yanked off your bed.

On this occasion it was just the night before a scheme, the first scheme in this country. The condition of the vehicles was not good and everyone had to pitch in and help to get them in running order. He did not have to fix this tire for the motor-cycle belonged to Tpr Harper. The accused took this tire up to the garage and started in to fix it and as he says himself, an irate fitter comes up and says "Get out of that tool box or I will bounce a hammer off your head. I think it is difficult for a lad to stay around a place which has an attitude like that. I do not think a great deal more need to be said about it but I think if the accused was good enough to volunteer to fix the tire, the NCO should be considerate rather than order him to fix the tire.

CLOSING ADDRESS BY PROSECUTING OFFICER

The Prosecution submits that the accused did volunteer to mend the tire, but in mending this tire he took on a duty. He took on the duty of fixing it and took it upon himself to finish that duty. By not completing that task he was failing as a soldier and furthermore he did not report it to his Sgt.

The accused did not ask Cpl Bromhead for permission to use the tools knowing that Cpl Bromhead is NCO in charge of fitters' lorry and its kits. He unfortunately did not clarify the situation to Cpl Bromhead by telling him that Tpr McKeown had given him permission to use tools from one of the tool kits.

The accused was subsequently ordered by Sgt Greenhill to do the job and the command was one relating to a military duty and the accused by not completing that task was impeding a military proceedings, there being a scheme the following morning, when he did not obey the lawful command of Sgt Greenhill or of a superior officer. He could have asked for redress later if he thought he was not getting a fair deal.

LIST OF WITNESSES

For the Prosecution

B-61409 Sjt.Greenhill A.J.
M-49927 Cpl.Bromhead O.L.

For the Defence

D-73 Tpr.McKeown C.

29

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court-Martial.

I desire the services of Lieut W McIntyre LO HQ 5 Cdn Armd Div, if he is available.

F. D. Delaney

C-93060 Tpr Delaney, F

In the Field
20 Dec 43

Summary of evidence in the case of C-93060 Tpr: Delaney, F. HQ Sqn., 5 Cdn Armd Div, Cdn Army Central Mediterranean Forces.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

M-49927 Cpl. Bromhead, O.L., HQ Sqn 5 Cdn Armd Div, having been duly sworn, states:

On the night of 17 Dec 43 I got out of a truck at the car park that I had just towed in. Tpr. Delaney was removing the rear wheel of a motorcycle from the front of our Fitters Truck. I asked him what he was doing and he said he was going to put the wheel on another motorcycle. I ordered him to replace the wheel on the truck. Tpr. Delaney argued with me so I decided to let him have the wheel and tire to put on this motorcycle. I beleive he said he had to change the wheel and tire of another motorcycle. Tpr. Delaney then went around to the back of the truck. I went around to the back end of the truck myself and found him working in one of the boys' tool boxes. I asked him what he was doing and he said he was getting tools to remove the tire & wheel. I told him to leave the tool box alone as the tools belonged to someone else. He answered that he needed tools to change the tire and I told him that I didn't care what he wanted or what he needed and that if he wanted tools to ask the boys or myself for them. He said it did not matter to him if the tire was changed or not and walked off.

The accused declines to cross examine this witness.

O. L. Bromhead
.....
M-49927 Cpl Bromhead, OL

SECOND WITNESS

D-73 Tpr. McKeown, C., HQ Sqn 5 Cdn Armd Div, having been duly sworn, states:

On the night of 17 Dec 43, I was and still am a Motor Mechanic and part of the Fitters Section of HQ Squadron, while Cpl. Bromhead was out on duty Tpr Delaney asked me for a wheel for a motorcycle. I said it was all right as far as I was concerned. That is all I know about this matter.

The accused declines to cross examine this witness.

C. McKeown
.....
D-73 Tpr McKeown, C

...n WITNESS

...61409 Sjt Greenhill, AJ, HQ Sqn 5 Cdn Armd Div, having been duly ...orn, states:

At approximately 1800 hrs Tpr Delaney approached me saying that he was going up to garage to repair Tpr Harper's motorcycle. I said O.K. After completing my work at approximately 2330 hrs I went up to the garage to see if the motorcycle had been repaired. I noticed that the tire was still flat. I went up to the barrack room and found Tpr Delaney sleeping. I woke him up and asked him why he hadn't repaired the tire. He answered that he'd had words with Cpl. Bromhead and that he wasn't fixing any tire around where he (Cpl Bromhead) was. I explained to Trp Delaney that he was repairing the tire for me and the troop and not for Cpl. Bromhead and for him to get up to the garage and fix it immediately. He just pulled the blankets over his shoulders and said he was fixing no tire that night and that he was staying where he was. I explained why it had to be fixed that night, owing to the fact that the Div scheme began on the morning of the 18th Dec. I also asked him why he did not report to me that he had not repaired the motorcycle. He did not answer so I told him that he'd either fix the motorcycle or be put under close arrest. He repeated that he wasn't fixing any bike that night. I placed him under close arrest and marched him up to the guard room I gave him an opportunity of reconsidering his decision and he said "No" that he had made up his mind and that he didn't want any breaks from me.

The accused declines to cross examine this witness.

.....A.J. Greenhill.....
B61409 Sjt Greenhill, AJ

The accused was warned as follows in accordance with RP 4(a):
"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

The accused: I have nothing to say at this time.

.....L. Delaney.....
C-93060 Tpr Delaney, J

The accused declined to call witnesses in his own behalf.

I certify that RP 4 has been complied with.

Taken in the field in the presence and hearing of the accused this 20th day of December, 1943.

.....Norfill Hill.....
(N.F. Hill) Capt.

C-93060 DELANEY F.
No. Name

Sqn., Battery, or Company | Corps C A C | Date of enlistment | G.C. Badges | Service or Proficiency Pay | A.F.M. 6 (A.F. B.122) 40/P & /8126 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Dec 43	Tpr	1	WOAS - AWL, in that he did absent himself without leave from 1400 hrs until 1620 hrs 14 Dec 43. Absent 2 hrs 20 mins Sec 15 (1) A.A.	Sjt Greenhill AJ	7 days CB	18 Dec 43	Capt RJ Graham	
Field	15 Dec 43	Tpr	1	WOAS - AWL in that he did absent himself without leave from 0830 hrs 15 Dec 43 until 1230 hrs 16 Dec 43. Absent 1 day 4 hrs. Sec 15 (1) A.A.	Sjt Greenhill AJ Sjt McCall C.C.	14 days CB & forf 14 days pay under FRAI 149 (2)	18 Dec 43	Capt RJ Graham	

Certified true copy from the regtl books in my cu tody 20 Dec 43.

(J.H. Lennox) Lieut
A/Adjt 1st H. Bn (6H)

(P.T.O.)

No. C93060 Name DELANEY, F Sqn., Battery, or Company Corps RCAMC

Date of last entry in Company Conduct Sheet 11-6-40 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine

Date of enlistment 6-2-40 G.C. Badges Service or Proficiency Pay

Sheet No. 2 Signature O.C. Company, etc.

M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
RCAF Stn Rockcliffe	1-9-40	Pte	Nil	Absent without leave (7hrs46mins)	Capt.Hiltz	96 hrs Detention	11-9-40	WI Riddell	W/C., C.O.
" " "	1-10-40	"	"	Breaking out of barracks	LAC Levere	96 hrs detention	1-10-40	WI Riddell	W/C., C.O.
" " "	11-1-41	"	"	Failing to appear at place of duty appointed by his CO	Cpl.Pratt Pte. Young	3 days CB	11-1-41	MS Hehnell	Major C.O.
" " "	17-1-41	"	"	Breaking out of barracks & AWL	Cpt.Pierpont	168 hrs detention	18-1-41	W/C JS Scott	
Granted embarkation leave				from 1430 hrs 25 Sep 41 to 0130 hrs 29 Sep 41					
Camp Borden	21 Oct 41	"	"	AWL from 2200 hrs 21 Oct 41 to 1630 hrs 27 Oct 41 (absent 5 days 18 hrs 30 mins)	Cpt.[illegible]	14 days det			
				Sec 15 para 1, AA		14 days pay			
						6 days pay under FRI149	28 Oct 43	Major Peterson	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ershot	26 Nov 41	Tpr	nil	AWL at 2200 hrs (TATTOO) contrary to DO Pt I (AA Sec 15)	Sjt. Lindop	10 days CB	29-11-41	Major Paterson	
ershot ld	1-2-42 27 Nov 42	"	1	Drunkenness 1st offence Conduct to the prejudice of good order and military discipline. When ordered by Sjt Greenhill to clean area adjacent to his quarters did not do so.	Sjt Greenhill	7 days det Forfeits 7 days pay YPAI 149(b)	27-11-42	Major - LM Collins	
Field	21 Jul 43	"	1	WCAS - Neglect to the prejudice Failed to answer his name at Tattoo roll call at 2300 hrs	Sjt. Campbell Fellows	7 days CB forf 2 days pay	22 Jul 43	Major - LM Collins	
Field	21 Aug 43	"	1	WCAS - AWL from 2330 hrs 21 Aug 43 to 2230 hrs 22 Aug 43 total absence 23 hrs Sec 15 AA	Sjt Anfossi JL	168 hrs det 7 days pay	23 Aug 43	Major LM Collins	

Exh "A" 19

M.F.B. 355
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-93060	Tpr	Delaney F.	HQ Sqn.(6H)5 Cdn Armd Div

1. The following is a fair and true summary of the entries in the [redacted] Squadron [redacted]

Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Sec 40 A.A.	one times	two times
For Sec 15 A.A.(1)	three times	five [redacted] times
For Sec 15 A.A.(3)	one times	one times
For Sec 15 (2) A.A.	times	one times
For Sec 15 A.A.		one times
For Sec 15(4) A.A.		two times

[redacted]

Note:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

[redacted]

The accused at the present time is under sentence for 21 days beginning on the 18 [redacted] day of Dec

[redacted]

5. The present age of the accused according to his record of service is 22 years

6. The date of his [redacted] specified in his attestation paper is 6 Feb 40

[redacted]

8. The accused is entitled to reckon 3yrs 10 months service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward [redacted] military

[redacted]

20/

[redacted]

[redacted]

[redacted]

PP. 104

PTE DELANEY G.E.

PP-104

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eleventh day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 5 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* I am unable to appoint —

(three Officers to form the Court)

(a Field Officer as President)

for the following reasons, namely:—[illegible]

President.

Rank.	Name.	Regiment.
Major	J. Bibeau	R. de Ma is.

Members.

Rank.	Name.	Regiment.
Captain	E. W. Le sher	Calg. Highrs.
Lieut	C. E. Mace	Calg. Highrs.

WAITING MEMBER

To be detailled by the O.C. Black Watch (R.H.R.) of Canada.

*Signed G.V. Whitehead

(G.V. Whitehead) Brig.

Commanding 5 Cdn. Inf. Bde.

Convening Officer.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the rank, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-82392 Pte. Delaney G.E., Black Watch (R.H.R.) of Canada	FIRST CHARGE A.A. Sec 9 (1)	Not Guilty	Not Guilty	
	SECOND CHARGE A.A. Sec 9 (2) (alternative)	Not Guilty	Guilty	15 Sep 43 2 confirm
	THIRD CHARGE A.A. Sec 15 (1)	Guilty	Guilty	
	See charge sheet attached.		Sentence: To undergo detention for a period of ninety days. J.B. Bibeau major 13 Sept 1943	G. MacLauchlan Lieut Col. 17 COND. 5 CDN. INF. BDE.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :— No

(Signed) G.T. Whitehead (G.T. Whitehead) Brig (Signed) J.B. Bibeau major

Commanding 5 Cdn Inf Bde. Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of September 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The Interpreter)~~
*(4. The officers under instruction)
were duly sworn.

*Omit if not applicable.

Signed this 13th day of September 1943

J.B. Bibeau major
President of the Court Martial.

C. Certificate in case of death sentences.

~~*See footnote (2) on page 762 M.M.L. 1929.~~ ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this Fifteenth day of September 1943

DG MacLauchlan Lieut Col.
Confirming Officer 17 COND. 5 CDN. INF. BDE.

Promulgated and extracts taken in the case of D-82392 Pte Delaney G.E. Black Watch

(a) (Dated) 16 Sep 43 (Signed) S.S.T. Cantlie Lt. Col. C.C. 187 Bn. The Black Watch (R.H.R.) of Canada

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, D-82392 Pte. GERALD EDWARD DELANEY, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Army Act Sec 9(1)

When on Active Service, disobeying in such manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer, in the execution of his office,
in that he,
In the Field, at approximately 1720 hrs on 3 Sep 43, when personally ordered by D-81312 Cpl. Kelly, A., acting Coy Orderly Sergeant, to appear as escort at Bn Orderly Room, at 1800 hrs on that day, said: "Fuck it, I am going to the show," and did so fail to appear at the time ordered.

Second Charge
Army Act Sec 9(2)
(Alternative)

When on Active Service, disobeying a lawful command given by his superior officer,
in that he,
In the Field, at approximately 1720 hrs on 3 Sep 43, when personally ordered by D-81312 Cpl. Kelly, A., acting Coy Orderly Sergeant, to appear as escort at Bn Orderly Room, at 1800 hrs on that day, said: "Fuck it, I am going to the show," and did so fail to appear at the time ordered.

Third Charge
Army Act Sec 15(1)

When on Active Service, absenting himself without leave,
in that he,
In the Field, on 3 Sep 43, absented himself without leave from tattoo roll call at 2200 hrs until he was apprehended by the Regimental Police at the camp entrance at 2230 hrs 3 Sep 43.
(Total Time Absent 30 minutes).

S. S. T Cantlie Lt.-Col.
S.S.T. Cantlie,
Officer Commanding,
1st Bn The Black Watch
(RHR) of Canada.

Signed
In the Field
this 11 day of Sep 1943

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

XI
11 Sept 43

(G.V.Whitehead) Brig
Comd. 5 Cdn. Inf. Bde.

MEDICAL OFFICER'S REPORT

I certify that No. D-82392 PTE. DELANEY, G.

of 1 R.H.C. is in a fit state of health,

and able to undergo Trial by Court martial.

E H Anderson Capt

Medical Officer. RE Ame

Station 1 R.H.C. In the Field.

Date 13 Sep 43

M. F. B. 246

25M—6-41 (752)
11-Q. 1172-39 480

J Bibeau
major

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

(a) TO BE USED IN PLEA OF NOT GUILTY TO ONE OR MORE CHARGES

1. Trial of No D-12392 Rank Pte Name Gerald Edward Delaney
Unit 1st Bn The Black Watch (RHR) of Canada
Held at in the field on 13th day of September 1943

2. ACTUAL COURT

PRESIDENT

Rank Major Name J. Bibeau Unit R de Maisr

MEMBERS

Rank Capt Name E.W Lasher Unit Calg Highrs

Rank Lieut Name C.H Mace Unit Calg Highrs

3. PROSECUTOR

Rank Major Name B.R. Ritchie (Barrister) Unit R.H.C.

DEFENDING OFFICER

Rank Lieut Name L.P Chandler Unit R.H.C.

4. The accused is arraigned and pleads "Not Guilty" to the following charges. 1st charge and 2nd charge.

5. The accused is asked the question at the foot of page 2 of A.F.A.3 and his answer No is recorded by the President.

6. PROSECUTION EVIDENCE

The first witness No D-81312 RANK Cpl Name Kelly A
Unit R.H.C. having been duly sworn states.
See Page No 1 attached

CROSS-EXAMINED BY DEFENDING OFFICER
See Page No 2 attached

EXAMINED BY THE COURT
See Page No 3 attached

DEFENCE

First witness for the defence No D-12451 Rank Pte
Name Blount W.P Unit R.H.C.
having been duly sworn states.
See Page No 4 attached

CROSS-EXAMINED BY THE PROSECUTOR
See Page No 5 attached

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

(a) TO BE USED IN PLEA OF NOT GUILTY TO ONE OR MORE CHARGES

1. Trial of No D-12392 Rank Pte Name Gerald Edward Delaney
Unit 1st Bn Black Watch (RHR) of Canada
Held at in the field on 13th day of September 1943

2. ACTUAL COURT

PRESIDENT

Rank Major Name J. Bibeau Unit R de Mais

MEMBERS

Rank Capt Name E W Foster Unit Calg Highers

Rank Lieut Name C H Mace Unit Calg Highers

3. PROSECUTOR

Rank Major Name E R Ritchie (Barrister) Unit R H C

DEFENDING OFFICER

Rank Lieut Name L P Chandler Unit R H C

4. The accused is arraigned and pleads "Not Guilty" to the following charges. 1st charge and 3rd charge

5. The accused is asked the question at the foot of page 2 of A.F.A.3 and his answer No is recorded by the President.

6. PROSECUTION EVIDENCE

The first witness No D-11312 Rank Cpl Name Kelly A
Unit R H C having been duly sworn states.

See Page 1 attached

CROSS-EXAMINED BY DEFENDING OFFICER

See Page 2 attached

EXAMINED BY THE COURT

See Page No 3 attached

DEFENCE

First witness for the defence No D-12451 Rank Pte
Name Blount W P Unit R H C
having been duly sworn states.

See Page No 4 attached

CROSS-EXAMINED BY THE PROSECUTOR

See Page No 5 attached

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

(a) TO BE USED IN PLEA OF NOT GUILTY TO ONE OR MORE CHARGES.

/CONTINUED/

EXAMINED BY THE C OURT

See Page No 6 attached

Second witness for the defence No D-82372 Rank Pte

Name Delaney G E. Unit R H C.

the accused after having been warned elects to make a sworn statement and after having been duly sworn states.

See Page No 7 attached

CROSS-EXAMINED BY THE PROSECUTOR

See Page No 8 attached

EXAMINED BY THE COURT

See Page No 9 attached

7. DEFENCE Closing address See Page No 10 attached

8. PROSECUTION Closing address See Page No 10 attached

9. The court is closed for finding.

10. The court is re-opened

11. The Prosecutor files A.F.B.296 and certified copy of M.F.M.6

12. The Defending Officer makes a statement in mitigation of punishment. See Page No 10 attached

THE COURT IS CLOSED FOR CONSIDERATION OF SENTENCE

CERTIFIED THAT THE FOREGOING PAGES NOS. 1 ...TO. 10 ARE A TRUE RECORD OF THIS TRIAL.

....12th...DAY OF September...1943

Signed.....

PRESIDENT

RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

(a) TO BE USED IN PLEA OF NOT GUILTY TO ONE OR MORE CHARGES.

/CONTINUED/

EXAMINED BY THE COURT

See Page No 6 attached

Second witness for the defence No D-82392 Rank D/C

Name Delaney C.E. Unit R.H.C

the accused after having been warned elects to make a sworn statement and after having been duly sworn states.

See Page No 7 attached

CROSS-EXAMINED BY THE PROSECUTOR

See Page No 8 attached

EXAMINED BY THE COURT

See Page No 9 attached

7. DEFENCE Closing address See Page No 10 attached

8. PROSECUTION Closing address See Page No 10 attached

9. The court is closed for finding.

10. The court is re-opened

11. The Prosecutor files A.F.B.296 and certified copy of M.F.M.6

12. The Defending Officer makes a statement in mitigation of punishment. See Page No 10 attached

THE COURT IS CLOSED FOR CONSIDERATION OF SENTENCE

CERTIFIED THAT THE FOREGOING PAGES NOS 1 TO 10 ARE A TRUE RECORD OF THIS TRIAL.

...13th...DAY OF...September...1943

Signed...J.Bibeau...

PRESIDENT

PAGE No 1

Witness for the Prosecution
D81312 Cpl. Kelly A. Block Watch

Q. What were you doing 3 Sept 43

A. I was C.O.S. for A Coy.

Q. Did you have anything to do with the accused.

A. The C.S.M. told me to get two escorts for the B.O.R. Capt. Griffin had passed orders to the C.S.M. for two escorts. This order was passed on to me to have two escorts for the B.O.R. at 1800 hrs. I warned Pte Delaney and Pte Parker, Pte Delaney refused saying "Fuck it I am going to a show"

Where was he warned.

He was outside my tent sitting on a block.

What did you say.

I told him "Pte Delaney get dressed, boots, gaiters, skeleton webbers escort for the B.O.R.

What time did you warn him.

I warned him at 1720 to be ready at the office at 1745 hrs.

Where were you at 1815 hrs.

Made the B.O.R.

Pte Delaney show up.

Where were you at 1745 hrs.

A Coy lines with the other escort. Pte Delaney was not there

Was Delaney dressed when warned.

Have he had denim on.

Is the function of the C.O.S. to detail

[illegible]

Witness D81312 Cpl. Kelly A.

Questions by the defence.

Q. When Lt Delaney said "Fuck it I am going to a show" did you do any thing.

A. No. I

Q. What did you say.

A. I told him if he wasn't there he would be charged.

Q. Did you warn him again of the trial of the parade.

A. I warned him twice.

Q. Did you stay to see the order carried out.

A. I told him twice and saw him till 1745 hrs to appear.

Q. What time did you get the order.

A. 1715 hrs.

Q. Did you make it clear it was an order.

A. Yes.

Q. You are sure it was clear to him.

A. Yes.

Witness DB1317 Col. Kelly A.

Questions by the Court

Q. Was Lt Parker present at the same time you warned the accused.

A. ~~He~~ Yes he was in the next tent.

Q. Did Lt Parker appear for escort.

A yes.

Witness for the Defence.

D82451 Pte Blount W.P. Black Watch.

Q. Did you hear Cpl Kelly and Pte Delaney in conversation on 3rd Sept. and relate any incidents you noticed.

A. I did not hear them talking but did hear Delaney grumbling.

Q. What was Cpl Kelly reaction

A. I do not know.

Q. What was the nature of his grumbling.

A. "Fuck me I seem to be always getting landed for this kind of thing.

Q. Who did he say it to.

A No one in particular.

Q - Did you hear any remarks by Kelly.

A. - No.

Q - How far was Delany away.

A. He was walking up and down from three to ten feet away.

Witness D 82451 Pte Blunt. W. P.

Questions by the Prosecution.

Q. Why was Delaney beefing.

A. I don't know.

Q. Is he a member of your unit.

A. yes.

Q How was the accused dressed.

A. I don't know.

Q. Did you hear Cpl Kelly give the order.

A no.

Q. Did you hear Kelly and Delaney ~~talking~~ saying anything.

A. Just talking.

Q. Did you hear Delaney's remarks after ~~the~~ conversation with Kelly.

A yes.

Questions by the court.

Q. How far away was the accused when he made his remarks.

A. about six feet.

Witness for the Defence.
accused Pte Delaney.

Q. Tell the court your story.

A. On Sept 3, 1943 at 1730 hrs Cpl Kelly approached me and said "You will be an escort for Rayne tonight" no definite time was stated. I blew my top when told and said "Well Fuck me" and left in general, after that I went to the canteen for a Pepsicola and came back. Nothing was said. After the Camp C.B. was lifted I went to town I was not warned for by Offrs. on the charge. I was up for being absent from Tattoo and was surprised to hear the other charge.

Q. No time was stated on the order.

A. No.

Q. Did you hear the order that webb to be worn.

A. No.

Q. What did Cpl Kelly do when you blew your top.

A. I was not facing Kelly and didn't hear him say anything.

. Witness Lt Delaney.
Questions by the Prosecution
Q. Is being an escort a hard job.
A. No.
Q. Why did you blow your top.
A. Capt Kelly has been picking me for all the odd jobs and I had already done one job that day.
Q. How did you know it was for that day.
A. I didn't.
Q. Why did you start beefing and what did Capt Kelly say.
A. Capt Kelly said "You will be an escort for Rayne tonight" but did not state time.
Q. Were you there
A. No.
Q. You went out after C.B.
A. Yes Col. after was already over.
Q. Statement on oath 10th Sept you stated you were dressed ready to go out yet the camp was C.B.
A. There were rumors the C.B would be lifted so I was ready to go.

Witness Pt Delaney:
Questions by the court.
Q. When Pt Kelly was talking to you did he state any time.
A. No he just said tonight
Q. Where were you during the evening.
A. In camp till C.B was lifted and Col Cordes were over so went to town.
Q. How were you dressed when you were waved.
A. Battle dress pants, boots and Guest shirt.

Defence - Closing Address.

It was not clearly established that the order was given and it was merely a matter of the accused word against Cpl. Kelly word. There may have been a non compliance with an order, but no disobedience.

Prosecution - Closing Address.

The prosecution despised every point that the command was given, it was a lawful command, the order was not carried out and he showed wilful defiance by blowing his top.

Plea of Mitigation by Defence on 2nd Charge.

There was a certain vagueness in the manner in which the order was given and the accused has been a good soldier with very few crimes and only minor ones.

Plea of Mitigation on 2nd Charge.

The accused was not absent long. He was at a pub with friends and left at 2130 hrs giving him plenty of time to get home. To get home earlier he took a short cut that his pay had used the previous day on a compass march. He got lost on the way and was late getting in. He left the pub early showing that he wanted to get home on time.

SUMMARY OF EVIDENCE
in the case of

D62392 Pte GERALD EDWARD DELANEY, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army, Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness Prosecution — D81312 Cpl Kelly A. 1st Bn The Black Watch (RHR) of Canada, having been duly sworn, States: "I was Coy Orderly Sergeant on 3 Sep 43 of A Coy 1 RHC. and in that capacity, at approximately 1720 hrs on 3 Sep 43 I warned the accused a memb r of A Coy, for escort duty at Bn Orderly Room at 1800 hrs that day. This meant he had to get ready immediately. He said: "Fuck it, I am going to the show." I then told him that he was up for office. He failed to appear at the appointed time and place. Also that night at 2200 hrs, I called the roll and found Pte Delaney absent. I rechecked again at 2245 hrs. He was still absent. I then turned the absentee report into the Bn Orderly Sgt. When I returned the accused was in his bed."
The accused declines to cross-examine.

Second Witness Prosecution — D81243 Sgt Willoughby James, 1st Bn The Black Watch (RHR) of Canada, having been duly sworn states: "I am Provost Sgt of my unit. Whilst on police duty at the far end of the road entering camp from Southwick on the night of 3 Sep 43, I checked the accused for coming in after hours. It was approximately 2230 hrs. I took his paybook and informed the R.S.M. of the time accused came in."
The accused declines to cross-examine.

First Witness Defence — D62451 Pte Blount, W.P. 1st Bn The Black Watch (RHR) of Canada, having been duly sworn, states: "At approximately 1720 hrs on 3 Sep 43 Cpl Kelly gave Pte Delaney an order - Something pertaining to his being an escort or something I did not hear Delaney refuse. He grumbled that's all I heard. Just a beef."

After being duly warned under RP 4(e), the accused elects to make the following statement:
"At approximately 1730 hrs on 3 Sep 43 I was told by Cpl Kelly to appear as escort before the C.O. as I was all dressed to go out I started to complain and I more or less blew my top, but there was no definite refusal to obey his order. That's all."

Certified that RP 4 has been complied with.

Lieut.
W.P. Fox
Officer detailed to take the Summary of Evidence.

Signed In The Field
This 10th day of Sep 43

J.B. Bethune
Major

No. D82392 Name G.E. Delaney | Sqn., Battery, or Company: A Coy | Corps: 1 RHC | Date of enlistment: 25 Jun 40 | G.C. Badges: - | Service or Proficiency Pay: - | M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 1 | Signature O.C. Company, etc.: E. Rawlings | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28/6/41	Pte		WOAS. Conduct to the prejudice of good order and military discipline in that he used insolent language to an N.C.O. on parade. AA Sec 40	D81464 Cpl Paterson R D81334 Cpl More, R	7 days CB	30 Jun 41	D H. Taylor Lieut	
Field	8/9/41	Pte		WOAS Prejudice to the good order and military discipline in that he did not take up a proper fire position after being warned by his section leader AA Sec 40	Lt J W Buchanan D81464 Cpl Paterson R	5 days CB	12 Sep 41	E. Rawlings Capt	
Field	7/11/41	Pte		WOAS Absenting himself without leave in that he was AWL from 2300 hrs 7 Nov 41 to 0100 hrs 8 Nov 41 (Absent 2 hrs) AA Sec 15(1)	D81288 Sgt Redmond P.V	3 days CB	10 Nov 41	E. Rawlings Major	Forfeits 3 days pay by Fed 149(1)

J J Bibeau major

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27/11/41	Pte		WOAS. AWL from 2300 hrs 27 Nov 41 until 2355 hrs 27 Nov 41 (Absent 55 mins) AA Sec 15(.)	D81464 Cpl Anderson R Sgt. Redmond P	3 days CB	28/11/41	L. Rawlings Major	Forfeits 3 days pay by FRC 149(1)
Field	7 May 43	Pte		AA Sec 15(.) WOAS AWL in that he, was absent from 1400 hrs 7 May 43 to 1930 hrs 7 May 43 (Absent 5 hrs 30 mins)	D81312 L/Cpl Kelly A	7 days CB	12 May 43	Campbell Stuart Capt.	
Field	14 Aug 43	Pte		AA Sec 15(.) WOAS AWL in that he, was absent from 2300 hrs 14 Aug 43 to 2300 hrs 16 Aug 43 (Absent 2 days)	D81056 CSM Murray R D81417 Sgt Baddeley C	7 days CB	19 Aug 43	F.P. Griffin Capt	Forfeits 2 days pay by FRC 149(1)(a)

Certified true copy of original

[signature] Capt Adjt

I.R.A.C.

(Substitute for A.F.B. 296)
or A.F.B. 355

STATEMENT OF CONFIDENCE AND PARTICULARS
OF SERVICE OF THE ACCUSED.

No. D-82392 DELANEY GE 1 RHC.

AGE 21 5 N/A.

25 JAN 40

9 9

B. R. Ritchie Maj a/i/c

1 RHC

Dated at Field

This 13 day of Sep 1943.

(To be dated and signed as of date of trial)

J. Bibeau
Major

I DO/~~DO NOT~~ WISH TO HAVE AN OFFICER APPOINTED BY MY COMMANDING OFFICER TO DEFEND ME AT MY TRIAL BY FIELD GENERAL COURT MARTIAL.

Capt E.R. Bennett
Name of Officer if available

A.E. Delaney Pte
D-62392

Signed "In the Field"

(Witness)

this 10 day of Sept 43

D Bibeau major

LIST OF WITNESSES
in the case of

D82392 Pte DELANEY G.E. - 1 R.H.C.

PROSECUTION

1. D81312 Cpl Kelly, A. - 1 R.H.C.
2. D81243 Sgt Willoughby, J. - 1 R.H.C.

DEFENCE

1. D82481 Pte Blount, W.F. - 1 R.H.C.

J.J. Bibeau
major

QQ-67 (Case #2)
GNR DELANEY G.M.
See 00-36 for 1st Case

QQ-67

Royal Canadian Artillery
Coll. Div.
SEP 17 1943
Headquarters

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this eleventh - - - - - - - - day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, Second Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[illegible]

Proceedings Approved

[illegible]

President.

Rank.	Name.	Regiment.
Major	G.P. Cowan	5 Cdn Fd Regt

Members.

Rank.	Name.	Regiment.
Captain	A. Landale	2 Cdn A tk Regt
Lieut	J.L. Field	5 Cdn Fd Regt
Waiting Member - Lieut	W.H. Falls	2 Cdn A tk Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
[P C Tees] Brigadier
Commanding RCA 2 Cdn Div
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
P9003 Gunner Gerald Michael Joseph DELANEY 2 Cdn A tk Regt	FIRST CHARGE AA Sec 9(2) (see Charge Sheet att)	Not Guilty	Guilty	
			To undergo 150 Days ~~[illegible]~~ detention 13 Sep 43 [signature] Maj President	Confirmed. To Undergo 150 days detention. S H Dobell Lt Col A/CRA 2 Cdn Div 21 Sep 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary): No

(Signed) P C Tees (P C Tees) Brigadier Commanding RCA 2 Cdn Div — Convening Officer (e)

(Signed) [signature] Maj — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13d day of Sep 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this 13d day of Sep. 1943

[signature] Maj
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 170 of 1918 have been complied with.

* See footnote (b) on page 702 M.M.L. 1929.

Signed this day of 19

[signature]
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~ [illegible]

Signed this 21 day of September 1943.

S H Dobell Lt Col
Confirming Officer
A/CRA 2 Cdn Div

Promulgated and extracts taken in the case of

(a) (Dated) 23 Sep 43 (Signed) [signature] Lt Col, R.C.A. C.O. 2nd Anti-Tank Regt. R.C.A., C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

I

CHARGE SHEET

The accused, P9003 Gunner Gerald Michael Delaney, 2 Cdn Anti-Tank Regt, RCA, a soldier of the Canadian Army (Active) is charged with:-

FIRST CHARGE
Sec 9(2)
Army Act

WCAS disobeying a lawful command given by his superior officer

in that he

at Bushfield Camp, while undergoing detention on 2 Sep 43, refused to do fatigue duties when ordered to do so by R.S.M. Shirley.

(H.E. Murray) Lt-Col. RCA
C.O. 2 Cdn Anti-Tank Regt., R.C.A.

4th day of Sep 43
In the Field

4th day of Sep 43
In the Field

To be tried by R.C.C.M.

Brig.
C.R.A. 2 Cdn Div

J. [signature] May

MEDICAL OFFICERS CERTIFICATE

I certify that I have this day examined P9003 Gnr. Delaney, GMJ and find him free from contagious diseases and fit to undergo trial by Court Martial.

R. H. Stevenson, Major,
M.O. 2 Cdn Anti-Tank Regt., RCA

Trial of:-
P9003 Gnr Delaney, G. M., 2 A/T Regt RCA
Actual Court:-

President:- Major G P Cowan, 5 Cdn Fd Regt RCA

Members:- Captain A. Landale, 2 A/T Regt
Lieut J. L. Fiddl, 5 Cdn Fd Regt RCA

Maj

Trial of ~~[illegible]~~ P9003 Gnr. Gerald Michael Joseph Delaney – 2nd Cdn. A/Tk. Regt.

Prosecutor. Lieut. K. L. Murray – 2nd Cdn. A/Tk. Regt.
Def. officer – Lieut. R. J. Rannie – 2nd Cdn. A/Tk. Regt.

R.P. 110 (a) complied with.

K
[signature]
Maj

Prosecution

First witness. R.S.M. Shirley W.C. – M8

Identified accused.

At ~~[illegible]~~ bushfaced camp on a.m. 2 Sep. 43 I detailed L/Bdr. Weaver, sam duty man, to take Gnr. Delaney, who was at that time doing 60 days' detention, out to work. I outlined work to L/Bdr. Weaver & then went to guard room, warned Gnr. Delaney that he was being detailed for duty. When I warned him, he asked me what form of duties he was to do. I answered that he was undergoing detention and would do such duties as detailed. I told him his duties would consist of cleaning up camp area, picking up paper, & such other duties as I laid down to L/Bdr. Weaver. I then left guardroom, waiting for Gnr. Delaney to change into denim. I had been standing outside about 10 minutes when sergeant of guard came out to inform me that prisoner refused to go to work. I then went back into

guardroom asked accused if he was going to carry out my orders. He informed me that he did not intend to do so.

Question 1. Did accused have dennim?
by pros. yes.

Q.2. 2. How many times did you detail accused to do the work?

nine

Cross examined by Counsel for defence.

Q.1 1. Prior to this incident, did Gnr. Delaney ask you why he was not put to detention camp?

no.

2. Did Gnr. Delaney ask you after incident why he was not sent to detention camp?

yes.

3. Did you give him an answer?

I did not give him a definite answer.

4. Did Gnr. Delaney give reasons for disobeying your order?

yes. He said if it was in aid of war effort he would do it.

5. From Gnr. D.'s statements or actions, did he appear to be nursing a grievance?

yes.

6. Could you understand its nature?

no.

7. Were steps taken to inq[illegible]

no.

8. Did Gn Delaney's behaviour appear abnormal?

no.

9. Did he appear to be under mental stress or excited?

no, I had a certificate to say he was fit to undergound.

Questions by court.

1. Did you specify time by which work was to be done?

no.

2. Did he do the work?

no.

3. Did he change into denims?

I believe he stated to do so. I was not in guardroom at the time.

R.P. 83(b) complied with.

Second witness - Lt/Bdr. Weaver, R. - B 16731

Identified accused.

Q. by prosecutor

1. All nature of duty for that morning.

Proceed to guardroom to get Gn. Delaney for purpose of cleaning up camp area. He decided, while changing into denims, not to go to work.

2. Was nature of work told to accused?

yes - cleaning up camp area.

3. Did accused do the work?

no.

Q. by def. officer.

1. Who specified nature of work?

Regt. Sgt.

2. Were details given before or after he refused order?
After.

3. Did Gm. Delaney appear excited or under mental stress?
yes

4. Did you hear him give reasons for refusing?
No.

5. Did you hear Gm. Delaney ask R.S.M. why he wasn't sent to detention camp?
yes

6. Could you recall exact words of R.S.M.'s answer?
No.

7. Could you gather gist of R.S.M.'s words?
No.

R.P. 83(b) complied with.

Prosecution is closed.

Defence.

R.P. 40(a) & (b) complied with.

Accused states that he desires to give evidence on solemn declaration

Q. 1. When you first received order, did you intend to obey?
yes — I was willing to do any work towards finishing the war.

2. Why did you change your mind?
Attitude of R.S.M.

3. What exactly did you object to in his attitude?
I was reading when L/Bdr. W. Carr & R.S.M. Shirley approached the room. The R.S.M. said, "Get on your fatigues, Delaney, you

5. are going out to wo[illegible]
His answer was, "you asked what kind of work it wo[illegible]
[illegible] find out", or words to that effect.

4. Did you ask why you were [illegible] to det. camp?
"We will send you when we [illegible] good and ready to send you."

5. Why did you wish to be sent there?
I felt there might be some hard but useful work there.

6. Why did you want hard work?
I didn't feel that I had been doing much lately to help end the War.

Q. by prosecutor.
1. How long have you known RSM?
Mid-November, 1942 N.C.O.
2. Was RSM.'s tone of voice different from usual to gnr. or more severe that day.
3. Did RSM. use strong language that day?
No.

Q. by court.
1. Did you do the work detailed?
No.

R.P. 83(b) complied with.
Witness as to character - Sgt. Bolton, R.H. - M60

Identified accused.
1. How long have you known accused.
7 mos. He served in my troop.
2. What ~~position~~ opinion did you have of him?
Fair soldier, did work as M.G. well. Sometimes he would not coöperate.
3. Why would he not cooperate?

6/ . He joined M.G. was his only job, I believe.

4. Did he complain re trg. or lack of it.
On Aug. 18 at Lydd, he complained that he was not being allowed to fire on ranges.

5. Would you describe him as normal soldier.
No, very independent, kept to himself, mixed very little with others.

R.P 83(b) complied with.

Witness as to character - Gnr. McLean, J.H. - 11 193

Identified accused.

1. How long have you known Gnr. Delaney?
Since Nov.: he was on my gun crew when I was a #1.

2. Did he appear normal?
Sometimes he was moody, but he did his work. I don't know why he was moody.

3. Did you complain about him?
On one occasion he showed lack of cooperation but worked by himself. He didn't refuse to obey orders.

R.P. 83(b) complied with

Accused Prov. final address.

The camp at Bustfield were recognized as detention camp, as all others were filled.

Defender's final address.

Gnr. Delaney is a conscientious soldier, though moody sometimes. He felt you is not going fast enough and wanted to take larger share in it. That accounts for his lack of cooperation on occasion. I have known him for 7-8 months in 20th Bty. I know his name was considered for promotion to L/Bdr., as he was known to be conscientious

2.

soldier though he did not share in off-duty activities of men. that attitude was merely because he felt ourtg. was not complete as it should be that we were not doing enough to finish the War. I believe his defiance of L/Cpl. was an attempt to bring some of his grievances to the fore.

Court closed to consider findings.

Finding - Guilty.

Court being open, accused is brought in again.

M.F.M. 6 produced & AFB 296 produced to the Court P.O. 3131

Statement in mitigation by accused.

Previous to one month ago, I had a good record of 4 years' service in the Ldn. Army. I wish to point out reason for this behaviour. Due to previous service under fire, I got used to quick decisions & constant action, during the Spanish Civil War. After 6 months of action in front line I was captured & held prisoner for a year in Spanish concentration camps. There I witnessed the beastliness of Fascism, which prompted me to want to get back at them as soon as possible. That is why I enlisted again less than 1 mo. after leaving last conc. camp when war seemed imminent with Germany. Ever since then (1 Sep. 39) I have been very anxious for action against enemy. Therefore I have waited since time I left Fascist Spain till present date (over 4½ yrs.) to try and do my bit to defeat the enemy. I feel, under present circumstances, I can no longer continue my life as a soldier waiting for action. I feel I must be sent into action at once either to fight or to work [illegible] forces already in action. The last statement

of my personal opinion of character: I am impatient, impulsive, and a very serious thinker of the cause of this war, and a firm believer that we could have had action at least a year ago. I consider myself abnormal and wish to have a psychiatric examination due to my anxiety & nervous. I feel I deserve special treatment.

Signed in the Field this 13 day of Sept 43

[signature] Maj
President FSCM

SUMMARY OF EVIDENCE IN THE CASE OF P9003 Gnr. Gerald Michael Joseph Delaney, 20 Cdn Anti-Tank Bty., 2 Cdn Anti-Tank Regt., R.C.A. a soldier of The Canadian Army Overseas.

The C.O. directs that the evidence be taken on oath.

The accused is informed of his rights.

FIRST WITNESS FOR THE PROSECUTION: M.S R.S.M. Shirley, W.C. 2 Cdn Anti-Tank Regt., R.C.A. sworn states:

I am R.S.M. Shirley, W.C. On the morning of 2 Sep 43 at approximately 0830hrs I informed L/Bdr. Weaver, that he was to take P.9003 Gnr. Delaney from the guardroom to carry out various fatigue duties that were [illegible] done. The nature of the duties were laid down by myself, and [illegible] to clean up the paper and salvage from the camp area, also to [illegible] Nissen huts that had been used previously for Court Martials. I then went with L/Bdr. Weaver to the guardroom to inform Gnr. Delaney that he was to be detailed for fatigue duties.

I asked Gnr. Delaney if he had his fatigue clothes with him, which he informed me that he did. At that time Gnr. Delaney inquired as to what the nature of the duties were. My answer to him was that he would be informed of his duties later.

Gnr. Delaney then told me that if the nature of the duties were in the interests of the war effort he would do them. I then told Gnr. Delaney that he was undergoing Detention and that he would do such duties as he was ordered to do.

I then left the guardroom and was standing outside waiting for Gnr. Delaney to change into his fatigues. I had been standing outside approximately ten minutes when the Sgt. of the Guard came out and reported to me that Gnr. Delaney refused to go and work.

I then came in and spoke to Gnr. Delaney and asked him if he refused to carry out my order. He informed me that he did.

The accused declines to cross-examine.

M.S R.S.M. Shirley, W.C.

SECOND WITNESS FOR THE PROSECUTION B.16731 L/Bdr. Weaver, R. of 2 Cdn Anti-Tank Regt. R.C.A. sworn states:

I am B.16731 L/Bdr. Weaver, R. On 2 Sep 43 at approximately 0830hrs I was detailed to go to the guardroom for Gnr. Delaney for the purpose of taking him out to clean the camp area. R.S.M. Shirley being with me at the time, informed Gnr. Delaney of the nature of the work and left while Gnr. Delaney was changing into fatigues. Approximately ten minutes after Mr. Shirley left, Gnr. Delaney informed me he refused to go out andwork. I then asked the Sgt. of the guard if he would ask Mr. Shirley to come into the guardroom again. I then informed Mr. Shirley that Gnr. Delaney refused to come out and work. Mr. Shirley then told me to carry on with my own work.

The accused declines to cross-examine.

B.16731 L/Bdr. Weaver, R.

THIRD WITNESS FOR THE PROSECUTION: B31007 Sgt. Reekie, M.H.G., No. 1 Coy, B Section, 2 Cdn Div Sigs. Sworn states:-

I am B31077 Sgt. Reekie, M.H.G. I was acting as guard commander on 2 Sep 43. RSM Shirley and L/Bdr. Weaver came to take a prisoner, Gnr. Delaney, out of the guardroom to perform camp duties. Gnr. Delaney refused the order to leave his room for work. I went out and reported that fact to Mr. Shirley, who came into the cell and issued that order and it was again refused. The exact time is stated on the guard report, which is in the hands of the Camp Commandant. I left duty at 1600 hrs.

The accused declines to cross-examine.

B31077 Sgt. Reekie, M.H.G.

The accused having been duly cautioned in accordance with R.P. 4(2) says:

"No Sir".

The accused does not wish to call any witnesses in his defence at this point.

CERTIFIED THAT
R.P. 4(2) complied with.

In the Field
This 4th day of Sep 1943

(K.L. Murray) Lieut., RCA
Officer detailed to take the Summary.

LIST OF WITNESSES FOR THE PROSECUTION

1.	M 8	R.S.M. Shirley, W.C.	-	2 Cdn Anti-Tank Regt, RCA
2.	B16731	L/Bdr. Weaver, R.	-	2 Cdn Anti-Tank Regt, RCA
3.	B31077	Sgt. Reekie, M.G.H.	-	No.1 Coy, 3 Sec, 2 Cdn Div Sigs

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2968)

No. P9003 Name Delaney, CMJ | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 1.9.39 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet: nil | No. and date of last drunk: nil | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.: WS McKnight Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									WS McK
				Sheet 2 destroyed on completion of 2 years free of any entry - 1.9.41					
Field	17.8 43	Gnr.		(1) Sec 9 (2) A.A. Disobeying a lawful command given by his superior officer refused to pile up some timber when ordered to do so)					
	19.8 43	Gnr		(2) Sec 15 (1) A.A. WOAS Absenting himself without leave from 0800hrs. 18 Aug 43 until placed under arrest at 0815hrs. 18 Aug 43 Time absent 15 mins					

CERTIFIED TRUE COPY

(PTO)

M

[illegible] Maj

(Substitute for A.F.R. 298)
or M.F.R. 386

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. 29003 NAME Delaney, G.M.J. UNIT 2 Cdn A Tk Regt, RCA

AGE 34 PARTIES OF SINGLE married NO. OF DEPENDENTS two

DATE OF ATTESTATION 1 Sep 39

NO. OF DAYS SPENT IN CLOSE ATTEST (TO DATE OF TRIAL)

CIVIL MILITARY HOSPITAL TOTAL

NAMES OF PROMOTIONS, APPOINTMENTS AND CONSTRUCTION OF RANK, ETC.

A/L/Bdr. with pay 25 Jun 47
Reverted to Gnr. 12 Nov 47.

CERTIFIED TRUE COPY OF A.F.R. 6 [illegible]

(Officer i/c Records)

Unit.

Dated at

This day of 194

(To be dated and signed as of date of trial)

OD 36
GNR DELANEY G.M.J.

00.36

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this twenty-fifth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, Second Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *and that it is not practicable to delay the trial for reference to a superior qualified officer.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*I am unable to appoint —

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely :—

133

President.

Rank.	Name.	Regiment.
Major	R.H. Berry	6 Gdn Fd Regt

Members.

Rank.	Name.	Regiment.
Captain	D.M. Pegg	2 Gdn A ti Regt
Lieut.	T.N. Hunter	6 Gdn Fd Regt
[illegible] Lieut.	E.L. Murray	2 Gdn A ti Regt

*Signed (P C Tees) Brigadier

Commanding R C A 1 Gdn Div

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
P9003 Gnr. Gerald Michael Joseph DELANEY, 2 Cdn A Tk Regt	MAKE CHARGE AA Sec 7(2) (See Charge Sheet att)	Not Guilty	Guilty	
	MAKE CHARGE AA Sec 7(1) (See Charge Sheet att)	Not Guilty	Guilty	
			Sentence to undergo detention for a period of sixty (60) days. H.Berry Major	Confirmed P C Dees Brigadier C.R.A. 2 CDN. DIV.

* Question to be asked of accused, if he pleads not guilty (R. of P. 34 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No

(Signed) P C Dees (Signed) H.Berry Major

Commanding 2 CDN. Tk. Bde. Commanding Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of Aug 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) H.B.
*(4. ~~The officers under instruction~~) H.B.

were duly sworn.

* Omit if not applicable.

Signed this 26th day of Aug 1943.

H.Berry Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (i) on page 764 M.M.L. 1940

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 29th day of Aug 1943

P C Dees Brigadier
C.R.A. 2 CDN. DIV.
Confirming Officer

CR no 39, 4th Aug 43 Gnr Delaney H. & J. P9003

Promulgated and extracts taken in the case of

(a) (Dated) 30 Aug 43 (Signed) H.Berry Major C.O. 2nd Anti-Tank Regt. R.C.A., C.A.O.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2

CHARGE SHEET

The accused, P9803, Gnr. Gerald Michael Joseph Delaney, 2 Cdn A Tk Regt RCA, a soldier of the Canadian Army(Active) is charged with:-

FIRST CHARGE
Sec 9 (2) AA

WOAS disobeying a lawful command given by his superior officer

in that he

while at Lydd Ranges at approx 1930 hrs 17 Aug 43 when ordered by P7439 BSM Buxton, K.E. to pile up some timbers in a neat pile, refused to do so.

SECOND CHARGE
Sec.15(1)A.A.

WOAS absenting himself without leave.

in that he

at Lydd Camp absented himself without leave from his Battery Parade at 0800 hrs 18 Aug 43 until placed in arrest at 0815 hrs 18 Aug 43. Time absent 15 minutes.

Major RCA
(A.H. Kerr)
A/C.O. 2 Cdn A Tk Regt RCA

21 Day of Aug 43
In The Field

25 Day of Aug 43
In The Field

To Be Tried Bty F.G.C.M.

Brigadier
C.R.A. 2 Cdn Div.

Proceedings of a Field General Court Martial held at R.H.Q. 2 Cdn A/T Regt R.C.A. on the 26th day of Aug 1943 by order of Brig. P.C. Tees commanding 2 Cdn Div. R.C.A. dated the 25 Aug 1943.

President

Major H.N. Berry 6 Cdn Fd Regt. R.C.A.

Members

Capt. D.M. Legg 2 Cdn A/T Regt R.C.A.
Lieut T.M. Hunter 6 Cdn Fd. Regt. R.C.A.

Trial of P9003 Gnr Gerald Michael Joseph Delaney
20 Bty 2 Cdn A/T Regt RCA

The order convening the court, the charge sheet, the summary of evidence are laid before the court.

The court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the court.

Prosecutor - Lieut J.H. O'Neill

Defence - the accused elects to conduct his own defence.

At 1000 hrs the trial commences.

The order convening the court is read, the names of the President and members are read over in the hearing of the accused.

The accused was asked if he objected to being tried by the President or any of the members of the court.

The accused answered No.

The President & members are duly sworn.
The charge-sheet is signed by the President, marked B2 & annexed to the proceedings.
The accused is arraigned upon each charge in the above mentioned charge-sheet.
Are you guilty or not guilty of the first charge you have heard read.
The accused answers — Not Guilty
Are you guilty or not guilty of the second charge you have heard read
The accused answers — Not Guilty
R.P. 39(A) is complied with.
The accused states that he does not wish to apply for an adjournment.

Prosecution

The prosecutn proceed to call witnesses.

First Witness P7439 B.S.M. Buxton K.E. having been duly sworn states.

I am B.S.M. Buxton K.E. of the 20th Bty 2 Edn A/T Regt R.C.A. at Lydd on 17 Aug 43 at approximately 1930 hrs I was ordered by Capt Reid to pile up some timber for gun platforms. I saw Gnr Baldwin standing nearby & I told him to go over to the platform & pile the timber in a neat pile. He mumbled something that I couldn't understand

so I said "Never mind that, get over there + pile up the timber". He replied "I'm sorry sir but I won't". I then asked him if he was refusing to obey my order and he replied "Yes sir". I then placed him under open arrest.

Questioned by the accused

Q - was the tone of my voice in reply to your question offensive.
A - to it wasn't.
Q - were you surprised at my behaviour.
A - yes very.
Q - Why were you surprised.
A - Because you'd always been a good soldier.

Second witness - M1103 Sgt Cuff C.T. having been duly sworn states I am Sgt Cuff C.T. of the 20 Bty 2 Div A/T Regt R.C.A. On the evening of 17 Aug 43 at approximately 1930 hrs. I was on the firing point at Lyd I ranges I heard B.S.M. Buxton order some man to pile timber neatly on the gun position. I then heard the B.S.M say "do you refuse to obey my order" + I looked around + saw he was talking to Gnr Salaney who replied "Yes sir". B.S.M. Buxton then placed him under open arrest.

Questioned by accused

Q - If my answer had been made to you would you have taken offence at the tone.

A - The reply was given in a loud voice but not an abusive manner.

Third Witness - M 78 Sgt Rusk K. having been duly sworn states.

I am Sgt. Rusk of the 20th Bty. 2 Cdn A/T Regt RCA. At Lydd ranges about 1930 hrs 17 Aug 43 I heard B.S.M. Buxton say to Gnr Delaney "do you refuse to obey my order" I heard Delaney answer "yes sir".

Questioned by the accused

Q - Was the tone of my voice offensive.

A - Yes

Q - How far were you from the BSM

A - About 10 or 15 feet.

Fourth Witness - M 66 Sgt Boulton R.H. having been duly sworn states.

I am Sgt Boulton R.H. of the 20th Bty 2 Cdn A/T Regt RCA. At 0800 hrs 18 Aug 43 I called the roll of 6th Tp. Gnr. Delaney did not answer his name. I reported his absence to B.S.M. Buxton.

Fifth Witness P7439 B.S.M Buxton K.E. states. Gnr Delaney was reported absent from the 0800 hrs parade 18 Aug 43. I found him in his billet. asked why he had'nt been on parade. He said that he felt the same as yesterday. didn't want to have anything to do with the Bty. I then placed him under close

arrest at approximately 0815 hrs. 2
then went to the Lydd camp adjt.
& arranged for Delaney to be placed
in the guard room.

The prosecution is closed.

Defence.

R.P. 40 (A) & 40 (B) having been complied with the accused, stabs that he wishes to give evidence as a witness on a solemn declaration & to call one witness as to fact

First Witness P 4003 Gnr G. M. J. Delaney having made a solemn declaration states.

I am Gnr Delaney of the 20th Bty. 2 Cdn A/T Regt. R.C.A. During the afternoon of 16 Aug 43 while the Bty was doing interval training at Lydd I was placed on a fatigue that made me lose a 6 pdr equipment lecture. The very next morning I was detailed for another fatigue which caused me to miss more training. That afternoon (17 Aug 43) I was told I would not be firing although I'd been a member of the same detachment for about 5 months. I complained to my Tps, Tp Sgt & Tp Cmdr who told me that they couldn't let me fire because I wasn't a consistent layer & that they were trying out some new men. I told them I thought

I was being given a dirty deal & if I wasn't considered a good enough gun layer for the Bty I wouldn't have anything else to do with it.

Cross examined by the prosecutor

Q - Were you not informed as to the names of the layers before going to Lydd.

A - No sir.

Questioned by the court

Q - Did you clearly understand BSM Buxton when he told you to pile the timbers

A - Yes sir.

Q - What were you doing when you were ordered to pile the timber

A - Waiting for the trucks to go back to camp.

Second witness M60 Sgt Boulton RH states

Before going to Lydd the Tp Cmdr read out the list of layers. Gnr Delaney was not present on that parade.

The court is closed to consider the finding

Finding

The court being reopened the accused is again brought before it.

Lieut J. H. O'Neill having been duly sworn states.

I produce AFB 296 & MFM 6 which are true statements of the character & particulars of service

of the accused (?) P9103 Gnr. Delaney
S.M.S. 2 Cdn A/T Regt RCA.

The accused make the following statement in mitigation of sentence.

2 am very anxious & keen to get into action & for this reason am sometimes impatient & impulsive. 2 am willing to go any where to get into action quickly. 2 served in Spain in 1938 & previously served for 3 yrs. in the R.C.H.A. 2 am married & as far as my habits are concerned 2 don't drink or gamble.

Sentence

SUMMARY OF EVIDENCE IN THE CASE OF No. P9003 Gunner Gerald Michael Joseph Delaney, 20 Cdn A/Tk Bty., 2 Cdn A/Tk Regt., R.C.A., a soldier of the Canadian Army Overseas.

The C.O. directs that the evidence be taken on oath.

The accused is informed of his rights.

FIRST WITNESS FOR THE PROSECUTION: P7439 B.S.M. Buxton K.E. 20 Cdn A/Tk Bty., 2 Cdn A/Tk Regt., R.C.A., sworn states:

I am P7439 BSM Buxton K.E., BSM of the 20 Cdn A/Tk Bty., R.C.A. At approximately 1930 hrs 17 Aug 43 was ordered by Capt Reid to get some men and pile up some timber on the gun platform. I was looking for a man and noticed Gnr Delaney, the accused, whom I recognize, standing on the other side of the road to the gun platform. I told him to go over to the platform and pile the timber in a neat pile. He said something to me that I didn't quite understand and I said, "Well never mind that, just get over there and pile up the timber." He said "I'm sorry Sir but I won't." I then asked him if he was refusing to obey my order and he replied "Yes Sir." I then placed him under open arrest.

The accused declines to cross-examine.

K Buxton
P7439 BSM Buxton K.E.

SECOND WITNESS FOR THE PROSECUTION: M103 Sgt Cuff C.T., 20 Cdn A/Tk Bty., 2 Cdn A/Tk Regt., R.C.A., sworn states:

I am M103 Sgt Cuff C.T., Sgt of the 20 Cdn A/Tk Bty., R.C.A. On 17 Aug 43 at approximately 1930 hrs I heard BSM Buxton order some man to pick up timber off the firing point and pile it in a neat pile. There was some discussion which I could not catch. I heard BSM Buxton say to Gnr Delaney, the accused, whom I recognize, "Do you refuse to obey this order?" Gnr Delaney stood to attention and answered "Yes Sir." BSM Buxton then put him under open arrest.

The accused declines to cross-examine.

C.T. Cuff
M103 Sgt Cuff C.T.

THIRD WITNESS FOR THE PROSECUTION: M78 Sgt Rusk R., 20 Cdn A/Tk Bty., 2 Cdn A/Tk Regt., R.C.A., sworn states:

I am M78 Sgt Rusk R., Sgt of the 20 Cdn A/Tk Bty., R.C.A. On the 17 Aug 43 at approximately 1930 hrs whilst standing on the range at Lydd I heard BSM Buxton tell Delaney, the accused, whom I recognize, to perform some duty, but as to its nature I couldn't say. I only heard BSM Buxton say "Gnr Delaney do you refuse to obey my order?" Gnr Delaney answered "Yes Sir, I refuse to obey it." BSM Buxton then placed him under open arrest. And then called Sgt Cuff and myself as witnesses.

Question: Did not BSM Buxton at the time when I was within earshot denote Sgt Cuff as the sole witness?

Answer: BSM Buxton did go up to Sgt Cuff and ask him if he had heard the refusal and about half a minute later came to me and asked me if I had also heard Delaney's refusal to obey an order. I answered "Yes Sir." He then told me that I would be a witness to the case.

R Rusk
M78 Sgt Rusk R.

FOURTH WITNESS FOR THE PROSECUTION: M6O Sgt Boulton R.H., 20 Cdn A/Tk Bty., 2 Cdn A/Tk Regt., R.C.A., sworn states:

I am M6O Sgt Boulton R.H., Sgt of the 20 Cdn A/Tk Bty., R.C.A. At 0800 hrs 18 Aug 43 I was present at the 20 Cdn A/Tk Bty parade and called the roll of 'G' Troop. Gnr Delaney, the accused, whom I recognize, did not answer his name and was absent from that parade. I reported his absence to BSM Buxton who was incharge of the parade.

The accused declines to cross-examine.

R.H. Boulton
M6O Sgt Boulton R.H.

The accused having been duly cautioned in accordance with R. P. 4(Z) says:

"No Sir."

The accused does not wish to call any witnesses in his defence at this point.

CERTIFIED that
R.P. 4(Z) complied with

In the Field

This 18 day of Aug 1943

H.J. O'Neill
(H.J. O'Neill) Lieut
Officer detailed to take the Summary.

H. Berryman

LIST OF WITNESSES FOR THE PROSECUTION

1. P7439 BSM Buxton, K.E. — 2 Cdn A Tk Regt., RCA
2. M103 Sgt. Cuff, C.T. — 2 Cdn A Tk Regt., RCA
3. M78 Sgt. Rusk, R. — 2 Cdn A Tk Regt., RCA
4. M60 Sgt. Boulton, R.H. — 2 Cdn A Tk Regt., RCA

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

No. P9003 Name Delaney, G.M.J. Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 1.9.39 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet nil | No. and date of last drunk nil | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. W.S. McKnight Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet 2 destroyed on completion of 2 years clear of any entries - 1.9.41					W.S.McK.

CERTIFIED TRUE COPY

(C. Glokas) Capt., R.C.A.
A/Adjt, 2 Cdn Anti-Tank Regt., R.C.A.

H. Berry Major

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this day examined P9003 Gnr. Delaney, G.M.J. and find him free from contagious diseases and fit to undergo trial by Court Martial.

26 Aug 43

(R.H. Stevenson) Major,
MO 2 Cdn A Tk Regt, RCA

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. P9003 NAME Delaney Gerald Michael Joseph UNIT 2 Cdn A Tk Regt, RCA

AGE 34 MARRIED OR SINGLE Married NO. OF DEPENDENTS 1 (Wife)

DATE OF APPRECIATION 1 October 1939

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL nil MILITARY 7 HOSPITAL nil TOTAL 7

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

Appointed A/L/Bdr (with Pay) 25 June 42

Reverted to Gnr. 12 Nov 42

CERTIFIED TRUE COPY OF R.F.M. 6 MUST ACCOMPANY THIS FORM

(Officer [illegible])
[signature] Unit.
[illegible] RCA
Adjt 2nd Anti-Tank Regt RCA, CA

Dated at Sustheffield
This 26 day of Aug 1943
(To be dated and signed as of date of trial)

H. Berry Major

JJ-86
PTE DELANEY R.E.

M-103422 Pte. Roy Edward DELANEY
Unposted - 2 C.I.R.U.

JJ-86

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Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 13th day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" Group Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint :-~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :-]~~

5 Jun 43

Not to be proceeded with. The accused has been certified as mentally unfit to stand trial.

Proceedings Reviewed [signature] Reviewing Officer 21 Jun 43

[signature]
(J.A. Calder) A/Colonel
Commander
"A" Group Cdn Rft Units C.A.(O)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.		Regiment.
Major	W. McLEOD	(L. Sup. B.)	2 C.I.R.U.

Members.

Rank.	Name.		Regiment.
Lieut.	J.B. Martin	(Cameron of C.)	2 C.I.R.U.
Lieut.	D.J. Glasgow	(R. Wpg. B.)	2 C.I.R.U.
Waiting Member Lieut.	G.E. Walker	(K.O.R. of C.)	2 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Colonel
Commanding "A" Group Cdn. Rft. Units, C.A.(O).
Convening Officer

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M-103422 Pte. Roy Edward DELANEY Unposted 2 C.I.H.U.	FIRST CHARGE A.A. Sec. 40 SECOND CHARGE A.A. Sec. 8(2) THIRD CHARGE A.A. Sec. 9(1) FOURTH CHARGE A.A. Sec. 8(2) FIFTH CHARGE A.A. Sec. 40 SIXTH CHARGE A.A. Sec. 11 (SEE CHARGE SHEET ATTACHED)			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

Signed: [signature] Colonel (*Signed*)
Commanding "A" Group Can.Rct.Units.
Convening Officer (*e*) C.A.(O), *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

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B. Certificate of President as to proceedings.

I certify that the above Court assembled on the day of , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this day of 19 .

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (*b*) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 ,

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

No. 4787/1007 30 M. 5/40 A.H.Q./5587/2 Gp. 698.2

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CHARGE SHEET (Page 1)

The accused M 103422 Pte. ROY EDWARD DELANEY, Unposted, on strength 2 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is Charged with, while on active service

First Charge
Sect. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

when being tried on Company Commanders Orders on the 6th April, 1943., at 2 Canadian Infantry Reinforcement Unit, told a deliberate lie, and thereby had the charge against him dismissed. He said, "I am Jewish", or words to that effect, knowing full well that it was a false statement.

Second Charge
Sect. 8(2)
Army Act

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

In that he

at 2 Canadian Infantry Reinforcement Unit, when ordered to return to the meal parade by L 27162 Cpl. Thompson, J.R., said, "Fuck You", or words to that effect, at approximately 1135 hours on the 6th of April, 1943.

Third Charge
Sect. 9(1)
Army Act

DISOBEYING IN SUCH A MANNER AS TO SHOW A WILFUL DEFIANCE OF AUTHORITY, A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER, IN THE EXECUTION OF HIS OFFICE.

In that he

at 2 Canadian Infantry Reinforcement Unit, at 1230 hours on the 6th April, 1943., while on fatigue duty, when given the order, "Start scrubbing the floor", or words to that effect, by D 82260 Corporal Norton, William, E., Regimental Provost Staff, 2 Canadian Infantry Reinforcement Unit, the person in charge of the fatigue men, refused to do so, saying, "I don't want any smart cracks from you", or words to that effect. The accused did not execute the order.

Fourth Charge
Sect. 8(2)
Army Act

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

In that he

at 2 Canadian Infantry Reinforcement Unit, on the 7th April, 1943., when being tried by the Officer Commanding the Holding Wing, 2 Canadian Infantry Reinforcement Unit, did say to him, "If you weren't so old I would punch you on the nose", or words to that effect.

Fifth Charge
Sect. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

at 2 Canadian Infantry Reinforcement Unit on the 7th, April 1943., when paraded before the Officer Commanding the Holding Wing, 2 Canadian Infantry Reinforcement Unit, stood "easy". On given an order to "Stand to attention", Did obey in such a manner as to show defiance of authority.

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CHARGE SHEET (Page 2)

Sixth Charge

NEGLECTING TO OBEY CAMP ORDERS

in that he

on 10 April 1943 at 0830 hours, at 2 Canadian Infantry Reinforcement Unit, in the Guard Detention Room, refused to obey an order given to him by D-98556 Pte. Ward, W., Regimental Police, 2 Cdn Inf Reinf Unit, that he clean his cell. He did not clean his cell thereby acting contrary to a Camp Order No. CBU-7-4-Guard Re. dated 30 January 1941, para., "Work of Men in Detention Room," directing that soldiers on active service, while awaiting trial by Court Martial shall be required to work.

.....
(H. T. Kempton) Lt.-Col.
Officer Commanding,
Administrative Wing, 2 Canadian
Infantry Reinforcement Unit.

Laurentide Camp,
12 April, 1943

To be tried by Field General Court Martial.

.....
(G. Medley Bassett) Colonel
Commanding,
"A" Group Can. Rft. Units, C.A.(O)

Witley, Surrey.
13 April, 1943.

R.A.P. 16 Apr 43

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A Group

Pfc Delaney M103422

① The m/n soldier is unfit to undergo trial by court martial

J.G. Vernon Lt
M.O. #2 CIRU

Wm McLeod major
President

I hereby acknowledge that I have received a true copy of the Supplementary Summary of Evidence taken at Laurentide Camp preliminary to my Court Martial. I further acknowledge receipt of a copy of the Charge Sheet (Page 2) under which Iam being brought to Court Martial.

Laurentide Camp,
12 April 1943.

F Delaney 113

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT 2 CIRU (A.O.) ON THE 16 DAY OF Apr ~~42~~ 1940.

TRIAL OF:-No. Unit

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lieut. S.W. McDONALD (Bochum) (Unit) 2 CIRU

Defending Officer:- (Name) Lieut. D.S. MACLENNAN (S.S.R.) (Unit) 2 CIRU.

At 1045 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 -

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President MAJOR W. McLEAR (L.Sup.R.) (Unit) 2 CIRU

Members Lieut. J.B. MARTIN (Bochum) (Unit) 2 CIRU.

Lieut. D.J. GLASGOW (R.Pg.Rfl) (Unit) 2 CIRU

The officers under instruction are duly sworn.

Q2 Do you object to.....acting as shorthand writer? A2 -

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name.....(Unit).....sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 -

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 -

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

HEADQUARTERS "A" GROUP
CANADIAN REINFORCEMENT UNITS
C.A.(O).

AGR 6-O- DELANEY/2 (A.2)

13 April 1943.

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Major W. McLeod
O.C. L. Sup. R. Coy.
2 C.D.I.R.U.

F.G.C.M.
M-103422 Pte. Delaney, R.E.
Unposted - 2 C.I.R.U.

1. You have been appointed as President of the F.G.C.M. for the trial of the m/n soldier which will assemble at No. 2 NAAFI Laurentide Camp at 0930 hours Wednesday, 14 April 1943.

2. Herewith are the following documents pertaining to the case:

(i) Convening Order
(ii) Charge Sheet
(iii) Summary of Evidence
(iv) Acknowledgement by the accused

3. Also attached are pro forma for the recording of the Proceedings in the event of a plea of "Guilty", copy of "Guide to Proceedings of a F.G.C.M.", to be returned to this H.Q. after it has served your purpose; and form of acknowledgement for your signature and return.

4. In view of the importance of avoiding delay between trial and promulgation, it is desired that the completed Proceedings, single copy only, be forwarded to this H.Q. as soon as possible.

5. The President will report to this HQ on completion of FGCM

Mercy Basher
(C. Mercy Basher) Colonel.
~~(J.D. Stewart Lough) Colonel,~~
Commanding,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer

Attention is brought to ORO 3262 re Procedure in open Court on findings and sentence

at 1055 hr - 16 apr. 43. The court having been duly convened and sworn was adjourned pending further instruction from higher authority with regards to the future of the accused to undergo trial by court-martial.

W. B. Reed major
President.

SUMMARY OF EVIDENCE

In the case of H IO3422 Private ROY EDWARD DELANEY (UNPOSTED) on strength of 2nd Canadian Infantry Reinforcement Unit.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness Prosecution — H 4I448 C.S.M. Suhr, N.S. (Royal Winnipeg Rifles) attached to 2 Canadian Infantry Reinforcement Unit having been duly sworn states:

I am No. H 4I448 C.S.M. Suhr of the Royal Winnipeg Rifles, 2 Canadian Infantry Reinforcement Unit and am acting in the capacity of Company Sergeant-Major for "D" Company. I was present at Company Orders on the 8th of April, 1945, at which the accused, Private Delaney, whom I now recognize, was also present. This is what occured: As a result of not being on church parade Sunday, April 4th, 1945, the accused with others from the company, were charged with being absent from this parade. He was brought before the Company Commander, Major Hodge, to answer the charge, and when questioned by Major Hodge why he did not attend the church parade, the accused answered it was because he was Jewish. He was again asked by Major Hodge whether he was a genuine Jew, and the accused answered "Yes Sir". As a result of these statements by the accused, the charge against him was dismissed. After I marched him out of the Major's office I asked the accused for his paybook. Not being in possession of his paybook I instructed the acting orderly Sergeant, Corporal Peggie W., to accompany the accused to the lines and pick up his Part I paybook. Being suppertime, the Corporal was unable to get back to the office and I went through the lines where I saw Corporal Peggie who had the accused's paybook. I checked the paybook and found that the entries in the paybook regarding the accused's Religion were R.C. His father was Irish and his mother was English. I called the accused out of the meal parade and asked him to produce his identity discs. On examining these discs I found them to be stamped R.C. religion. I then questioned him further on the difference in records and the differences of his religion, and he replied that the entries in the paybook were wrong, that the stamping on the identity discs was wrong, that he was a Jew, and his attestation papers would show it. I instructed the accused to be at the Company Orderly Room at 1830 hours that evening. Meanwhile I attended at the Records office and had a Record Clerk check the accused's record. The record showed that the accused had enlisted as a R.C. That evening at six-thirty I paraded before the Company Commander where the accused was questioned at some length in connection with the religion of the accused, and also previous statements that the accused had made. As the result of this questioning I was instructed by the Company Commander to lay a charge against the accused for deliberately telling a lie.

Cross-examination by the accused.

1 The Company Commander asked if I was a bona fide Jew. Is that right? I answered "Yes Sir"

Ans: That's right.

2 The Company Commander told me that my attestation papers would show I was a R.C. Is that right?

Ans: I don't recall that remark being made, but it could have been said.

3 Is it not right that I merely stated that I thought my

Summary of Evidence (cont'd)

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attestation papers would show me as Jewish?

Ans:No.

W S Buhr

H 41445 C.S.M. Buhr, W.S.

Second Witness Prosecution

L 27162 Corporal Thompson, J.R., Regina Rifle Regiment, 2 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am No. L 27162 Corporal Thompson, J.R., Regina Rifle Regiment, and am acting in the capacity of an instructor in "B" Company, 2 Canadian Infantry Reinforcement Unit. At 1135 hours on the 6th of April 1943 I was on duty. The men were falling in for meal parade, and among them was the accused, PrivateDelaney, whom I now recognize. The latter detached himself from the parade. I called him back four different times. The second time I called him, he merely turned around and looked at me. The fourth time I called he turned around and said "Fuck you". I then asked Corporal Lempereur to fall in two men and take the accused to the guardhouse.

The accused declines to cross-examine the witness.

J R Thompson

L 27162 Corporal Thompson, J.R.

Third Witness Prosecution

L 86847 Corporal Lempereur, G.M., (Prince Albert Volunteers) 2 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am No. L 86847 Corporal Lempereur, G.M. Prince Albert Volunteers, and am acting in the capacity of an instructor in "B" Company 2 Canadian Infantry Reinforcement Unit. At 1135 hours on the 6th of April 1943 I was present at the meal parade, as was the accused, Private Delaney, whom I now recognize. I heard Corporal Thompson ask the accused where he was going and ordered him to return to the meal parade. He looked around and kept on going. Corporal Thompson asked me to fall in two men and take the accused to the guardroom, which I did. Before Corporal Thompson asked me to take the accused to the guardroom, I heard Private Delaney say something to him, but I didn't catch what it was.

The accused declines to cross-examine the witness.

G M Lempereur

L 86847 Corporal Lempereur, G.M.

Fourth Witness Prosecution

D 82260 Corporal Norton, William E., Regimental Provost Staff, 2 Canadian Infantry Reinforcement Unit, having been duly sworn, states:

I am No. D 82260 Corporal Norton, William E., and I am a member of the Regimental Porvost Staff at 2 Canadian Infantry Reinforcement Unit. At 1230 hours on the 6th of April 1943, I was on duty, and I had occasion to order the accused to take a bucket and brush and scrub the floor. He refused to do it, saying he had a pain in his back. I asked him if he was a category man, or if he had been on sick parade, and he said no. I asked him if he had seen the M.O. or had a chit from the M.O., and he said no. I ordered him again to scrub the floor, and he

Summary of Evidence (cont'd)

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refused, saying: "I don't want any smart cracks from you.

Cross-examination by the accused.

1 You ordered me to scrub the floors. Is that right?

Ans: That's right.

2 I refused because I said I had a sore back?

Ans: That's right.

3 And you said "Oh! A smart guy". Is that right?

Ans: That's right.

William E. Norton
D 52280 Corporal Norton, William E.

Fifth Witness Prosecution

L 1340 Private Olson, T.R., Regimental Provost Staff 2 Canadian Infantry Reinforcement Unit, having been duly sworn states: I am No. L 1340 Private Olson, T.R., and I am a member of the Regimental Provost Staff at 2 Canadian Infantry Reinforcement Unit. At 1230 hours on the 6th of April 1943, I was on duty, and at that time I saw the accused whom I recognize. The Corporal in charge asked him to get a pail and brush and start scrubing the floor. He got the pail and brush alright, but when the Corporal told him to start to scrub he refused, and the Corporal asked him what was wrong with him, and if he had a chit from the M.O. saying he was not supposed to work, and he said, no. He said that he had rheumatism. After that the Corporal told him again to get busy and scrub and he refused again saying: "I don't want any smart remarks from you", or words to that effect. That is all I remember of the incident.

The accused declines to cross-examine the witness.

Pte Olson T.R.
L 1340 Private Olson, T.R.

First Witness Prosecution Recalled

H 41445 C.S.M. Buhr, N.S., Royal Winnipeg Rifles.
Further statement by the above: I attended the Wing Commander's Orders on the 7th of April, 1943. Private Delaney was there. When the Wing Commander, Colonel Bingham, was questioning the accused in connection with charges against the accused, the accused remarked, "If you weren't so old I'd punch you on the nose".

The accused declines to cross-examine the witness.

N S Buhr
H 41445 C.S.M. Buhr, N.S.

Summary of Evidence (cont'd)

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Sixth Witness Prosecution

L22062 C.S.M. Cannon, T., South Saskatchewan Regiment, Holding Wing, 2 Canadian Infantry Reinforcement Unit, having been duly sworn,,states:
I am L 22062 C.S.M. Cannon T., South Saskatchewan Regiment, and I am acting in the capacity of Company Sergeant-Major in the Holding Wing, 2 Canadian Infantry Reinforcement Unit. On the 7th of April, 1943, I attended the Wing Commanders Orders. Private Delaney, whom I now recognize, was there. The Wing Commander was questioning the accused regarding the charge against him. The accused said,"If you were not so old I would punch you on the nose".

The accused declines to cross-examine the witness.

T Cannon

L 22062 C.S.M. Cannon, T.

First Witness Prosecution Recalled

H 41446 C.S.M. Buhr, W.S., Royal Winnipeg Rifles,
Further statement by the above; Another incident occured during Wing Commander's Orders, 7th April, 1943, concerning Private Delaney. While evidence was being given the accused who was standing at attention, without any order he stood himself "at ease", and adopted an easy position. He was called to attention by C.S.M. Cannon. The accused came up to attention and then immediately stood at ease again. He was called to attention and then stoodat ease again. He was called to attention by C.S.M. Cannon and the accused ignored the command at first and C.S.M. Cannon came up close behind the accused and ordered him to stand at attention. This time the accused came to attention and remained so.

The accused declines to cross-examine the witness.

.....

H 41446 C.S.M. Buhr, W.S.

Sixth Witness Prosecution Recalled

L 22062 C.S.M. Ca nnon, T., South Saskatchewan Regiment.
Further statement by the above; While attending the Wing Commander's Orders, 7th April, 1943, another incident occured concerning Private Delaney. During the trial the accused stood at ease without any authority. I gave the order "Stand at attention". The accused half turned and then faced his front and came to attention very slowly. He then stood at ease again . I ordered him to stand at attention. He did so very slowly, in a defiant sort of manner. He then stood at ease again. I then ordered him to stand at attention for the third time.

The accused declines to cross-examine the witness.

T Cannon

L 22062 C.S.M. Cannon, T.

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Summary of Evidence (contid)

The accused having been duly warned in accordance with Rule of Procedure No. 4(e).
Reserves his defence.

Certified that all the provisions of Rule of Procedure No. 4 (c) (d) (e) (f) and (g) have been duly complied with in connection with the above Summary of Evidence.

Taken down by me in the presence and hearing of the accused this 6th day of April, 1943.

W.D. Grayson Lieut. Colonel
Detailed to take Summary of Evidence.

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of M-103422 Private ROY EDWARD DELANEY (UNPOSTED) on strength of 2nd Canadian Infantry Reinforcement Unit.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

Seventh Witness D-98556 Private Ward, Malcolm., 2 Canadian Infantry Reinforcement Unit, on the Permanent Establishment of the Administration Wing, attached to the Regimental Provost Staff, having been duly sworn states:
I am D-98556 Private Ward, Malcolm., 2 Canadian Infantry Reinforcement Unit, on the Permanent Establishment of the Administration Wing, attached to the Regimental Provost Staff, on April 10th, 1943, at 0830 hours, I gave orders to Private Delaney to clean up his celland he refused, saying, "I ain't going to clean it up". He didn't clean it.

The accused declines to cross-examine the witness.

D-98556 Private Ward, Malcolm.

Eighth Witness L-74682 Private Le May, Louis Milward, 2 Canadian Infantry Reinforcement Unit, on the Permanent Establishment of the Administration Wing, attached to the Regimental Provost Staff, having been duly sworn states:
I am L-74682 Private Le May, Louis Milward, 2 Canadian Infantry Reinforcement Unit, On the Permanent Establishment of the Administration Wing, attached to the Regimental Provost Staff, I was present the morning of April 10th, 1943., when Private Ward gave the order to Private Delaney to clean his cell and he refused.

The accused declines to cross-examine the witness.

L-74682 Private Le May, Louis Milward.

The accused having been duly warned in accordance with Rule of Procedure No. 4(e).
Reserves his defence.

Certified that all the provisions of the Rule of procedure No. 4 (c) (d) (E) (f) and (g) have been duly complied with in connection with the above Summary of Evidence.

Taken down by me in the presence and hearing of the accused this 8th day of April, 1943.

Further witnesses for the Prosecution.
D-98856 Private Ward, Malcolm.
L-74682 Private Le May, Louis Milward.

(W.D. Grayson) Lieut., Officer detailed to take Summary of Evidence.

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I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at Laurentide Camp preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

Laurentide Camp
9th April, 1943

R. DeCaney

I request that the Convening Officer appoint Some Officer to represent me at my Trial.

R DeCaney

Laurentide Camp,
9th April, 1943.

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LIST OF EXHIBITS

In the Case of No. M103422 Private Roy Edward Delaney

(For the Prosecution)

(a) Army Form B252(Charge Sheet against the accused) dated the 5th day of April 1943.

(b) Certificate from the Records Officer at 2Canadian Infantry Reinforcement Unit,concerning the religion of the accused.

(c) Statement by Captain B.B.Wagman,the Medical Officer of 2 Canadian Infantry Reinforcement Unit dated 10 April 1943 re the accused's physical condition.

(For the Defence)
(Nil)

- LIST OF WITNESSES -

In the case of No. M103422 Private Roy Edward Delaney
(For the Prosecution)

1.No.H41445 C.S.M. Buhr,N.S. (Royal Winnipeg Rifles)
2.No.L27162 Corporal Thompson, J.R., (Regina Rifle Regiment)
3.No.L86847 Corporal Lemperaur,G.M., (Prince Albert Volunteers)
4.No.D62260 Corporal Norton, W.E., (Regimental Provost Staff)
5.No.L1340 Private Olson, T.P., (Regimental Provost Staff)
6.No.L28062 C.S.M. Cannon, T. (South Saskatchewan Regiment)

The above witnesses may all be found at 2 Canadian Infantry Reinforcement Unit.

(For the Defence)
(Nil)

FURTHER WITNESSES FOR THE PROSECUTION.

7. D-98856 Pte. Ward, Malcolm.
8. L-74682 Pte. Le May, Louis Milward.

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Squadron / Battery / Company / Detachment #2 C.I.R.V. Unit or Battalion

16 Apr 1941

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
M103422	Pte Delaney R.E.			[illegible]		To #1 Hours Basingstoke	

This man referred to #1 Hours Hosp. at Basingstoke. See attached statement by Capt. Gundry

P. G. Venini Lt Medical Officer

Orderly N.C.O.

(OVER)

H. F. B. 292
4,500 M-3-41 (9388-5-30)
H.Q. 1772-39-248

Mac Lennan.

Interpretation of the conclusion and recommendation is that the man is to be considered not fit to stand trial until he has been observed and definitely diagnosed at No.1 Neuro Hosp.

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J Norman Keates Capt RCE
P.S.O. 2 C.I.R.U.

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15 C.G.H.

Department of Neuropsychiatry.

M103422 Pte Delaney R.E. Unit 2 C.I.R.U.

15 Apr 43

Report:- M Test C plus. Category A.

Awaiting trial by court martial of charges of conduct to the prejudice, disobedience, and insubordinate language.

Born Calgary,Alta. 10 Feb 22
Enlisted Aug 1942 (called up)
England Mar 1943

According to soldier, family history is negative, childhood history negative. Left high school grade 12, aged 18. Didn't care much for sports. Says he wrote novels and plays. He wrote a few songs which he says he'll get published one of these days when he gets around to it. He didn't care much to associate with other girls and boys in school. He was interested in religion and wrote about it. He is very vague and superficial in his ideas and evasive in his answers. Says he was at Illinois University for 1½ yrs--expelled for writing "propaganda about religion"-then "roamed about a bit."

He seems very superficial, it appears hard for him to give an accurate picture history, his motives are inconsistent. He feels indifferent about many things.

CONCLUSION: Soldier is probably a simple schizophrenic. Diagnpsis requires further observation.

DIAGNOSIS: N.Y.D. (N)

RECOMMENDATION: Admission to Basinstoke Neuro Hosp.

(signed) C.H.Gundry, Capt.,
Specialist, RCAMC.

Certified true copy
15 Apr 43

S. Norman Kesten, Capt., RCE

2 C.I.R.U.,
16 April 1943.

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M-103422 Pte DELANEY, R.

1. The m/n man is mentally unfit to undergo trial by Court-Martial. It has been recommended by the Regional Psychiatrist that he be admitted to No. 1 Neurological Hospital for further investigation.

Capt., RCAMC
Medical Officer,
No. 2 C.I.R.U.

2 CGPC 5-4
3 May 43.

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"A" Group,
C.R.U.

M.103422 Pte. Delaney - Court Martial

1. Herewith enclosed, signed medical certificate of m/n soldier to complete file of adjourned court martial.

(W.J. McLeod) Major,
President.

AGR Form 32

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[illegible] N.S., "A" Group, C.R.U. [illegible]

ACKNOWLEDGEMENT BY PRESIDENT

I hereby acknowledge receipt of the Convening Order (A.F.A.3) and relevant documents for the trial by Field General Court Martial of Number..M-103422...Rank...Pte....Name..Delaney, R.E.....Unit...R.C.I.R.U.... which will be held at..0930..hrs. on..Wednesday..16 Jpm..at..No..2..WAATI..... .....Laurentide.....Camp

Date.....

Signature.....Rank.....

Unit.....

HC-81

GNR DELANGIS A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D-77489 Gnr. DELANGIS, Armand - 1 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

N ~~At present~~ under sentence for ..... (beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of ninety (90) days.

(Sgd) ..... 24 Oct 44 ..... (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (R 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) for

(1. AA 57A. Delete if not used.)

Date 27 Oct 44 (Sgd) J.C. STEWART, Brigadier, Commanding "C" Group, Con. Regt. CRU

Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-77489 Gnr Delangis A.	27 Oct 44	[signature] for [illegible] C.A.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4C-8!

RECEIVED 31 AUG 1944 A.G. BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA68 (In lieu of AFA81 40/P & B/1698 (R1344) 4/38B

Convened by Order of Brig J.C. Stewart, CBE, DSO Comd "C" Gp, CRU dated 21 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-77489	Gnr	Armand	DELANGIS	1 CARU

PROCEEDINGS REVIEWED 31 Oct 44 Jose W. C. Finch Capt. REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

N Held in the Fd in (country) ENGLAND on (date) 24 Oct. 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

N A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Captions do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

N A2. The President initials and lays before the Court the Convening Order and Charge Sheet as attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

N A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1400 hours trial commences.

N ~~A4.~~ The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

N ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

N A5. President to accused : ~~Do you object to~~ ~~an interpreter~~ ? Ans .....

The Interpreter is sworn.(1) Do you object to M 28691 Sgt BARNES, T.E. shorthand writer ? Ans No S.R.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No S.R.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

N A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if ~~any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col.	D.H. REDMAN VD	1 CARU
Member	Capt.	J.R. McELROY	2 CARU
Member	Lieut.	D DAVIES	1 CARU
~~Judge-Advocate~~			
Prosecutor	Capt.	F.H. KELLY	1 C ARU
Defending Offr	Lieut.	G.R. BURKE	1 C ARU

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans YES(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

N A8. The accused ..... before arraignment make(s) (no) (~~a~~) ~~plea~~ .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

N A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

N A10. The Court (~~is closed until~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s),(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N O (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 1 *para* 3. *MML p* 54 *para* 47. 4. *See para* L3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ....., Do you intend to call witnesses on your behalf ?

Ans. ....., Are they witnesses as to character only ? Ans. .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative commencement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. N O - S IR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. BY AND BIG NOT AT (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 363-366, *Overseas NO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see JSA* 41(5), *MML p* 18. *When accused already under sentence of imprisonment or detention see AA* 44(1) (*B*), *KR Can* 364. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 367. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, D-77489, Gnr Armand DELANGIS, Royal Canadian Artillery, on the strength of "p" Training Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

WHEN ON ACTIVE SERVICE

1st Charge
A.A.Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

absented himself without leave from 1300 hrs, 6 Sep 44 until surrendering to the Civilian Police at Sutton at 1630 hrs, 16 Oct 44.
(Absent 40 days, 3 hrs, 30 minutes).

Dated at Bordon, Hants., this 20th day of October 1944

(W.A. Townsley) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.
Canadian Army Overseas.

To be tried by Field General Court Martial

Brigadier,
Commanding 3rd Group, Cdn Reinforcement Units

Bordon, Hants
21 Oct 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-77489	Gnr	Armand	DELANGIS	1 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~(or have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) this date endorsed by me, (~~or them~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; (~~or that it is not practicable that the offences should be tried by any of the Courts mentioned in RP 105(C)~~.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~[illegible]~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Colonel	D.L. Redman, VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO		2 CARU
Lieutenant	to be detailed by CO		1 CARU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Dat: 21 Oct 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "C" Group, Cdn Rft Units Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

MFB 246

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have, this morning, examined

No D77489 Gnr. Delangis A.....

of No.1 Cdn Arty Reinf Unit and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station #1 C.A.R.U.....

Date 24th Oct. 144....

[signature] Capt.....
Medical Officer
No.1 Cdn Artillery Reinforcement Unit

24 Oct.44

F.G.C.M. IN THE CASE OF

D-77489 Gnr. DELANGIS, A. 1 CARU

PLEA IN MITIGATION BY DEFENDING OFFICER. NOTE E-3

Sir:

This man's M.F.H. 6 is very good particularly having regard that he enlisted in July, 1940. He has been in England for over three years. His Pulhems shows L-4. This is caused from handling Anti-tank guns and also from Lumbago. He has a wife and one child in Canada. He has had four years schooling. The accused feels that he has been kicked around, and has lost heart and for these reasons went absent.

THE COURT IS CLOSED TO CONSIDER THE SENTENCE

SUMMARY OF EVIDENCE in the case of D-77489, Gnr Delangis, A., R.C.A., on strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness For the Prosecution.

Capt A. J. West, of No. 1 C.A.R.U., having been duly sworn states:

I am Capt A. J. West, Admin. Officer, "P" Training Wing, No. 1 C.A.R.U., and as such, I produce the following documents relating to the Accused, whom I now recognize:- The first and marked Exhibit "A" is a Certified True Copy of a Declaration of a Court of Inquiry held at No. 1 C.A.R.U., on the 29th day of September 1944, stating that D-77489, Gnr Delangis, A., illegally absented himself without leave from 1300 hrs, 6 Sep 44. The second and marked Exhibit "B" is Army Form C/1617, a Certificate of Surrender of a Deserter or Absentee without Leave, stating that Gnr Delangis, A., surrendered himself to the Civilian Police at Sutton at 1635 hrs, 16 Oct 44.

A. J. West Capt
(A.J. West) Capt., R. C. A.

The Accused declined to cross-examine this witness.

The Accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused declined to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page and two exhibits, was taken down before me in the presence and hearing of the Accused and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

Bordon, Hants.,
19 Oct 44

H.K. Clarke Capt.
(H.K. Clarke) Capt., R.C.A.
Officer detailed to take the Summary of Evidence.

Ex A

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Bordon, Hants., on the 29th day of September 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-77489, Gnr Delangis, A.

DECLARATION

The Court declare that No. D-77489, Gnr Delangis, A. on a strength of No. 1 Canadian Artillery Reinforcement Unit illegally absented himself without leave from his unit at Bordon, Hants., at 1300 hrs., on the 6th day of September 1944 that he is still so absent, and that on the 08 Sep 44 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
As per attached list marked Appendix "A"			

Signed at Bordon, Hants., this 29th day of Sept 19 44

(Sgd) F. R. Cressey, Capt, RCA President
No. 1 C.A.R.U.

(Sgd) J. L. Mills, Lieut, RCA Member
No. 1 C.A.R.U.

(Sgd) A. B. Ross, Lieut, RCA Member
No. 1 C.A.R.U.

Signature of Commanding Officer (Sgd) W. A. Townsley, Colonel, Comd Offr., No. 1 C.A.R.U.

Certified true copy W. Dodds, Major, R.C.A., Adm Offr, No. 1 C.A.R.U.
Signature of Officer having custody of original record

3/60B MFB 275-AFB 115 40/PAS/292 (6610)

APPENDIX "A"

DEFICIENCIES

REGIMENTAL KIT - D-77489 - Gnr DELANCIE, A.

Article	No.	Vocab Price £	s	d	Unex Wear Value £	s	d
Badges, Cap	1			4½		17	7½
Battle Dress, Blouses, sge	1	1	3	6		18	0½
" " Trousers, "	1	1	4	1½		18	3½
Boots, ankle, prs	1	1	4	5		1	0
Braces, prs	1		1	4			1½
Brasses, button	1			2		1	3
Brushes, shaving	1		1	8			4½
" tooth	1			6			1½
Comb, hair	1			2			
Discs, identity, with cord & seal	3			1½			1
Drawers, woollen, prs	2		10	8		8	0
Gloves, woollen, khaki, prs	1		2	1		1	6½
Holdalls,	1			10			7½
housewives,	1			9			7
Knife, clasp and lanyard,	1		3	10		2	10½
Razors,	2			3			2½
Shirts, flannel, khaki	2		18	3		13	3
" woollen,	4		10	9		8	3
Socks, prs,	1		6	8		5	0
Spoon, table	2			4			3
Towels, hand	2		2	10		2	2
Shirts, cello	2		3	10		2	11
Shorts, gym	2		3	10		2	11
Vests, gym	1		3	2		2	5
Cape A/G	1		12	4		9	3
Respirator, haversack	1		6	4		4	9
" Face piece	1		10	5		7	9½
Container,	1		4	2		3	3½
Ointment, A/G	1		1	4		1	0
Anti-Dim	1			11½			9
Eyeshields,	6		2	0		1	6
Total Vocabular Price,		£9	1	11	£6	16	5½
Total Unexpired Wear Value,							

Sgt: C.C. Jones, Sit

Sgt: F.H. Cressey, Capt

EXHIBIT "B"

IMMEDIATE.

R.A.F. Form 1017

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops of the nearest military station. (A.C.I. [illegible])

Wt. [illegible] 7000 4/44 [illegible]

137

CERTIFY that the man whose personal description is given
surrendered himself to* Gb 232 W Ingram
Marshalton Road West, Sutton at (hour) 4.35 p on
16th day of October 1944 as being No. D. 44489
(Rank and Name) Sumner Armand DELANGIS
deserter (or absentee without leave) from No. 1 Canadian Armoured Holding Unit.
and it appears to me from his confession that he is a deserter or
absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 29 Height 5 Feet 9 Inches
Complexion fresh Hair dark brown
Eyes hazel
Marks
In uniform or plain clothes uniform

Probable Date and Place of Attestation	24th July 1940 Montreal.
Probable Date of Desertion or beginning of absence, and from what place	5th September 1944 Bordon, Hants.

W Sumner [illegible]
Signature of Officer of Police in charge of Sutton Station
16th October 1944 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No. on who surrendered to the Police at

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D-77489	Gnr	DELANGIS, Armand	No. 1 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 15(1) ..... 3 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 21 May 42

Date of last entry in Field Conduct Sheet 4 Jun 44

JWD ~~[illegible]~~

JWD ~~[illegible]~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for 1 days in civil custody; and for 7 days in military custody, i.e., 0 days in open arrest, 7 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 28 8/12 yrs

6. The date of his attestation is 24 Jul 40

JWD ~~[illegible]~~

7. The service which the accused is allowed to reckon is 4 3/12 yrs

8. The accused is in possession of † CVSM & Clasp

†State the military decorations (if any) held by accused.

JWD ~~[illegible]~~

JWD ~~[illegible]~~

JWD ~~[illegible]~~

JWD ~~[illegible]~~

Ex B

MS

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/3867 30,000 5/44 S1-433 T Ltd. Forms/B 296/War/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 24th day of October 1944

(J.W. DODDS) Major, R.C.A.,
Adm Offr., No.1 C.A.R.U.,
Officer having custody of Regimental Books

3/17 MFM 6 (AFB 122) 40/PAM/130 (5418)

No. D.77489 Name DELANGIS Armand | 4 Sqn, Battery, or Company | HQ | Corps RCA | Date of enlistment 24-7-40 | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc ??? Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the Fd.	21-5-42	Pte		A.A. Sec 15(1) AWL from 2230 hrs 21-5-42 to 2330 hrs 21-5-42. (Absent 1 hour).	L/C Bowden Cpl Moore	5 days C B Forf of 5 days pay	22-5-42	Lt-Col J.H.Christie	
Field	4Aug 43	Tpr		A.A. Sec 15(1) AWL from 2230 hrs 4 Aug 43 until 2359 hrs, 5 Aug43 1 day 1 hr & 29 mins).	L/Cpl McQuirke JR L/Cpl Lukowich JR	15 days F P	7 Aug 43	(R.W.Moncel LtCol.	Forfs 17 days pay under FR&I
Field	4/6/44	Gnr		AWL from 0630 hrs 4 Jun 44 to 0700 hrs 5 Jun 44.(Absent 1 days 30 mins).	M-3043 Cpl Duley H.A.		7 Jun44	W.H.Parker Major	2 days pay FR&I 149(1) (a).

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY ~~10 Oct 44~~ 24 Oct 44	J.W. Dodds (J.W. Dodds) Major, Adm Offr., No. 1 C.A.R.U. Officer having custody of Regimental Books.				

19 Oct 44

TO WHOM IT MAY CONCERN

This is to certify that I received from R.W.Wing HQ No. 1 CARU, one copy of my charge sheet and one copy of my Summary of Evidence.

A. Delangis

P 77489 Gnr Delangis, A.

LIST OF WITNESSES.

PROSECUTION

No. 1 C.A.R.U.

1. Capt A. J. West,

DEFENCE

Nil

LIST OF EXHIBITS

1, Exhibit "A", is a Certified True Copy of a Declaration of a Court of Inquiry, held at No. 1 C.A.R.U. on the 29th day of September 1944.

2, Exhibit "B", is Army Form C/1547, a Certificate of Surrender to the Civil Police of a Deserter or Absentee without leave,

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14 (B)

I, D-77489, Gnr Delangis, A., of "A" Bty, No. 1 C.A.R.U. desire to have Capt D. M. Slater, R.C.A., No. 1 C.A.R.U. appointed to represent me at my trial by Court-Martial if available, otherwise desire to have an officer assigned by the Convening Officer to represent me.

A Delangis

D-77489 Gnr Delangis, A.

OFFICERS UNDER INSTRUCTION AT F.C.C.M.

24 OCT.44.

Lieut.	A.D.	[illegible]	-	No.1 C.A.E.U.	- RCA
Lieut.	J.L.	MILLS, J.	-	No.1 C.A.E.U.	- RCA
Lieut.	A.	MAION,	-	No.1 C.A.C.E.U.	-,Att.4 WRD
Lieut.	L.T.	[illegible]	-	No.1 C.A.E.U.	- RCA
Lieut.	G.E.	LEWTON,	-	No.1 C.A.E.U.	- RCA

WWW-33.

Pte Delaronde A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H64622 Pte Alexander DELARONDE. 5 CAB Wksp RCEME

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn b.)

WMLS ~~Present until Sentence is~~ ~~[illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer FP for 60 days and to forfeit 60 days pay.

(Sgd) WM L Shaw Capt — Judge-Advocate, if any. 18 Jul 44 — Date awarded. (Sgd) T P Dundendale Maj — President. (RP 43, 52)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison on detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

Date 19 Jul. (Sgd) J. H. Sparling Lt-Col, C.R.E.A.S.C. Commanding 5th CDN. (ARMD) DIV. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Officer.
H 64622 Pte. DELARONDE, A.	24 July 44	H. Hardy Major, OC 3 Can Fd Company RCE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. WWW-33

FIELD GENERAL COURT-MARTIAL

(Para 4 (1)a (iii) of AFAB1 40/P & B/1648 - 4/38B)

4/38B.

REC'D 19 SEP 1944 JAG BRANCH CMHQ

By Order of Lt-Col J. L. Sparling Comd RCASC 5 CAD dated 14 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H64622	Pte		Alexander	DELARONDE	5 Cdn Armd Bde Wksp

~~PROCEEDINGS~~ REVIEWED 20 Sep 44 (W. Lynch-Staunton) Lt

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 18 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para numbers herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 60-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by convening officer instead of being tried by court-martial.~~ (2)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being tried by convening officer.~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~Prosecutor (or accused): Do you object to~~ ~~as interpreter? Ans~~

~~The Judge-Advocate is sworn(1). Do you object to~~ ~~as shorthand writer? Ans~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	T P Dundendale	5 Cdn Armd Div Sigs
Member	Capt	F O Classey	3 Cdn Armd Recce R (6646)
Member	Lt	R J Evans	11 CIB Wksp RCEME
Judge-Advocate	Capt	W M L Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	R E Hallam	5 CAB Wksp RCEME
Defending Offr	Lt	D L Magee	HQ Sqn 5 Cdn Armd Div

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. Use of offrs under instr will be reported separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 1 were not followed. See Div p 2.)

A8. The accused ~~[illegible]~~ before arraignment make(s) (no) ~~[illegible]~~ plea.

~~[illegible]~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 name and name of the accused making the plea.)

~~[illegible]~~ A9. The accused is (~~[illegible]~~) arraigned (~~[illegible]~~ly) on all charges in the charge sheet.(1) The accused does (~~[illegible]~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~[illegible]~~ A10. The Court ~~[illegible]~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir .....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1) ~~The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) elect(s) to plead (them) plea(s) of Not Guilty to charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not be given the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether they give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans .....

..... Do you intend to call witnesses on your behalf ?

Ans .....

..... Are they witnesses as to character only ? Ans .....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 14(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes, Sir .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes due my offr .....

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 230, 563-566. Overseas AO 309, 1323, 2004, p 60, 737-739. As to sentences assigned for civil offences in the law of England see AA 41(1), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.84622, Pte. Alexander DELARONDE, 5 Cdn Armd Bde Wksp, 5 Cdn Armd Div, a soldier of the Canadian Army CMF is charged with:

First Charge
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

In that he

In the field, absented himself without leave from 0800 hrs 27 Jun 44 till 0710 hrs 10 Jul 44.

Time absent - 12 days 23 hrs 10 min.

(C.E. Pitt) Major
O.C. 5 Cdn Armd Bde Wksp

In the Field
10 Jul 44

To be tried by Field General Court Martial.

(J.L. Sparling) Lt-Col
Comd RCASC 5 Cdn Armd Div

In the Field,
14 Jul 44

FIELD GENERAL COURT-MARTIAL

CFAO5 Cls Ltrs of AFA57
400/FAN/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H6462 2	Pte		Alexander	DELARONDE	5 Cdn Armd Bde Wksp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Jul 44 endorsed by me, ~~is to an offr if any~~ for trial, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior authority.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint 3 other offrs to form the Court, this Ed Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	T P Dunderdale		5 Cdn Armd Div Sigs

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	To be detailed by		3 Cdn Armd Recce Regt (GGHG)
Capt or Lt	To be detailed by		CHC(CDN) 5 Cdn Armd Div

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by		CRASC 5 Cdn Armd Div

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	W M W Shaw		HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

Date 14 Jul 44

(Signed personally. RP 105 fn 2.) (Rank.)

(J L Sparling) Lt-col

Commanding RCASC 5 Cdn Armd Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

APPX "G"

MEDICAL OFFICER'S CERTIFICATE (K.R. (Can) para 557)

I certify that I have this morning examined No. H.64622
Pte. Delaronde, A. of 5 Cdn. Armd. Bde. Workshop and in my opinion
he is fit/~~unfit~~ to undergo trial by court martial [redacted]
Station In the Field
Date 18 July 44

T Statten Capt.
(Signature of Medical Officer)

1

1st Wit Character] L9104 S/Sgt Miles, MH, 5 CAB Wksp, duly sworn, states:-
Recognize accd - am Sa NCO i/c his sec.
Found him to be very good soldier - willing to work + carry out orders. Have no complaints about him since taking sec. Have been i/c sec since 25 May 44. he was in sec when I came.
XXm :- nil
Court:- nil

RP 83(B) complied with

Def offr in mitigation:-
Been in army 3½ yrs. Has in past been indiscreet but has been punished for these instances. He continues to do good work ref S/Sgt's evidence. Appears from conduct sheet that has not committed crimes of vicious nature. Chief trouble that periodically he goes AWL for short period — None of entries on sheet show accd a poor soldier - not troublesome + good workman. Has a wife dependent on him. Charges not such to show incapability of future duties. If sentence unduly severe would endure hardship on wife, an innocent third party. Recommend court show leniency.

WM Shaw
Capt

Summary of Evidence in the case of H.84622 Pte. DELARONDE, A. of 5 Cdn Armd Bde Wksp, charged with absenting himself without leave from 0800 hrs 27 Jun 44 till 0710 hrs 10 Jul 44.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

L.9104 S/Sgt. Miles, M.M. - 5 Cdn Armd Bde Wksp - having been duly sworn states:

I was on 27 Jun 44, and still am, the NCO in charge of the Stores Section of 5 Cdn Armd Bde Wksp. I am acquainted with H.84622 Pte. Delaronde, A., a member of my section, whom I recognize here as the accused, and who I have known for approx one month. On the morning of 27 Jun 44 when I called a parade of the section at 0800 hrs, I called the roll and found that Pte. Delaronde was absent. I made enquiries if anyone had seen him and also looked around the camp to see if he could be found. Not being able to find him I reported his absence to CSM Evans. The following day I proceeded on leave. On returning from leave on 6 Jul 44 I found that Pte. Delaronde was still absent and remained absent until he reported to me at 0710 hrs 10 Jul 44.

The accused declines to cross examine this witness.

W. M. Miles
Signature of Witness

Second Witness

C.38082 L/Cpl. Clifford, J.A. - 5 Cdn Armd Bde Wksp - having been duly sworn states:

I was on 27 Jun 44, and still am, an NCO in the Stores Section of 5 Cdn Armd Bde Wksp. I am acquainted with H.84622 Pte. Delaronde, A., of the Stores Section, whom I recognize here as the accused, and who I have known for approx two months. In the absence of S/Sgt. Miles, I called the roll on the 28th, 29th, and 30th of June 44. I found that Pte. Delaronde was absent on each of these days.

Q.1 During the time he was reported to be AWL did you see him in camp?
A.1 No Sir.

The accused declines to cross examine this witness.

J. A. Clifford
Signature of Witness

Third Witness

C.38050 Sgt. Lotan, W.A., - 5 Cdn Armd Bde Wksp - having been duly sworn states:

I was on 27 Jun 44, and still am, an NCO in the Stores Section of 5 Cdn Armd Bde Wksp. I am acquainted with H.84622 Pte. Delaronde, A., of the Stores Section, whom I recognize here as the accused, and who I have known for approx two months. On arriving back from the beach leave on 30 Jun 44 I found that Pte. Delaronde was absent. I called the parade the following morning and Pte. Delaronde was still absent. I called the roll on the succeeding mornings till the return of S/Sgt. Miles, during this time Pte. Delaronde was still absent.

Q.1 Did you at any time see Pte. Delaronde in camp when he was reported to be absent?
A.1 No Sir.

The accused declines to cross examine this witness.

A Witness

W. A. Lotan
Signature of Witness

The Accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

The Accused: "No Sir".

R De Lavorde
Signature of Accused

The Accused declines to call witnesses in his own behalf.

I certify that RP 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 10th day of July 1944.

A L Schrag Capt
Signature of Officer Taking Summary

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court-Martial.
I desire the services of Lieut D.L. Magee, HQ Sqn (RU) 6 Can Armd Div, if he is available.

R De Lavorde
Signature of Accused.

A
WMWS

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

No. H.64622 Rank Pte. Name DELARONDE, A. Unit 5 Cdn Armd Bde Wksp

Age 32 yrs 11 mos Married or Single Married No. of Dependents One (Wife)

Date of Attestation 10 Jul 41.

Number of days in Close Arrest awaiting trial 6 day

Civil Nil Military 6 day Hospital Nil Total 6 day

Dates of Appointments, promotions etc (if any) Nil

Officer i/c Regimental Books

5 Cdn Armd Bde Wksp
Unit.

Date 18 Jul 44

NOTE: - Certified True Copy of NPW 6 must accompany this form.

CERTIFIED TRUE COPY

No H.64622 Name DELA RONDE, A Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23 Aug 41			AWL from 2145 hrs 18 Aug 41 to 2030 hrs 22 Aug 41 (3 dys 22 hrs 45 min)		Forf 4 dys pay 7 dys C.B.			
Field	17 Sep 41			AWL from 2145 hrs 5 Sep 41 to 2100 hrs 16 Sep 41(10 dys 23 hrs 15 min)		Forf 11 dys pay 7 dys C.B.			
Field	13 Oct 41			AWL from 2146 hrs 10 Oct 41 to 1640 hrs 11 Oct 41(18 hrs 45 min)		Forf 1 dys pay 7 dys C.B.	12 Nov 41		
Field	3 Nov 41			AWL from 1530 hrs 3 Nov 41 to 1930 hrs 9 Nov 41 (6 dys 4 hrs)		Forf 7 dys pay F.R.&I			
Field	15 Nov 41			AWL from 0800 hrs 15 Nov 41 Still absent					
Field	15 Dec 41			AWL from 0800 hrs 15 Nov 41 to 4 Dec 41 (19 dys 3 hrs) Close arrest 1545 hrs		Forf 21 dys pay 21 dys Detention (total 42 dys pay)			

Admitted Station Hospitel from detention

(over)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31 Jan 42			AWL from 0600 hrs 31 Jan 42 to 0600 hrs 7 Feb 42 (7 dys)		Forf 6 dys pay			
Field	15 Jul 42			AWL from 2359 hrs 15 Jul 42 to 2315 hrs 21 Jul 42(5 dys 23 hrs 16 min)		7 dys C.B. 6 dys pay FRAI 149 (1) a			
Field	29Jul 42			AWL		7dys C.B. 2 dys pay FRAI 149 1(a) 7 dys F.P. 7 dys pay FRAI 149 1(b)			
Field	23 Nov 42			AWL		Forf 18 dys pay 14 dys F.P. 14 dys pay			
Field	6 Apr 43					14 dys F.P. Forf 15 dys pay			
Field	11 Nov 43			AWL (13 hrs)		14 dys F.P.			
Field	15 Nov 43			AWL		Forf 16 dys pay Forf 12 dys pay conc			(total 28 dys pay)

CERTIFIED TRUE COPY

To page 2.....

CERTIFIED TRUE COPY

No H.64628 Name DELARONDE, A. Sqn, Battery, or Company — Corps — Date of enlistment — GC Badges — Service or Proficiency Pay

MFM 6 (AFB 122) 40/P&R/138 (5438)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	22 Dec 43			A.A. Sec 40 & A.A. Sec 15(1)		14 dys C.B. Forf 1 dys pay 14 dys F.P.			
Field	3 Feb 44			A.A. Sec 15(1)		Forf 27 dys pay 28 dys Detn.			
Field	7 Feb 44			AWL from 2200 hrs 7 Feb 44 to 1300 hrs 13 Feb 44 (5 dys 15 hrs) A.A. 15(1)		Forf 38 dys pay 4 dys remission of FP 14 dys F.P.			
Field	16 Apr 44			A.A. Sec 15(1)		Forf 16 dys pay 28 dys F.P.			
Field	6 May 44			(1) A.A. Sec 15(1) (11) A.A. Sec 19 First Charge (III) A.A. Sec 11		Forf 28 dys pay FR&I Forf 1 dys pay (total 29 dys)		(C.B. Fitt) Major O.C. 5 CAB Wksp	

(FTO)

54-110

Pte. Delaronde, A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H64622 Pte Alexander DELARONDE- 1 Cdn Sub Wksp RCEME

Charge. (Insert "alternative" where applicable)	Plea. (See Instrs p 2.)	~~Finding.~~ (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY		
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 19 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of One Hundred and Twenty (120) days.

(Sgd) ..... Judge-Advocate, if any. 23 Oct 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Pan passed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

Date 31 Oct 45 (Sgd) ..... Commanding "C" Group, Commanding Con. Reinforcement Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H 64622. Pte Alexander DELARONDE	26 OCT 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 54-110

FIELD GENERAL COURT-MARTIAL

CPA96 (To lieu of APA81) 40/P & B/1698 (H144) 4/38B

Convened by Order of Brig E.C. PLOW, CBE DSO Comd "C" Gp CRU dated 19 Oct 45

REC'D 1 NOV 1945 CMHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H64622	Pte	Alexander	DELARONDE	1 Cdn Sub Wksp RCEME

PROCEEDINGS REVIEWED 1 Nov 45 D.V. Brody Maj REVIEWING OFFICER JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd (or country) ENGLAND on (date(s)) 23 OCT 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) (~~if~~ as attached thereto.(1) The Court is satisfied that it is properly convened and constituted;(2) accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the ~~Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO~~.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to MAJOR [illegible] R.A. as shorthand writer? Ans N.O. I/C. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N.O. I/C.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. [illegible]MAN	HQ CRU
Member	MAJOR	G.W. THOMPSON	1 CGRU
Member	CAPT	V. MORIN	1 CGRU
~~Judge-Advocate~~			
Prosecutor	CAPT	D.C. DOBBIN	1 C.Sub Wks RCEME
Defending Offr	CAPT	A.E. LAKE	1 C Sub Wks RCEME

Questions by President: Is the Prosecutor a lawyer? Ans N.K. Is the Defending Offr a lawyer? Ans N.O.(2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 2.)

A8. The accused ..... before arraignment makes(s) (no) (~~of~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~in closed court~~) considers the Instrs on Procedure after Arraignment at top of p 9. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 80, 87(*C*), 92(*B*), *and of witnesses and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans A.N.S.I.R.(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1) The Court decides~~ (not) to advise accused to change ~~his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and ~~he~~ (they) ~~change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*B*) (*ii*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fig here "Loose Sheets of Record."

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....

Do you intend to call witnesses on your behalf? Ans .....

Are they witnesses as to character only? Ans .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A93. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 34(*J*) (*i*), *RP* 45, 120(*A*). 2. *AA* 34(*J*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex C respectively.(3)

(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans NO, SIR, I'M A NOTE-HE(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 34(*A*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A., if any.~~(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 48-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366, *Overseas RO* 309, 2323, *MML p* 66, 757-759. *As to sentences consigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-64622, Private Alexander DELARONDE, 1 Cdn. Sub-Workshop, RCEME, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

Sec.15(1) AA.

WHEN ON ACTIVE SERVICE, ABSENCE WITHOUT LEAVE,

in that he,

at Crookham, Hants., did absent himself without leave from 2359 hours 23 Aug 45 until being apprehended by the Civil Police at Clapham at 0105 hours 3 Oct 45. (Total time absent - 40 days, 1 hour and 6 minutes.)

Crookham, Hants.,
5 October 1945.

B.J. Highfield
(B.J. Highfield) Lt-Col.,
Officer Commanding,
1 Cdn. Sub-Workshop, RCEME.

To be tried by Field General Court Martial

E. L. Plow Brigadier
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants
19 Oct 45

2359 23 Aug 8
0105 3 Sept 30
Plot 2
40-1-6

105

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H64622	Pte		Alexander	DELARONDE	1 Cdn Sub Wksp RCEME

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reason I have attached herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint a Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	to be detailed by OC	1 CGRU
Captain	to be detailed by OC	1 CGRU

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 19 Oct 45

Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1697 (8243)

M E D I C A L O F F I C E R S C E R T I F I C A T E.
K.R.(Can) para. 557

I certify that I have, this morning, examined

No. H64622 Pt. Salvarande A ..... on the strength of
(Rank) (Name)

1 Sub - Workshop, R.C.O.C. and in my opinion he is Fit ~~Unfit~~ to undergo

trial by Court Martial.

STATION Cookham Cross Roads

DATE. 23 Oct 45 .....

Sgd. E A Jones Capt.
Medical Officer
R.C.A.M.C.

23rd, Oct, 45.

PLEA OF MITIGATION

Pte. Alexander Delaronde, H-64622, enlisted in the army in Aug, 40, in the Cameron Highlanders, while he was employed as driver. Due to his category, (he has only one finger on his right hand), he was discharged Apr. 20, 41. He re-enlisted in the R.C.O.C., July 10, 41, and was sent to Barriefield where after a few days he volunteered for overseas with the 1 C.B. W/S. Came overseas in March 42 and was given guard and fatigue duties but was not allowed to drive due to his disability. Received no satisfaction on his repeated requests to drive. In civilian life he had driven a considerable time for the Public Parks Board of Winipeg. It is difficult to make a man like Pte Delaronde understand that though he drove in civilian life and for six months in the army in Canada, he shouldn't drive overseas. He became very dissatisfied & lost interest from the start, was transfered to #3 Mobile Laundry, Oct.42, where he again asked if he could drive and was refused bluntly. In Sicily he repeated his request without any satisfaction. His past conduct in the army has resulted in his frequent dissatisfaction of being unable to anything but Guard Duty and Fatigues.

He has not heard from his wife for over a year, consequently an investigation has been requested (copy of request attached). In addition he has received a letter from his Aunt, telling him his wife apparently is going with another man, who she (the wife) refers to, as her husband. Pte Delaronde has this letter with him. It is felt that a mistake was made at the time Pte Delaronde re-enlisted, in that the army authorities should have taken more interest in his disability and the duties they considered he was capable of performing, particularly with the history of his previous discharge on record.

E-3

PAY OFFICE-1 CANADIAN SUB WORKSHOP, R.C.E.M.E. Confidential

COPY

1 CSW/6-5/DA&AP/1,
22 October, 1945.

Chief Paymaster,
Canadian Army (Overseas).

H-64622 Pte. DELARONDE, A.

1. Receipt is acknowledged of copy of MFM 19 submitted by your office re the m/n AP in favous of his Wife wef 3 Oct 45.

2. In parading to this office for AP action, the soldier concerned informed that he has not heard from his Wife, Mrs Louise Delaronde for over a year and that her last known address is 549 Richard St., Vancouver, B.C. and not 420 Notre Dame Avenue, Winipeg, Man., Canada.

3. In view of the above, Pte Delaronde has requested that an investigation in his Wife's behaviour be made with a view to having DA cancelled if necessary.

4. Pte. Delaronde was interviewed by this Unit's Chaplain who is under the impression that the fact that this soldier has not heard from his wife for so long and cannot obtain any information in her regard has had a lot to do with his recent activities and moral ~~ex~~ and recommends that an investigation of this case be made.

5. May this matter be brought to the attention of the DAB, please with a view to having their usual investigation carried out in such case with advice to this office in due course of the action taken.

(J.E.R. Duchesne), Capt.,
Paymaster,
1 Cdn Sub Workshop, RCEME

MINUTE II

In view of the fact that Pte Delaronde does not seem to have heard from his wife for over a year, it is recommended that an investigation be made.

(B.J. Highfield), Lt-Col.,
Officer Commanding,
1 Cdn Sub Workshop, RCEME.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H-64622, Private Alexander DELARONDE, No. 1 Canadian Sub-Workshop, RCEME, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken on oath.

FIRST WITNESS Captain D.C. Dobbin, No. 1 Canadian Sub-Workshop, RCEME, an officer of the Canadian Army Overseas, having been duly sworn states:

I produce the Record of the Declaration of a Court of Inquiry pertaining to the illegal absence of H-64622 Pte. Delaronde, A. of No. 1 Canadian Sub-Workshop. I also produce Army Form O.1617 relating to the surrender of Pte. Delaronde.

The accused declines to cross examine the witness.

(sgd) "Davin C. Dobbin, Capt."

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Crookham, Hants.,
5 October 1945.

"D.R.C. Bedson, Lieut.,"
Officer detailed to take
the Summary of Evidence.

Summary of Evidence in the case of H-64622 Private Alexandre Dalaronde, No. 1 Canadian Sub-Workshop, R.C.E.M.E., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary is taken on oath.

FIRST WITNESS: Captain D.C. Dobbin, No. 1 Canadian Sub-Workshop, R.C.E.M.E. an officer of the Canadian Army Overseas, having been duly sworn, states:

I produce the Record of the Declaration of a Court of Inquiry pertaining to the illegal absence of H-64622 Pte. Delaronde, A. of No. 1 Canadian Sub-Workshop. I also produce Army Form C. 1617 relating to the surrender of Pte. Delaronde.

The accused declines to cross-examine the witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (D), (E), and (F) have been complied with.

Crowsnest, Yukon,
5 Oct 45

D.A.C. Dickson Capt
Officer detailed to take the
Summary of Evidence.

EXHIBIT

I CERTIFY that the man whose personal description is given below surrendered himself to* Stn B. 20c Coole at Wandsworth Rd Sw8 at (hour) 1.5am on the 3rd day of October 1945 as being No. H. 64622. (Rank and Name) Pte Alexander DeLavende a deserter (or absentee without leave) from R.C.O.C. Crookham and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 34 Height 6 Feet 0 Inches

Complexion fresh Hair dark

Eyes brown

Marks 3 finger off [illegible] hand

In uniform or plain clothes Uniform.

Probable Date and Place of Attestation	Winnipeg 10.7.41.
Probable Date of Desertion or beginning of absence, and from what place	25.8.45 Crookham, Hants.

Harwood B.25c

Signature of Officer of Police in charge of Clapham Station

3.10.45 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. ..... who surrendered to the Police at ..... on ..... Payable to .....

NIL

CERTIFIED that this statement of expenses is correct.

Harwood B.25c
~~Superintendent or~~ Officer in charge of Police Station at Clapham

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depots are shown in the Monthly Army List.

† Note.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police, e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 488/1940).

(27699) W.L.22801/3243 30,000 7/44 R.A.F.W.Ltd. Gp.[illegible]

RECORD of the Declaration of a Court of Inquiry assembled at **Crookham, Hants.** on the **17th** day of **September** 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. **H-64622 Pte. Delaronde, A.**

DECLARATION

The Court declare that No. **H-64622 Pte. Delaronde, A.**

of **No. 1 Canadian Sub-Workshop, R.C.E.M.E.**

illegally absented himself without leave or other reasonable or sufficient cause at **2359 hrs** on the **23** day of **August, 1945**, that he is still so absent, and that on the **17th day of September 45** he was deficient, and that he is still deficient of the following articles:— to the value of **$ 30.03**

ARTICLES	VALUE		ARTICLES	VALUE	
Beret, khaki	$ 1	20	Shorts, gym		86
Blouse, battle dress	6	50	Towels, hand		34
Boots, ankle	5	82	Vests, cotton, gym (2)		82
Drawers, cellular, short (2 prs)	2	86	Belt, waist		78
Drawers, woolen (2 prs)	5	60	Bottle, water		82
Shirts, angola, drab	2	40	Brace, W.E., left		30
Shoes, canvas		65	Pack, W.E.	1	84
Trousers, battle dress	6	55	TOTAL	$ 40	01
Vests, woolen	1	20			
Badge, cap		09	75% of value	$ 30	03
Brush, button, brass		26			
Brush, hair		34			
Brush, shaving		37			
Brush, tooth		11			
Comb, hair		04			
Holdall		19			
House Wife, complete		17			

Capt. D.C. Dobbin President

Lieut. D.R.C. Bedson Member

Member

Signed at **Crookham, Hants.**

this **21st** day of **Sep** 1945.

Signature of Commanding Officer **"B.J. Highfield" Lt-Col.,**
Comde., 1 Cdn. Sub-Workshop, R.C.E.M.E.

Certified true copy **D.R.C. Bedson Lieut.**
Signature of Officer having custody of original record

3/608 MFB 375–AFB 115
40-P&S-392 (6610)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-64622	Pte.	Delaronde, A.	1 Cdn. Sub-Workshop, RCEME.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be, should be stated separately. Any recommended special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Absence without leave	AA 15(1)	19 times.
For Drunkenness	AA 19	1 times.
For	~~AA~~ 11	1 times.
For	AA 40	1 times.

Date of first entry in Field Conduct Sheet 23 Aug 41

Date of last entry in Field Conduct Sheet 6 Aug 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	Field (CMF) 18 Jul 44	A.W.L. A.A. 15 (1) 12 days 23 hrs 50 mins.	60 days F.P. 81 days forf of pay.	
FGCM	Field (CMF) 2 Dec 44	A.W.L. AA. 15 (1) 61 days 16 hours.	180 days detention.	56 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~12th.~~ 23rd DEC day of October 1945

[illegible] Capt H Clift
1 Chr Sub Wksp RCEME.

Date of Enlistment : 10 July 1941 Regimental No. H-64622 Rank. Pte.

Name DELARONDE, Alexander

Record of Promotions, Casualties, etc.

Rank shown	Eff. Date	Unit	Place	Do No.	Dated
Pte.	21 Mar 44	RCOC X List AAI		59	25 Apr 44
Pte.	13 Apr 44	RCOC X List AAI		59	25 Apr 44
Pte.	16 Apr 44	RCOC X List AAI		59	25 Apr 44

AA 15 (1) Awarded 28 days detn. Total forf 34 days pay.
4 days remission of sentence on release from #7 F.P.Camp
AA15(1) Awarded 14 days F.P., Total forf 16 days pay.

Signed T.M. Hunter, Lt.,
for (R.A.C. JOHNSON) Capt
for COLONEL
OIC Records
CANADIAN MILITARY HEADQUARTERS.

Pte.	6 May 44	5 CAB Wksp Field		J.M.Maclean Capt for (C.B. Pitt) Maj O.C. 5 C.A.B. Wksp.

Awarded 28 days F.P. and a forf of 28 days pay for (1) an offence under AA Sec 15 (1) AWL from 1430 hrs 4 May 44 to 2400 hrs 4 May 44, (Absent 9 hrs 30 min) (2) an offence under AA Sec 19 (1st offence drunkenness) (3) an offence under AA Sec 11. Forf 1 days pay under FR&I 149(1)(a). Forf 28 days pay under FR&I 149(2). Total forf 29 days pay.

Pte.	18 Jul 44	5 CAB Wksp Field	32		Aug 44
	2 Dec 44	180 days DETENTION	FGCM Confirmed by Comd., 1 CHRGp.	Forfeits 62 days FR&I 149 (1)(a). 63 days pay FR&I 149(1)(c)(i) 180 days FR&I 149 (1)(b).	

Tried by FGCM on 18 Jul 44 for one charge AA 15(1) AA AWL 12 days 23 hrs 50 mins) Forf 8 days pay FR&I 149(1)(a) (i) Forf 13 days pay FR&I 149(1)(a). Forf 60 days pay under FR&I 149(2) awarded 60 days F.P.

Field, 29 Jul 44 Pte. AA Sec 15 (1) AWL from 1800 hrs, 29 Jul 44 until 1000, 29 Sep 44. Absent 61 days 16 hrs.

Released from the No. 2 Cdn. Fd. Pun. Camp on 4 Apr 1945 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons"....56 days. COMMANDANTS initials.....KR.....

CERTIFIED TRUE COPY.....Capt
Officer having custody of Regimental Books.

23 Oct 45

Record of Promotions, Casualties, etc.

	Rank shown	Eff. Date	Unit	Place	Do.No.	Dated
AWL from 2145 hrs 18-8-41 to 2030 hrs 22-8-41 (Total absence 3 days 22 hrs & 45 min) Awarded 7 days C.B. & forfeits 4 days pay	Pte.	23-8-41	102nd TC	Ft.Wm.	111	25-8-41
AWL from 2145 hrs 5-9-41 to 2100 hrs 16-9-41. Total absence 10 days 23 hrs & 15 min. Awarded 15 days Detn. Forf 11 days pay.	Pte.	17-9-41	102nd TC	Ft.Wm.	126	17-9-41
AWL from 2146 hrs 10-10-41 to 1640 hrs 11-10-41. (18 hrs 54 Min) Awarded 7 days CB. Forfeits 1 days pay.	Pte.	13-10-41	102nd TC	Ft. Wm.	142	14-10-41
Absent without leave from 1530 hrs 3-11-41 and is still absent	Pte.	3-11-41	D.D.10	Winnipeg	261	5-11-41
AWL from 1530 hrs 3-11-41, until 1930 hrs 9-11-41. Time absent 6 days 4 hours. Forfeits 7 days pay for absence under the FR&I. Date of award 12-11-41. Pte. 2 #268 d/13-11-41	Pte.	12-11-41	D.D.10	Winnipeg	268	13-11-41
Absent without leave from 0800 hrs 15-11-41 and is still so absent	Pte.	15-11-41	"	Winnipeg	278	25-11-41
AWL from 0600 hrs 15-11-41 to 2145 hrs 4-12-41. Time absent 19 days 3 hours. In close arrest from 1545 hrs 4-12-41. Forfeits 21 days pay for absence and close arrest under F.R.&I . Awarded 21 days detention. Total forfeiture 42 days pay.	Pte.	6-12-41	D.D.10	Winnipeg	288	6-12-41
Admitted to Station Hospital from detention.	Pte.	19-12-41	D.D.10	Winnipeg	301	22-12-41
Forfeits 21 days pay for AWL from 0600 hrs 31-1-42 to 0600 hrs 7-2-42	Pte.	8-2-42	1st C.Base R.C.O.C.	Camp Borden	35	11-2-42
Reported AWL 2359 hours.	Pte.	15-7-42	BOW/S	U.K.	64	20-7-42
Ret. from AWL 2315 hours.	Pte.	21 Jul 42	BOW/S	U.K.	66	22-7-42
Awd. 7 days C.B. & forf 6 days pay FR&I 149(1)(a) for AWL	Pte.	22-7-42	BOW/S	U.K.	67	24-7-42
Awd. 7 days F.P. & forfs. 7 days pay. FR&I 149(1)(b).	Pte.	29-7-42	BOW/S	U.K.	69	29-7-42
Forf. 2 days pay for AWL FR&I 149(1)(a);	Pte.	29-7-42	BOW/S	U.K.		
AWL 1730 hrs. 2200 hours.	Pte.	17-11-42				
AWL 14 days F.P. Total forfts. 18 days pay	Pte.	20-11-42	3 M.L.	U.K.	49	27-11-42
Awarded 14 days F.P. forfeits 14 days pay	Pte.	23-11-42	3 M.L.	U.K.	49	27-11-42
AWL 13 hrs) Forf. 15 days pay	Pte.	6-4-43	3 ML&BU	U.K.	16	16-4-43
AWL 14 days F.P. forf 16 days pay. 12 days conc. Total forf. on both charges 19 days pay.	Pte.	11-11-43	3 ML&B	U.K.	Y43	13-12-43
Awd. 14 days C.B. and forf 1 days pay under AA40 & AA15(1)	Pte.	15-11-43	3 ML&B	N.A.	46	13-12-43
Awd. 14 days F.P. & forf. 27 days pay under AA15(1)	Pte.	22-12-43	3 ML&BU	CMF	5	26-1-44
AWL from 2200 hours.	Pte.	3-2-44	RCOC X List	CMF	22	14-2-44
Ret. from AWL 1300 hours.	Pte.	7-2-44	RCOC X List	CMF	26	22-2-44
	Pte.	13-2-44				

Continued.

Certified True Copy. [illegible]

23 Oct 45. [illegible]

M.F.M. 6
(A.F.B. 122)
375M—7-41 (215-20)
H.Q. 1772-39-1652

No. H-64628 Name DELARONDE, A. Sqn., Battery, or Company Corps R.C.O.C. Date of enlistment G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SUPPLEMENTARY SHEET	W.G. Vinson Lieut.				
Field	8 Jun 45	Pte		AA Sec 15(1) WOAS AWL from 2359 hrs 8 Jun 45 to 1350 hrs 27 Jun 45. Total absence 18 ds 13 hrs 51 mins.	Documentary	28 days FP 28 ds forf pay; 2 ds forf pay in CA	30 Jun 45	Major F.T. Shoebridge	Auto forf 19 ds pay; Stopp Pay 8/- Cost of Apprehension.
U.K.	26 Jul 45	Pte.		Sec 15 (1) AA WOAS AWL in that he was absent from his quarters from 2245 hrs 26 Jul 45 until 2230 hrs 29 Jul 45. Total time absent 3 days 45 mins.	sgt.Slemkavich Cpl.Gross	12 days pay FR&I 149(2)	6 Aug 45	Major B.J. Highfield	Forf 3 days pay under FR&I 149(1)a Forf 12 days pay FR&I 149(2).Total 15 days pay.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
U.K.	31 Jul 45	Pte.		Sec 15(1) AA, WOAS AWL in that he was absent from his quarters from 0730 hrs 31 Jul 45 until surrendering himself to civil police, Regents Park, London at 0630 hrs 4 Aug 45. Total time absent 3 days 23 hours.	CSM Lee, F.A. Sgt. Slemkavich Documentary	11 days pay FR&I 149(2)	5 Aug 45	Major B.J. Highfield	Forf 4 days pay FR&I 149(1)(a) Total forf. 15 days pay.

Certified True Copy. [illegible]
23 Oct 45

Officer having custody of Regimental Records.

TRIAL BY COURT-MARTIAL

I, H-64628, Private Alexander Delaronde, request that an Officer be assigned to represent me at my forthcoming trial by Court-Martial.

Crookham, Hants.

12 Oct. 45

A DeLaronde

4I-127

PTE DELARONDE A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H64622 PTE ALEXANDER DELARONDE 8 I CBRD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~[illegible] beginning on [illegible]~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 64 days, of which 23 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 180 days

2 Dec 44 (Sgd) J Rowlatt Major

(Sgd) Judge-Advocate, if any. Date awarded. President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be [illegible] (1) Ras

(1. See AA 57A. Delete if not used.)

(Sgd) H Kitchener Brig

Date 4 Dec 44 Commanding COMMANDER 1 CDN [illegible] GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

H64622 PTE DELARONDE A 6 DEC 44 J Lhoussad Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 [illegible]

PERS 27 DEC 1944

41-127

CFA86 (1D [illegible] of AFA32) 40/P & S 1608 (2604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of BRIG T G GIBSON Comd 1 CDN BASE REPT GP CMF dated 27 NOV 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons (or showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H64622	PTE	ALEXANDER	DELARONDE	8 I CBRD

PROCEEDINGS REVIEWED [illegible] Minutes Lieut 28 Dec 44 REVIEWED [illegible] JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 2 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-141

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is [illegible] amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [illegible] brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ([illegible]) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to [illegible] as interpreter? Ans

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if regular employee.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J G ROWLATT	2 BN 1 CBRD
Member	CAPT	A P BATES	2 CDN REALLOC'N CENTRE
Member	LIEUT	D G ARMSTRONG	7 BN 2 CBRD
Judge-Advocate			
Prosecutor	CAPT	W R SUTTON	8 BN 2 CBRD
Defending Offr	CAPT	G C PIERCEY	8 BN 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See D1 p 33.)

A8. The accused before arraignment makes(s) (no) (~~no~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP fn 7(f)), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ([illegible]) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M42

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 105 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 695. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Waive the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP 42, 103(b).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (a), RP 45, 120(A). 2. AA 54(2), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.S. 163(l) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 12 and Ex C respectively.(3)
(1. MFB 351 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Defending Officer
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.64622, Pte Alexander DELARONDE, 8 Bn., 2 C.B.R.D. a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Section 15(1) Army Act

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, in Italy, absented himself without leave while undergoing Field Punishment from 1800 hrs, 29 Jul 44 until apprehended by Military Police at 1000 hrs, 29 Sep 44.

Absent 61 days, 16 hours.

(F.B. CONRAD) Lt-Col.
Commanding Officer
8 Bn., 2 C.B.R.D.

Field
12 Nov 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(E.C. Gibson) Brig
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

In the Fd
In Italy
27 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on an active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.94622	Pte		Alexander	DELARONDE	6 Bn 2 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~have~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 27 Nov 44 endorsed by me, ~~and by no one else of any staff for same~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior specified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

~~a. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

~~b. I also appoint an Judge Advocate (against the Offr mentioned hereunder.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

	J.G. Rowlett (DIC)		2 Bn 1 CBRD
Major (Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Capt or Lieut to be detailed by the OC 2 Cdn Reelloon Centre

Capt or Lieut to be detailed by the OC 7 Bn 2 CBRD		(Unit.)
(Rank.)	(Named or detailed. RP 106.)	

WAITING MEMBER.

Capt or Lieut to be detailed by the OC 7 Bn 2 CBRD		(Unit.)
(Rank.)	(Named or detailed, if any. RP 106.)	
~~NAMED ABOVE.~~		
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 27 Nov 44

(Signed personally. RP 105 fn 2.)

(T.G. Gibson) Brigadier (Rank.)

Commanding 1 Cdn Base Rft Grp, Cdn Army - CMF, Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Para 12(a) Chap VI of AFAO 40/F & S/1897 (4001).

MEDICAL OFFICER'S CERTIFICATE
(RR (Can) 589)

I CERTIFY that I have this morning examined H64622 PTE DELABONDE A.
(Number) (Rank) (NAME)

of 8 Bn., 2 C.B.R.D and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial

Field

2/12/44
(Date)

(Medical Officer)
8 Bn., 2 C.B.R.D.

E1.

Statement of H64632 Pte DELARONDE A made under oath

J.S.R.

I tried to enlist with the Cameron Highlanders of Canada in 1939 but was turned down because I had three fingers missing on my right hand. In 1940 I enlisted at 100 C.A.T.C. as a driver with category B1. I was a driver there for 6 mos. I wanted to get with an active unit for overseas but the C.O. wouldn't send me. On my own request I was let out of the army and went back to my job at the Winnipeg Public Works Board. I worked 2 mos. A sergeant from M.D.10 told me that Ordnance were recruiting B1 men for overseas. In July 1941 I enlisted again at Winnipeg, this time as a driver with the R.C.A.O.C. I was told that on completion of Basic training I would be given a Driver Mechanics course. After basic training I was sent to the Robinson Trades Training School, Winnipeg. There I was put on general fatigues around the school from November 1941 to January 1942, and never got the course. I was sent to Barnsfield and the O.C., Major Teams, said I might get my trade down there.

I was sent overseas in March 1942 with a draft for base ordnance workshops. While at Borden, England, I tried to get a driver Mechanics or Mechanics course. I had no luck and finally I was asked if I would like a spray-painter's course and agreed to take it if I couldn't get the driver's course.

In the end I never got either course. JSR
I was sent to No. 3 Cdn Mobile Laundry.
The O.C., Capt Bonnell wouldn't let me drive
because of my hand. I worked as a general
fatigue and fireman with that unit. Came to
Sicily with the unit in August 1943. Went
to hospital in Saracusa, Sicily, with malaria.
From hospital I went to No. 2 C.B.R.D. In April
1944 I was sent to 5 Cdn Armd Bde Wksp.
I was posted to Stores Section and the
Staff Sergeant in charge promised me a driver's
job. After a driver's test he stated he didn't
think I could handle a steering wheel on
rough roads. I stayed with my unit until
after the Hitler line, as fatigue man.

Questions answered under oath.

Q.1 Pte Delaronde are you a married man

A.1 Yes

Q.2 What was your Job in the City Public Parks Board in Winnipeg

A.2 Driver, & looking after machinery.

Q3. What were your wages

A.3. $50 a week.

Q4. Were you given to understand at the time of your enlistment that despite your physical handicap you could be trade tested as a driver

A.4 Yes.

Q.5 Who told you this?

A.5. The recruiting officer at Winnipeg.

Q6. During your term of service in 1940 were you actually employed as a driver

A.6. Yes

Q.7. For how long were you employed as a driver in the army

A.7 From Oct 40 to April 41. (7 months).

No cross examination
no questions by court.
RP 83(B) complied with.

~~Closing~~

Speech by defending officer in mitigation of punishment

Pte Delaronde enlisted with a very good motive, better than many of our earliest recruits. He had a good job and his physical handicap would have enabled him to stay out of the army had he so desired.

He had been ~~disillusioned~~ told and given to understand by persons in authority that he could be a driver, and indeed in 1940 for 6 mos he was driving in the army. This is his trade and civilian occupation and the one for which he is best suited. Therefore when he was later given a chance to enlist on the promise of overseas service and a trade's course for driver he enlisted again. He has seen his course and the man has become greatly disillusioned. He should not be held too strictly to account for his fed-up feeling and long list of A.W.L.'s. Absent all he had rec'd from the army is a term in hospital for malaria and months of employment as a general fatigue man.

True, his record is not a good one. But in the first instance the army let him down. ~~and [illegible]~~

He has learned nothing of service to himself in future days. Someone else has probably got his job by now. It is not a story that makes good reading, nor good advertisement for our army.

In closing I would ask the court to consider the man's earlier record and good motives in awarding sentence. Also the period he has spent under arrest. A recommendation for reward with a view to discharge would seem to be in order, if he cannot be given a chance to pursue his trade in the army.

Geo C Penny Capt
Defending Offic

SUMMARY OF EVIDENCE in the case of H64622, Pte DELARONDE, A., 8 Bn, 2 C.B.R.D., a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS
For the Prosecution

M.40880, Pte WHITELEY, J.B., 8 Bn 2 CBRD, having been duly sworn states:

I am the clerk of 40 Coy, 8 Bn, 2 C.B.R.D. The accused whom I now recognize is on the strength of 40 Coy. I have received the following document relating to the accused which I now produce: X List NCOC Part II Order No 128, dated 22 Nov 44, marked Exhibit "A". To the best of my knowledge this document refers to the accused.

(R.P. 86(b) complied with.)

The accused declines to cross examine this witness.

(J.B. WHITELEY) Pte.

SECOND WITNESS
For the Prosecution

L17177, S/Sgt DODD, M.F., 1 Cdn Fd. Hosp. having been duly sworn states:

I am senior NCO of 1 Cdn Fd Hosp and I recognize the accused as being the Pte Delaronde, A. whom I paraded to the C.O. to have his sentence of a previous F.C.C.M. read to him. He was a patient of this F.D.S. (now 1 Cdn Fd Hosp) undergoing treatment and under sentence of 60 days F.I. awarded 18 Jul 44 at the time of his going A.W.L.

(R.P. 86(b) complied with.)

The accused declines to cross examine this witness.

(M.F. DODD) S/Sgt.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence at this time.

The accused declines to adduce evidence for the defence at this time.

I certify that the above summary of evidence consisting of one typewritten page was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e)&(f) have been complied with.

(R.H. Sutton) Capt.
Officer detailed to take Summary.

Field
23 Nov 44

EXHIBIT

CERTIFIED TO BE A TRUE COPY FROM
THE REGIMENTAL DOCUMENTS IN MY CUSTODY.

C Armstrong
(C.ARMSTRONG) Capt & Adjt., 6 Bn., 2 CBRD
Officer having custody of Regtl Documents

X LIST R.C.O.C. No. 126
22 Nov 44
Page -2-

7. STRENGTH INCREASED (OR T/D)

(a) AMENDMENT: Part I Order No. 126, para 1 (a) of 11 Oct 44 insofar as it refers to the W/O delete: "Storeman "C"" and substitute: "Clerk "C"."

Col Bell, H.M.

(a) AMENDMENT: Part II Order No. 4, para 5 (a) of 16 Jan 44 insofar as it refers to the above delete: "Pte" and substitute: "Pte(A/Cpl)"

Pte Yorke, G.

8. INTERNAL POSTINGS

(b) Posted from X-3 List to X-1 List (6 Bn) 18 Nov 44
Prison and Detention Wing. (Awarded 1 yrs imp with ML 27 Apr 44)

Pte Provencal, A.

(b) Posted from X-3 List to X-1 List (6 Bn) 19 Nov 44

Pte Richards, W.D.

(c) AMENDMENT: Part II Order No. 126, para 2 (c) of 15 Nov 44 insofar as it refers to the W/O delete: "Storeman "C"" and substitute: "Clerk "C"."

Col Bell, H.M.

9. EMBARKATION AND DISEMBARKATION

(a) Equip expended by 1 Cdn A.O.D. Cdn Army (UK) that date.
C.A.O.D. Cdn Army (C/F) 18 Nov 44
Disembarked Italy and Tos X-1 list (6 Bn) 18 Nov 44

Lt (A/Capt) Hayward, G.D. (Clerk "C")
WO II (C.S.M.) Hopcroft, J.G. (Storeman "C")
Pte Hornestel, J.O. (Storeman "C")
Pte Martin, A.W.

10. ABSENT WITHOUT LEAVE

(a) A.W.L. from 1000 hrs on Jul 44. Apr by 6th S.A.A. Div Res Grp Det 1000 hrs 29 Sep 44.

Pte Delaronde, A.

(b) AMENDMENT: Part II Order No. 117, para 3 (a) of 10 Oct 44 insofar as it refers to the W/A is cancelled:

Pte Delaronde, A.

(c) AMENDMENT: Part II Order No. 124, para 6 (a) of 3 Nov 44 insofar as it refers to the W/A is cancelled:

Pte Delaronde, A.

11. STRENGTH DECREASE

(a) S.C.O.S. X-3 List to [illegible] shown dates apposite:

Pte Gougeon, R. 14 Nov 44
Cdn MLSU (A) (Storeman "C")
Pte Nicholefsky, S. 15 Nov 44
Cdn Armd Bde Grd Fd Pk

(b) S.C.O.S. X-4 List (6 Bn) to Cdn S.o SHQ 1 Con AAI 17 Nov 44
Auth - 1 Can TOE/8006 A/ 7 Nov 44

Pte Coles, R.F. (Storeman "C")

No. 128
22 Nov 44

X LIST R.C.O.C.

Page -3-

7. STRENGTH DECREASE (CONT'D)

(c) S.O.S. X-4 List (4 Bn) to 5 Cdn MLBU (B) 13 Nov 44
Auth - Demand 1 CC/501 d/ 12 Nov 44
D 96144 Pte Kennedy, L.

(d) S.O.S. X-4 List (4 Bn) to 5 Cdn Armd Div Ord Fd Pk 14 Nov 44
Auth - CDN/O2E/ARS/4005 d/ 1[illegible] Nov 44
G 3423 WO II (CS) Higgins, M.A. (Clerk "B")

(e) S.O.S. X-4 List (4 Bn) to 205 Cdn Armd Ord Sub Pk 13 Nov 44
Auth - Demand 1 C /500 d/ 12 Nov 44
B 67583 Pte McTague, F.J.

(f) AMENDMENT: Part II Order No. 127, para 5 (d) of 18 Nov 44 insofar as it refers to the u/n delete: "Storeman "C"" and substitute: "Clerk "C"."
B 8316 Cpl Bell, H.M.

(X. R. Laughlin) Lieutenant
for Officer i/c
Canadian Section, G.H.Q., 2nd Echelon AAI

/GDC

Exhibit "B"

Army Form B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H64622	Pte	DELARONDE, A	8 Bn., 2 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with the statement and not enclosed in the proceedings.

† See para. 677, K.R. Inst.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, produced under para. 677 to the most serious offence in each entry, and to any recognised special mode of gallantry or distinguished conduct.

Interjection.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A.Sec 15(1)	six times	sixteen times.
For A.A. Sec 40	one times	two times.
For A.A.Sec 19 (Drunkenness)	one times	one times.
For A.A. Sec 11	one times	one times.
For ~~XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H64622 Rank Pte Name DELARONDE, A. of 8 Bn 2 CBRD Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	18 Jul 44, Field	AA Sec 15(1) AWL for 12 days, 23 hrs, 50 min.	60 days F.P. 60 days pay.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 day of Dec 44

C Armstrong Chas

13. [illegible] Date of Promotion.

In the rank of years.

In the rank of years.

In the rank of years.

In the rank of

(Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be drawn through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

No H.64622 Name DELARONDE, Alexander Sgt. Battery, or Company Corps RCOC Date of enlistment 10 Jul 41 OC Badges Service or Proficiency Pay Exhibit C MFM 6 (AFB 122) 40/PAS/136 (3428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ft. Wm.	18-8-41	Pte		AWL from 2145 hrs 18-8-41 to 2030 hrs 22-8-41(Total absence 3 days 22 hrs & 45 min)		7 days C.B.	23-8-41		Forfeits 4 days pay
Ft. Wm.	5-9 41	Pte		AWL from 2145 hr 5-9-41 to to 2100 hrs 16-9-41.(Total absence 10 days 23 hrs & 15 min)		15 days detention	17-9-41		Forfeits 11 days pay
Ft.Wm.	10-10 41			AWL from 2146 hrs 10-10-41 to 1640 hrs 11-10-41(18 hrs 54 min)		7 days C.B.	13-10-41		Forfeits 1 days pay
Winnipeg	3-11 41	Pte		AWL from 1530 hrs 3-11-41 until 1930 hrs 9-11-41.(Time absent 6 days 4 hours)			12-11-41		Forfeits 7 days pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	15-12-41	Pte		AWL from 0800 hrs 15-12-41 to 2145 hrs 4-1-41(Time absent 19 days 3 hrs)		21 days detention	6-2-41		Forfeits 21 days pay, for AWL time under cl arrest.
Winnipeg	31-1-42	Pte		AWL from 0600 hrs 31-1-42 to 0600 hrs 7-2-42(Total 7 days)		21 days pay FR&I	8-2-42		Forf 6 days pay FR&I 14(1)(a)
U.K.	15-7-42	Pte		AWL from 2359 hrs 15-7-42 to 2315 hrs 21-7-42(Total 5 da 23½hr)		7 days CB	22-7-42		Forf 7 days pay FR&I 149(b)
U.K.	29-7-42	Pte		AWL 2 days		7 days FP	29 Jul 44		Forf 2 da pay FR&I 149(k)
U.K.	17 Nov 1942	Pte		AWL 1730 hrs 17 Nov to 2200 hrs 20 Nov 44.		14 days FP 14 days pay	23 Nov 44	4 days pay	FR&I 149(l)(a)
U.K.		Pte				14 days FP & 14 days pay	6 Apr 43		

No H64622 Name DELARONDE, A. Sqn. Battery, or Company | Corps RCOC | Date of enlistment 10 Jul 41 | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAN/136 (Sales)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
N.A.		Pte		AWL 13 hrs		14 days pay	11 Nov 1943		1 days pay 149(1)(a)
N.A.		Pte		AWL 2 days		14 days FP 14 days pay.	15 Nov 1943		2 days pay 149(1)(a)
CMF		Pte		AA40 & AA 15(1)		14 days CB	22 Dec 1943		1 days pay 149(1)(a)
CMF		Pte		AWL 13 days AA 15(1)		14 days FP 14 days pay	3 Feb 1944		13 days pay 149(1)(a)
CMF	7 Feb	Pte		AWL 2200, 7 Feb 44 to 1300 13 Feb		28 days DETENTION	21 Mar 1944		6 days pay 149(1)(a)
CMF		Pte		AA 15(1) AWL 2 days		14 days FP 14 days pay			2 days pay 149(1)(a)

(PTO)

Plate	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 May 1944	Pte		(1) AA 15(1) AWL 1430, 4 May 44 to 2400, 4 May 44 (9 hrs 30 Min)		28 days F.P. 28 days pay			1 days pay FRAI 149(1)(a)
			1	(2) AA 19 Drunkenness (1st Off) (3) AA 11					
				AA 15(1) AWL 12 days 23 hrs 50 min.		60 days F.P. 60 days pay	18 Jul 1944	F.G.C.M.	8 days pay 149(1)(c)(i) 13 days pay 149(1)(a)
Field		Pte							

CERTIFIED TO BE A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

(C. ARMSTRONG) Capt & Adjt., 8 Bn 2 CEBD
Officer having custody of regtl books

In the case of H64622, Pte DELARONDE, A.

LIST OF WITNESSES

For the Prosecution

1. M.40680, Pte WHITELEY, J.B. — 8 Bn., 2 CBRD
2. L.17177, S/Sgt DOLD, M.W. — 1 Cdn Fd Hosp.

For the Defence

Nil

LIST OF EXHIBITS

"A" X List RCOC Part II Order #120, d/22 Nov 44.

STATEMENT OF THE ACCUSED RE DEFENDING OFFICER

In the event that my case should be brought before a Field General or General Court Martial, I request that an officer be appointed to defend me and that if possible he be legally qualified.

A. DeLaronde

(A. Delaronde) Pte.

ACCUSED'S ACKNOWLEDGMENT OF SERVICE

Receipt is acknowledged of copy of Summary of Evidence dated 23 Nov 44, and of Charge Sheet in my case.

A. DeLaronde

(A. Delaronde) Pte.

Witnessed:

Field
23 Nov 44

1H-49.

ta. Delcourt. B.H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.100547 Pte Bernard Hector Laurence DeCourt 89/109 Can Inf Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA sec 15 (1)	guilty	guilty	
2nd AA sec 15 (1)	guilty	guilty	
3rd AA sec 27	guilty	guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 74 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 120 days detention.

(Sgd) [illegible] Judge-Advocate, if any. Date awarded. 18 Nov 44 (Sgd) [illegible] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 547-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) [illegible] Lieut Col

Date 18 Nov 44 Commanding 12 Can Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
D100547 Pte DeCourt BH	20 Nov 44	[illegible] Capt DAAG 3 Div

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 11 DEC 1944 JAG BRANCH

RECORDED AT CMHQ IN AD 100 474-49

CFAB6 (in lieu of AFA8) 40/P.S.B/1608 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by (Offr's name) Brig J S Lind Comd 12 Can Inf Bde dated 14 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D100547	Pte	Bernard Hector	DeCourt	89/109 Can Inf Bn

PROCEEDINGS REVIEWED
J C Campbell Major
13 Dec 44
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 18 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E-27

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~The~~ you object to ~~the~~ an interpreter ? Ans ~~,~~

~~The Interpreter is sworn (1). Do you object to the shorthand writer ? Ans ~~,~~~~
~~The shorthand writer is sworn (1).~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	W E Oxley	RCD
Member	Capt	D O Bishop	Can R Regt
Member	Lieut	J J Rodwell	RCE Fds
Judge-Advocate	Maj	G Garrison	KRR Can Corps
Prosecutor	Lieut	G P Wedlock	Can R Regt
Defending Offr	Lieut	J E Price	Can R Regt

Questions by President: Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President proceeds the plea in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*E*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. N.A.(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 25(*B*) *fn* 5 *para* 3; *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....
Do you intend to call witnesses on your behalf?
Ans. .....
Are they witnesses as to character only? Ans. .....
(*1. RP* 155. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* ARS. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(*2*) (*d*), *RP* 43, 120(*A*). *2. AA* 54(*2*), *RP* 43, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. N.A.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. AFB* 255 *or AFB* 294. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Only thro' Offr (Counsel)(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 46, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 543-544. *Overseas AO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 44(*3*), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*5*), 68(*1*), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, DL0054 Pte. DULCOURT, Bernard Hector, 89/100 Cdn Inf Bn, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — When on Active Service, absenting himself without leave,

Army Act — in that he,

Sec. 15 (1) — in the Field, absented himself without leave from 1030 hrs 24 Jul 44 until apprehended by the Military Police in Naples at 1615 hrs 10 Aug 44.

(Absent 17 days 5 hrs 45 mins)

SECOND CHARGE — When on Active Service, absenting himself without leave,

Army Act — in that he,

Sec 15 (1) — in the Field, absented himself without leave from 0100 hrs 6 Sep 44 until apprehended by Military Police at Naples at 2130 hrs 17 Sep 44.

(Absent 11 days 10 hrs 30 mins)

THIRD CHARGE — When on Active Service, when in lawful custody escaping,

Army Act — in that he,

Sec 88 — in the Field, at approximately 0100 hrs, 6 Sep 44, when proceeding under escort to 89/100 Cdn Inf Bn, escaped.

(W.M.Buchanan) Lt.-Col.
89/100 Cdn Inf Bn. OIC.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J S M Lind) Brig
Comd 12 Cdn Inf Bde

14 Nov 44

CFA95 (In lieu of AFA3)
40/P&S/1697 (2868)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 10054	Pte		Bernard Hector	DELCOURT	89,109 Cdn Inf Bn CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Nov 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.) WE OSLER (Must be named. RP 106.) PLDG (Unit.)

MEMBERS.

Captain (Rank.) To be detailed by OC Lan & Ren Scot (Unit.)

Capt or Lt (Rank.) To be detailed by OC 12 Cdn Inf Bde MG Coy Pl Pus (Unit.)
(Named or detailed. RP 106.)

WAITING MEMBER.

Lt (Rank.) To be detailed by OC PLDG (Unit.)
(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

Major (Rank.) G M Morrison (Must be named, if any. RP 106.) SQ 1 Cdn Corps (Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 14 Nov 44

Commanding 12 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

W.D.

MEDICAL CERTIFICATE

I certify that I have this morning examined Pt DELCOURT, B.H. Lanchen Scottish D 10057
(Rank) (Name) (Number) (Unit)

and in my opinion he is fit/~~unfit~~ to undergo trial by court-martial.

In the Field

15 Nov/44
(Date)

R Hmgers Capt.
(Medical Officer)

PLEA IN MITIGATION

D10054 Pte. Delcourt, B.H.

The accused, D10054 Pte. Delcourt, B.H., a volunteer, has been on active service four (4) years and three (3) months, landing in Sicily one (1) year and three (3) months ago.

His M.F.M. 6 for the past 12 months is clear, with exception of one charge, A.W.L. one day. He was sent out of the line from shell shock in the Hitler Line. When his unit was transferred from Artillery to Infantry, his Mother who was ill, on learning the news, was taken to hospital. (Letter submitted Attached). He has seen the error of his ways and is willing and anxious to return to his place in the Infantry.

F.E. Price Lt.

Montreal, Oct. 29th 1944.

Hello Son;

Received a letter from you on Saturday, were glad your well, I don't like to write this letter but you see mother isn't well, she's under the doctor's care, she'll be passing an x ray & she might have to go to the hospital. it didn't help her any, when you went into the infantry, you see the doctor says that she shouldn't have any worries at all, show this letter to your commander & try & get your leave to come home, don't imagine that this letter is a fake & to get you home, because its not, Neal & Rose can tell you & also Fernand, Neal & Rose passed practically three days here & so what I'm writting is the truth, we didn't write before because we didn't want to worry you, but now I think you should know, if your commander wants the doctor's certificate, we will send one on. This letter isn't

carrying good news, but mother
has been sick for quiet awhile
so son do your best to come home.
I guess I'll say good-night, hoping
to hear or see you soon.

Your loving
Sister
Kenny

P.S.
Take good care of yourself.

FROM:
(Sender's full name and address)

MRS. A. ROCHEFORT
4684 CH. COLOMB
MONTREAL

ARMED FORCES
AIR LETTER
OCT 30 1944
4 PM

AIR MAIL

If anything is enclosed in this letter it will be sent by ordinary mail.

Censor
No. D10054
Pte. DeLcourt, B.H.
89/101 Infantry Bty.
Support Coy. C.A.O.
C.M.F.

SAVE TIME
USE AIR MAIL

SUMMARY OF EVIDENCE

in the case of

D10054 Pte DELCOURT, B.H. 89/109 CDN INF BN

Taken on oath at the direction of the Commanding Officer.

FIRST WITNESS for the Prosecution:-

M179 Sgt. Coullard, M.J., Sp. Coy., 89/109 Cdn Inf Bn CIC, having been duly sworn, states:-

"I am M179 Sgt. Coullard, M.J., platoon sergeant of the pioneer platoon, 89/109 Cdn Inf Bn CIC. In the field, on the morning of the 24th Jul 44, at 1030 hours, after a ten (10) minute break, I fell in the platoon, and when the roll was called, D10054 Pte. Delcourt, B.H. failed to answer his name. After searching the area for him, I reported his absence to the Platoon Commander, Lieut. Hugill, J. D10054 Pte. Delcourt B.H. did not report back to his platoon, nor was he at any time present in the unit lines after he went absent on the morning of the 24th Jul 44 until he was returned under close arrest."

(Signed).....
(M179 Sgt. Coullard, M.J.)

The accused declines to cross-examine the witness.

(Signed).....
(D10054 Pte. Delcourt, B.H)

SECOND WITNESS FOR THE PROSECUTION:

B111956 Pte Gregg, M.G., of 89/109 Cdn Inf Bn CIC, having been duly sworn, states:

"I am B111956 Pte Gregg, M.G. of 89/109 Cdn Inf Bn. On the night of 5-6 Sep 44 I was one of the escorts detailed to escort D10054 Pte Delcourt, B.H. who was being taken with our reinforcement draft from 4 Bn 1 CBRGp to 89/109 Cdn Inf Bn under close arrest. I was a reinforcement on this draft. The other escort was K13075 Pte Mawle, L.H.

We had been riding in lorries, and at about 0100 hrs 6 Sep 44 we all had to dismount for the night. In the darkness and the disorder of getting off trucks, Pte Delcourt disappeared. He did not return, and had not returned when the draft moved on after daylight. The officer in charge, Lt. D. A. MacDonald had a search made in daylight before we left, but he was not found."

Signed M. G. Gregg
(Pte Gregg, M.G.)

The accused declines to cross-examine the witness.

Signed ...P. Delcourt.....
(D10054 Pte Delcourt, B.H.)

THIRD WITNESS for the Prosecution

Capt. L.G. McKenzie, Adjutant of 89/109 Cdn Inf Bn CIC, having been duly sworn, states:-

"I am Capt. L.G. McKenzie, Adjutant of 89/109 Cdn Inf Bn, CIC. I present a certificate under the Army Act Section 163(1)(J) dated 10 Aug 44 purported to be signed by Capt H.C. Osborne of 510 Ind Mob Provost Coy showing that D10054 Pte Delcourt, B.H. was arrested in NAPLES at 1915 hours 10 Aug 44. This certificate is hereafter referred to as Exhibit "A".
I also present a certificate under the Army Act Section 163(1)(J) dated 17 Sep 44 purported to be signed by Capt G.C. Johnson of 510 Provost Coy, C.M. Police, showing that D10054 Pte Delcourt B.H. was arrested in NAPLES at 1130 hrs 17 Sep 44. This certificate is hereafter referred to as Exhibit "B"

(L.G. McKenzie) Capt

The accused, having been duly warned as follows

"Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence but whatever you say will be taken down in writing and may be given in evidence"

declines to give any evidence.

(B.H. Delcourt, Pte, D10054)

Certified that Rules of Procedure No. 4 (C), (D), (E) and (F) have been complied with.

(G.L. McDonald) Lieut

Taken down by me in the presence and hearing of the accused ~~this~~ in the Field this 2nd day of November 1944.

(G.L. McDonald) Lieut

Respectfully submitted this 2nd day of November 1944.

(G.L. McDonald) Lieut

"A"

Certificate in accordance with the Army Act Sec. 163 (1) (ii)

I certify that Escaped escort D10054 6 Sep 43

No. D-10054 Rank GNR. Name DELCOURT. D. H.

of the 2nd L.A.A. REGT. AM. 1st L.A.A. REGT. ROYAL CANADIAN ARTILLERY.

was arrested at NAPLES at 1915 Hrs.,

on the tenth day of August. 1944

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. [signature]

Rank Capt

Appointment (if any)

Commanding

Date 10th Aug 44

PS52 WT 5M 7-44

Exhibit 'D' - In the case of D10054 Pte Delcourt D.H. in his trial by F.G.C.M.

[signature] Capt

A-26

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

No D10054 Rank GNR Name DELCOURT B H

of the 1st LAA REGT. ROYAL CANADIAN ARTILLERY. 12TH INF BRIG

was arrested at NAPLES at 1130 Hrs.,

on the 17TH day of SEPTEMBER 1944

Signature of P.M., A.P.M., or other Officer into whose custody the above named person was taken on arrest. Rank [signature]

Appointment (if any)

Commanding 510 Provost Coy. (M Police)

Date 17 Sep 44

PS52 907 5M 7-44

Exhibit "B" - in the case of D10054 Pte Gnr Delcourt B.H. in his trial by F.G.C.M.

[signature] Capt

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D10054	Pte	DELCOURT? B.H.	89/109 Cdn Inf Bn

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recorded special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec.15(1)	times	2 times.
For Sec. 40	times	1 times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct.~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, or

~~Previous convictions of the accused by a court martial, civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Act are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, or ~~The accused at present time is under sentence for~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and ~~47~~ 79 days in military custody, making a total of ~~47~~ 79 days, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 25 years

6. The date of his attestation specified in his attestation paper is 9 Aug 40

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

~~8. The accused is entitled to good conduct pay or gratuity in respect of service.~~

~~9. The accused is entitled to ~~ service for ~~ of determining his pension, &c.

10. The accused is in possession of, or entitled to, ~~ military award [or is in possession of or entitled to claim any ~~] C.V.S.M. and Clasp

~~11. (If the accused is ~~ . The accused below the rank of warrant officer has held the regimental ~~ and on his regiment [or corps or ~~ the rank of ~~ dated ~~

~~12. (In the case of an officer.) The accused holds in the army the rank of dated ~~ and on his regiment [or corps or ~~ the rank of dated ~~

[illegible] W1.21705/1977 10,000 10/42 A.& E.W.Ltd. Gp.698
[illegible] W1.32808/1220 25,000 2/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D10054 Rank Pte Name DELCOURT, B.H. of 89/109 Inf Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N I L		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th 18th day of November 1944

(L.G. McKenzie) Capt & Adjt
89/109 Cdn Inf Bn CIC

~~18.—The accused has served as a non-commissioned officer continuously, without reduction, to the present date, if~~

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years, ...

In the rank of ..... years, ...

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that on the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

MFM 6
(AFH 122)
40/P&S/136 (3438)

No D10054 Name DELCOURT, B.H. Sqn. Battery or Company 3 CARU Corps RCA | Date of enlistment 9 Aug 40 OC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Date of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order imposing with fine	By whom awarded	Remarks
Sheet destroyed 4 Jun 42. Last entry Nil No cases of drunkenness									
Field	25/9/41	Gnr	0	Neglect to the prej. i.e.standing orders as laid down.		forf 14 days pay FR&I 149 1(b) 14 days deth ⅓ Days C.B.	3 Aug 42	O.C.BTY	Forfeits 1 days Pay FR&I/153B
Field	1 Aug42	Gnr	0	Absent without leave Sec.15(1)AA					2 days pay
Field	26 Aug43	Gnr.	0	AWL Sec 15(1) AA.1 day,30 mins.	Capt Tyndale Sgt Hojel	5 Days pay FR&I 149 (2)	28Aug43	O.C.BTY.	FR&I 149(1a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 MAY 44	L/Bdr	0	WOAS. is charged with absenting itself without leave from 2200 hrs 8 MAY 44 To 1501 hrs 9 MAY 44. (TOTAL ABSENCE 17 HRS.) A.A. Sec 15 (1)	Sgt Hazel	Reduced To perm Grade of GnR.	10 MAY 44	OC. 5 LAAB 4 RCA	Perf. 1 day Pay FR. I. 149 (1) A

CERTIFIED TRUE COPY

(L.G. McKenzie) Capt
Adjutant
89/109 Cdn Inf Bn CIC
Officer having custody of Regimental Books

STATEMENT BY THE ACCUSED

I do not wish to have an officer appointed to defend me at my forthcoming trial by FGCM.

B Delcourt
(B.H. Delcourt, Pte, D10054)

STATEMENT BY ACCUSED

I acknowledge herewith one copy of the CHARGE SHEET and one copy of the SUMMARY OF EVIDENCE.

B Delcourt
(B.H. Delcourt, Pte, D10054)

EEE 71

PTE DELCOURT C.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-41508 Pte. (L/Cpl) Delcourt - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd	NOT GUILTY	GUILTY	
4th	NOT GUILTY	GUILTY	
5th	NOT GUILTY	GUILTY	
6th	NOT GUILTY	GUILTY	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) ... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR A PERIOD OF 90 DAYS.

7. MAR. 44 (Sgd) J.W. Mossop. Major

(Sgd) ... Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 766.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 (n 1.))

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~

(Sgd) W.H. Meure, Col

Date 7 Mar 44 | Commanding "A" Gp, CRU. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr

C-41508 Pte (L/Cpl) Cyprien Armand Delcourt 6 C.I.R.U. CIC — 7 Mar. 44 — G.A. Forsett, CAPT., ADJT., 6 CDN. INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. [illegible]

FIELD GENERAL COURT-MARTIAL

CFAO 60 (1st Insn of AFAO) RFP A.S. 1808 (2004)

Convened by Order of Col W.K. Greene A/Comd "A" Gp, CRU dated 1 Mar 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-41508	Pte L/Cpl	CYPRIEN ARMAND	DELCOURT	6 CIRU (CIC)

PROCEEDINGS REVIEWED Blumenauer Capt 17 MAR 44

PROCEEDINGS OF TRIAL. 1 MAR 44 to 7 MAR 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) England on (date(s)).

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which insts are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ... as interpreter? Ans ...

~~The Interpreter is sworn.~~(1) Do you object to ... as shorthand writer? Ans ...

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J. W. MOSSOP	2 CIRU (S Sask R)
Member	Capt	L. TASCHEREAU	6 C.I.R.U. R. de Chaud
Member	Lt	P.D. DELORME	2 C.I.R.U. (C.I.C.)
Waiting Member ~~Judge Advocate~~	Lt	D.W. GREEN	2 C.I.R.U. (R.R.R.)
Prosecutor	CAPT.	J.P. THIVIERGE	C.I.R.U. (F.M.R.)
Defending Offr	CAPT	G.V. ARCHAMBAULT	C.I.R.U. (R. de M.)

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO.(3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (E) and fn 2 were not followed. See DI p 3.)

A8. The accused C-41508 Pte (L/Cpl) DELCOURT, C. before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~now~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records ~~his~~ plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *assisting and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea of Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of forms* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*D*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 4.

THE PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans N O (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 4 - 5 + 6 charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 4 - 5 + 6 charge(s), and allowed on the ~~charges~~, and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Make statement on oath. Do you intend to call witnesses on your behalf ? Ans N O Are they witnesses as to character only ? Ans

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E3 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. ~~The President announces the finding(s) of guilty of Not Guilty, and states to the accused that the sentence~~ of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found NOT GUILTY on all charges and is to be released forthwith, and that [illegible] are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(*2*) (*b*), *RP* 45, *120*(*A*). 2. *AA* 54(*3*), *RP* 45, *117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans N O.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1.
Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex G respectively.(3)

(1. *MFB* 255 *or AFB* 295. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 7.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans In mitigation of punishment I ask Court to make allowance for my youth and inexperience and to consider that I have already undergone punishment in the form of loss of pay and stoppages. I am sorry for what I have done and I will endeavour to make amends in the future.

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 210(*b*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas* 80 *JDP*, 2302. *MML p* 90, 757-759. *As to sentences consigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*B*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see leaflet on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No C-41508, Private (Lance Corporal) Cyprien Armand DELCOURT, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 18 (4)
ARMY ACT

WHILST ON ACTIVE SERVICE, FRAUDULENTLY MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, on or about the 15th day of January, 1944, when entrusted by Private MC NEIL, H., a person subject to military law, with the sum of ten shillings (£0.10.0) for the purpose of having a fountain pen repaired, did fraudulently convert the said money to his own use.

SECOND CHARGE
SECTION 18 (4)
ARMY ACT

WHILST ON ACTIVE SERVICE, FRAUDULENTLY MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, on or about the 26th day of January, 1944, when entrusted by Private VIAU, F., a person subject to military law, with a watch, for the purpose of having the said watch repaired, did fraudulently convert to said watch to his own use.

THIRD CHARGE
SECTION 18 (4)
ARMY ACT

WHILST ON ACTIVE SERVICE, FRAUDULENTLY MISAPPLYING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, on or about the 29th day of January, 1944, when entrusted by Private VIAU, F., a person subject to military law, with the sum of ten shillings (£0.10.0), did fraudulently convert the said money to his own use.

FOURTH CHARGE
SECTION 40
ARMY ACT

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, on or about the 26th day of January, 1944, did borrow from a subordinate, viz., Private MC NEIL, H., the sum of ten shillings (£0.10.0), which he neglected to return, thereby occasioning the said Private MC NEIL a financial loss of ten shillings (£0.10.0).

FIFTH CHARGE
SECTION 40
ARMY ACT

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, on or about the 29th day of January, 1944, did borrow from a subordinate, viz., Private MC NEIL, H., the sum of five shillings (£0.5.0), which he neglected to return, thereby occasioning the said Private MC NEIL a financial loss of five shillings (£0.5.0).

SIXTH CHARGE
SECTION 40
ARMY ACT

WHILST ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at ALGONQUIN CAMP, WITLEY, SURREY, on or about the 29th day of January, 1944, did borrow from a subordinate, viz., Private VIAU, F., the sum of ten shillings (£0.10.0), which he failed to return, thereby occasioning the said Private VIAU a financial loss of ten shillings (£0.10.0).

(W.E. MORGAN), A/Col.
Officer Commanding
6 Cdn Inf Rft Unit.

Witley, Surrey,
26 Feb 44.

To be tried by Field General Court Martial.

29 Feb 44
Witley, Surrey

(M.K. Greene) Col,
A/Comd.
"A" Gp Cdn Rft Units, C.A.(O).

Encl. B.2

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAM/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-41508	Pte	L/Cpl	Cyprien Armand	DELCOURT (CIC)	6CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet attached and on (date) 29 Feb 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~;
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~XXXX

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: C41508 Lcpl. Melcourt C.A. (Rank) (Name) of 6 C.I.R.U. and in my opinion he is fit to undergo trial by Court Martial.

Station

Date March - 1 - 1944

Sgd [signature] Capt.
(Medical Officer)

Medical Officers' Certificate
K.R. (Can) para 557

F.G.C.M. case of CH1508 Pte. S/C. Cyprien. Armand

(DELCOURT) C.I.C. 6 C.I.A.U. assembled at 6 C.I.A.U.

The court assembled at 1000 hrs. ~~29 Feb 44~~ 1 Mar 44 Ghm and at the request of the prosecutor was adjourned until 1000 hrs 1 Mar. 44, which was concurred in by the defending officer, the reason being there were no witnesses present on account of being in the hospital.

The court reassembled at 1000 hrs. 1 Mar 44 and proceeded with the case.

[signature] Major
President

F.G.C.M. case of CH1508 Pte. S/C: Cyprien. Armand

(DELCOURT) C.I.C. 6 C.I.A.U. assembled at 6 C.I.A.U.

The court assembled at 1000 hrs. ~~29 Feb 44~~ 1 Mar 44 Ghm and at the request of the prosecutor was adjourned until 10 00 hrs 7 Mar. 44, which was concurred in by the defending officer, the reason being there were no witnesses present on account of being in the hospital.

The court reassembled at 1000 hrs. 7 Mar 44 and proceeded with the case.

[signature] Major
President

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: C41508 (Rank) Karl Holcourt (Name) C.A.
of 6 C.I.R.U. and in my opinion he is fit to undergo
trial by Court Martial.

Station

Date March - 1 - 1944

Sgd [illegible] (Medical Officer)

Medical Officers' Certificate
K.R. (Can) para 557

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: C 41508 Lt. Del Court C.A.
(Rank) (Name)
of _____ and in my opinion he is fit ~~unfit~~ to undergo
trial by Court Martial.

Station 6. C.I.R. 26.

Date 7 March 1944.

Sgd _____ CAPT. J. L. A. HURTEAU, M.D. R.C.A.M.C.
(Medical Officer)

Page One.

First Witness For the Prosecution

E8109059 Pte McNeil. H. C/C duly sworn

states I work RAP. 6 C.I.R.U.

~~Pros. B.~~ ~~Pte McNeil~~

~~Do you~~ The witness recog the acc. in court.

~~Pt.~~ 15 Jan 41. ~~what~~

The I/cp. acc. was going pass and Pte McNeil asked him to have his fountain pen fixed & he gave him 10s. and the pen to have it repaired. Pte Nicu. also handed his pen to acc. to be rep. My 10s was to cover the cost of repair of both. When 4/c. returned from leave he said the pens in shop forwarded by firm.

~~Did you see bot~~ The pen was ret. to me not repaired by the legal officer at time of Sum. of Evid.

On or about 26 ~~Feb~~ the acc asked a loan 10s. promised to pay on pay day. The 10s was loaned and I also loaned him 5s on or about the 29 ~~Feb~~ ~~Every~~ the acc. promised to return the money pay day. I asked for return pen five times & he said it was still in shop. I also asked him once for return of ~~money~~ 10s the 10s. I then asked him for 5s. The acc. said it would be paid on pay day. R.P. 83B. complied with

Witness cross examined by Defender.

Page two.

1 Q Did acc. say which P.D. money ret.

1 a Acc. paid on foll. payday.

2 Q Did acc. ment. foll. P. Day.

2 a He did specify foll P.D.

3 Q Foll P.D. mean? Desc which payday.

3 A. It was to be payday Jan. end. as I understood.

~~Q. Has acc. wrong~~

Second Witness for the prosecution.

R.D. Mais 6 C I R.V.

D 114732 Pte Vian F. H.R.C.O.C. 1 C C O D. Sworn

States:

The witness recognizes the accused.

4 Q. What happened on or about 16 Jan 44.

4. a. I gave my pen to ~~the accused~~ to the accused to be repaired. I said to the accused that he was to take 10s given by Pte Mt Nut to cover the charge. The acc was going on leave. When acc. returned the pen was not repaired and the acc. was expecting news from the shop. I received my pen this morning 7. Mar 44. and it was not repaired. When acc. ret. from leave he asked me for 10s on Saturday which he promised to pay on the following Monday. I gave him a pound at the time and was to receive the 10s change. I have not received the 10s change or the loan. I asked the acc several times for the return of the monies. On or about the 28 Jan 44 I gave the acc. a watch to be repaired. If cost of repair was not more than 10s it was alright to have it done. I did not give him any money then. The acc. offered to buy the watch off for 10 or 15 shillings. The watch has never been returned. I have asked for it several times. At the time I did not want to sell the watch.

RP 83 B complied with.

Cross examined by def officer. Page three.

5 Q. Specify did acc. say when he would pay all the money back.

5 A. Yes. 2 days after the loan he was to pay me.

6 Q. Were you willing to sell your watch

6 A. No sir.

Re examined by Prosecutor

7 Q. Was the acc. to return the change immediatly and the 10s loan the next Monday.

7 A. 10s change to be returned to me right away and he didn't bring back any money. The loan was to be repaid the next Monday.

Re exam. by Def. officer.

8 Q. Were you in compall day the day you loaned the pound.

8 A. Yes. I was working on the night shift.

Motion by Def. officer.

Prosec has not established a Prima facie case on the 4.56. charges on the grounds that the acc does not hold a rank of any authority K R Can 308 sub sec 4. Page 49. and 309. sub sec H.

I contend that a h/c entitled to wear a good cond strip his still considered as a private. No reply from the prosecutor.

Courts closed to consider this submission.

The court disallows same. (K.R.Can. 309.(G)).

Court reopened.

The accused will make a statement on Oath.

Sworn

C41508 L/c. Delcourt. Cyprien Armand, sworn states:

Defend. Officer

9 Q. Transactions. can you explain:

9 A. 18 Jan 44 I went on leave Pte McNeil & Vice asked me if I would get there pens repaired. I said yes and Pte McNeil gave me a 10s note to cover cost of repairs of the 2 pens. On my return we were to settle meaning any change to be returned or else they would make up a deficit to me. During my leave I did not get the chance to get the pens repaired until the 26th Jan 44. On that day I went to a repair shop in Manchester and I left the pens there. The next morning I went to the shop again and they could not repair the pens. I went back to where I was staying and Mrs Barnett whom I was staying with said she would ~~fix them~~ see they were repaired. I produce a letter from Mrs Barnett referring to the pens. I came back to campon the 27 Jan 44. I told Vice & McNeil that the people I stayed with on leave were looking after the pens and would send them to me as soon as the repairing was finished. When the letter A/m arrived the daughter of Mrs. Barnett was to bring the pens to Guildford. She arrived Wed. 9. Feb 44. in Guildford. I received a wire in the evening of 11 Feb 44. a letter the next morning arranged a meeting for us. (Letter & wire produced.) I had been paraded to Lt. Col. Tacherman in the aft. of 11 Feb 44. and was placed under open arrest for further evidence. The next when I received the letter from Miss Barnett arrangements were made for an ex cat to accompany me to get the pens. I did not like to ask for the return of the 10s because they were

good enough to keep me for the 18 days leave. [illegible]
On the morning of the 13 of Feb. I returned the pear to the legal officer. and intended to pay 10s to Pte McNeil on Pay day.

On Pay day 29 Jan 44. I borrowed 10s from Pte McNeil and a few days later another 5s which I was to pay back on pay day. I was put on draft in the meantime & Pte McNeil was worried about his money. The draft was to be paid Feb. 12. 44 I was struck off the draft on account of the charges pro & I was not paid. I didn't pay the money back on the 14 of Feb. because proceedings had been started on the case & I was advised not to do so.

Exam. Def. officer. 10Q. Did you have money at that time to pay back.
10A. Pt 1 pay book produced showing credit $9.32 in Feb.

By the accused. On 30 Jan 44. Pte Vien asked me if I could get his watch repaired. I told him I would try and he gave me the watch at the same time I asked him if he would sell the watch He asked if it was for myself & I said no. He said I would take 15s as it was new. So I went to Guildford that night and saw a civilian who agreed to have the watch repaired if possible & pay one pound or if not possible to be repaired purchase for 10s. Pte Vien agreed to this and the watch was left with the man. I have not seen him since. I borrowed 10s from Vien to go to Guildford to meet the man. He gave me a pound and I couldn't get it changed. Vien agreed to let me have

the pound with a promise to return it the next morning. I went to Guildford & spent the pound expecting to obtain 10s from a Cpl. promised on Mon. A.M. This was not loaned as expected so I couldn't pay View the change. ~~Cpl~~ ~~Pelletier~~

(R.P. 83. B) comp with.

Cross exam. 11 Q. Who advised you not to pay the money.

Prosec. 11 A. An officer. I don't want to give his name.

12 Q. Did you do your best to pay the money back.

12 A. If I was left on draft I could have cleared it all up. I had enough money and I told them I had only to get paid and McNeil View could have their money.

Court adjourned until 1330 hrs.
Court Reopened 1330 hrs.

Pros off. address.
I proved to the court that the acc. 15 Jan 44 about, has been entrusted by McNeil 10s for purpose of fountain pens repaired. They have not been repaired and asked often to return money never did. Conclusion he fraudulently converted funds to his own use about 28 Jan 44. The acc. entrusted by View with a watch to get repaired. Pte View never got the watch back after asking often about it. He fraudul converted the watch to his own use

On 1 Febry. 10s borrowed Pte McNeil and States
S.S. about the same date he borrowed 10s Pte Vine
and never defended it after being asked for it.
The court should find him guilty of both charges
The accused advised not pay Pte Vine or McNeil
even if he had enough money. If he was willing
to pay when the case started the whole case
would have been squashed
The accused did not show good intention to
pay McNeil & Vine & should be found
guilty of all six charges.

Defending officer Losing address turned in.

Court closed to consider the finding.
Court reopened after finding guilty on all charges.
Prosec. officer - Having been duly sworn produces AFB 6. AFB 296

Def. officer - address ad mitigation of punishment.
I recommend the accused to the mercy of
the court. He is a married man and his family would
be affected by any punishment given to him. May it
please the court to consider that the accused
has been under arrest for a period of 11 days.

Court is closed

Closing address for the defence

Mr. President, Gentlemen of the Court.

The accused is being charged with fraudulently misappropriating property belonging to a person subject to Military Law on the 1st. and 2nd. charge.

May it please the Court to consider that the accused was prevented from reimbursing the money he had borrowed because:

1. He was withdrawn from the draft and consequently was not paid on the day he expected to be and was subsequently placed under arrest
2. As proceedings had been taken against him, the accused was advised by an officer not to reimburse the money as it would not help him in any way.

The accused has given explanations why the watch was not returned to Ste. Claire. It is unfortunate for the accused that he did not take precautions to ensure the identity of the civilian who was to return the watch and to ensure the return of the watch.

The accused did borrow some money and money was entrusted to him but the accused has shown the

Court that he acted in good faith and is still in a position to pay back the sums of money owed to him.

Because of these reasons, I request that the Court find the accused NOT GUILTY on all charges.

Guy L. Archambault
Asst.

Nov. 6.

Waverley Hotel
45 Farnham Rd
Guilford

Dear Armand.

I was ever so sorry to notice you was absent when I arrived in Guilford But perhaps it was for the best. I would have only been able to have seen you for a min or two to give you the pens back. I hope I didnt cause you any inconveniance when I sent you the telegram If I did I am sorry. I hope when you get this letter you will realize howmuch it hurt to think I was

being met by somebody and instead found out I would have been stranded. I only hope you will have the decency to explain yourself in your letter. I will be in Guilford for good so you can write to the address on the top of the letter as I now work in Stourton I will close now waiting for a reply so that I can send you the pens

I Remain
Yours truly
A. Vickers.

Exc. D.
Jim
Pres

8 West Park Ave
Denton
Manchester
2. 2. 44

Dear Armarnd.

Thank you for your very welcome letter, I'm glad you arrived safe and in time. I hope when you get your next leave you will not forget to remember that Denton is still on the map. I'm glad Paul arrived before you so that you could show him you had had a nice few days leave and hoping you will enjoy a good many more. The pens have gone to be repaired and Alice will bring them with her when she comes. We were pleased and also proud to do what we did for

you although it was only a little.
Mr Barnett and the family are glad
you arrived safe. Mother missed you
setting in the chair. Mary and Bill
and Babys are well and wish to
be remembered to you. I will close
now hoping to hear from you soon
From Your New found freends
Mr. Mrs Barnett
and Lily

P. S. as I'm writing Lily is
Baking and she has got the
pastry stuck to the table.

Charges to pay

s. d.

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POST OFFICE

TELEGRAM

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42

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+ 542 4.37 DENTON 16

C/ 41508 L/CPL C A DELCOURT & GIRU CANADIAN

ARMY ENGLAND

CANRECORDS. W.3.

ARRIVE GUILDFORD STATION WED 6.30 - ALICE

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B or C

J.D.& Co. Ltd. 51-4171.

SUMMARY OF EVIDENCE

In the case of No C-41508, Private (Lance Corporal) Cyprien ~~Albert~~ Armand DELCOURT, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the Prosecution.

E-109059 Pte McNeil, H., CIC, on the strength of No 6 CIRU, having been duly sworn, states as follows:

On or about 15 Jan 44, I asked L/Cpl Delcourt, who was proceeding on leave, if he was kind enough to have my pen repaired. Receiving an affirmative answer, I handed him my pen, together with ten shillings (£0.10.0) to cover the cost of the repairs. At the same time Pte Viau handed him a pen to be repaired at the same time as mine. Upon his return from leave, L/Cpl Delcourt told me that the pens were not ready yet, but would be ready in a few days. On or about 26 Jan 44, the accused asked me for a loan of ten shillings (£0.10.0), which I lent him reciving his promise to pay me back on pay day. About 29 Jan 44 he again asked me to lend him five shillings (£0.5.0), which I did. My pen was subsequently returned to me unrepaired and without the money that was to cover the cost of the repairs. None of the money which I lent the accused has yet been returned.

The accused declines to cross-examine this witness.

.....Pte.

Second Witness for the Prosecution.

D-114732 Pte Viau, F., RCOC, on the strength of No 4 VRD, No 1 CCOD, having been duly sworn, states as follows:

On or about 15 Jan 44, I asked L/Cpl Delcourt, who was proceeding on leave, if he was kind enough to have my pen repaired. Receiving an affirmative answer, I handed him my pen. At the same time Pte McNeil handed him a pen to be repaired, together with ten shillings (£0.10.0), which was to cover the cost of the repairs of the two pens. Upon his return from leave, L/Cpl Delcourt told me that the pens were not ready yet, but that he would get them back in a few days. On or about 26 Jan 44, I asked the accused if he could get my watch repaired. Receiving an affirmative answer, I handed him my watch, giving him at the same time instructions not to have it repaired if the cost of such repairs was to be higher than ten shillings (£0.10.0). He offered me then shillings (£0.10.0) for the watch, but I refused to sell it. L/Cpl Delcourt has not yet returned my watch, although I have asked him for it several times. On the 29 or 30 Jan 44, the accused asked me for a loan of ten shillings (£0.10.0). Not having anything lower than a pound, I gave him the pound with instructions to have it changed and to return the balance to me without delay. The accused has not yet returned either the ten shillings that he borrowed from me or the change which I had coming from the pound, although I have asked him for my money several times since then.

Questioned by the accused:

Q. 1 Did you not tell me that you would take ten shillings for the watch?
A. 1 No.
Q. 2 Did you not tell me that you would sell the watch for fifteen shillings?
A. 2 No.
Q. 3 Did you not tell me that you would accept one pound for the watch if repaired, and ten shillings if I could not get it repaired?
A. 3 No.
Q. 4 How many times did you ask me for the watch?
A. 4 I asked you several times both for the watch and my money.

The accused declines to cross-examine this witness any further.

.....Pte.

SUMMARY OF EVIDENCE

In the case of No C-41508, Private (Lance Corporal) Cyprien ~~Albert~~ armand DELCOURT of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

The accused is then cautioned in French as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with.

M J Minard Lt.
(Officer detailed to take the Summary of Evidence.)

Witley, Surrey,
24 Feb 44.

MJM/JLN

MFM 6
(AFB 122)
40/PA8/136 (9438)

No C-41508 Name DELCOURT C.A. Sqn, Battery, or Company Corps Cdn Inf Corps Date of enlistment 21 Oct 39 GC Badges n/a Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet n/a No and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No 1 Signature OC Company, etc G.H. Vermette Character Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
CANADA	31 Oct 42	A/S/Sgt		A.A.40 Conduct to the Prejudice of good order and military discipline (Fraudulently alter acquittance roll) 1-A.A.15(1)AWL 4 days,13 hrs,45 mi.	Lt. L.Hebert	Reduced to the Rank of Sergeant	5 Jan 43	Maj.A.Mercier	
CANADA	10 May 43	A/Cpl		2-A.A.40 Conduct to the Prejudice of good order and military discipline (improperly dressed)	Documentary CSM Barre	Reduced to the Rand of Private	18 May 43	Maj.A.Mercier	Forf 5 days pay for AWL.

Certified true copy consisting of one sheet dated: 26 Feb 44

Officer having custody of original documents.

(PTO)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-41508	Private (Lance-Corporal)	DELCOURT C.A.	Canadian Infantry Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Army Act 40	1 times	2 times.
For Army Act 15(1)	Nil times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence to~~ ~~imprisonment~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and 11 days days in military custody, making a total of 11 days. days, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 33 years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 21 Oct 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 116 days

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 116 days service.

9. The accused is entitled to reckon 4 yrs 116 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or entitled to (state any military decoration or award))~~ Cdn Vol Med & Clasp

11. ~~*(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental~~ rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of dated

~~and in his regiment (or corps or department) the rank of dated~~

(71540) Wt. 30344/662 75,000 11/40 A.S. & W. Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C-41508 Rank Pte (L/Cpl) Name DELCOURT C.A. of Cdn Inf Corps. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award, under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Not applicable		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 15th day of Feb 1946

for officer having custody of original documents

~~In the second has served as a non-commissioned officer continuously, without reduction, to the present date.~~

Date of Promotion

In the rank of ..... years.

In the rank of ..... years.

~~In the rank of~~ ..... years.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*

5F-127.

Pte. Delehay, S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L67556 Pte DELEHAY, Samuel - 64 Army Tpt Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd Alternative	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 paras 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on (date) ~~[illegible]~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under 62.)

Sentence Awarded by the Court:

To undergo detention for one year.

(Sgd) Gordon H Jermyn Capt — Judge-Advocate, if any.
1 Feb 45 — Date awarded.
(Sgd) "D.A. Fergusson" Major — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 740.)

Date ~~[illegible]~~ (Sgd) ~~[illegible]~~ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see: AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Con 577. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED.

~~I direct that the accused be not committed to penal or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) V.R. Jones Lt-Col

Date 16 Feb 45

Commanding 1 Cdn Army Tpt Coln

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
L67556 Private DELEHAY, Samuel	19 Feb 45	(Sgd) "H.B. Gow" Major Officer Commanding 64 Cdn Army Tpt Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2F-127

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA1) 40/P & S/1608 (40/P)

4/38

Convened by Order of Lt-Col V.R. Jones ED Comd HQ 1 Cdn Army dated 29 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-67556	Private	Samuel	DELEHAY	64 Cdn Army Tpt Coy RCASC

CERTIFIED TRUE COPY
Legal Staff 18/4/45
HQ 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 1 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

24/13

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~[illegible]~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~[illegible]~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~[illegible]~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(i). Delete, if not applicable.)

A5. President to accused: Do you object to A43330 Cpl Brooer, J - 64 A Tpt Coy RCASC as interpreter? Ans No Sir

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.A. FERGUSSON	4 Cdn Armd Div Tpt Coy RCASC
Member	Capt	K.H. PUDNEY	64 Cdn Army Tpt Coy RCASC
Member	Capt	J.A. HERRINGER	4 Cdn Armd Div Tpt Coy RCASC
Judge-Advocate	Capt	G.K. JERMYN	HQ A Tps Area First Cdn Army
Prosecutor	Capt	T. OLDFORD	64 Cdn Army Tpt Coy RCASC
Defending Offr	Lieut	R.C. LAMBE	64 Cdn Army Tpt Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (2) and fn 2 were not followed. See Col p 3.)

A8. The accused ~~[illegible]~~ before arraignment make(s) (no) ~~[illegible]~~ plea(s) (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rqrd.)

A9. The accused is ~~[illegible]~~ arraigned ~~[illegible]~~ on all charges in the charge sheet.(1) The accused does ~~[illegible]~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.
(1. RP 30, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 52; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (if reqd) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive on Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Covering Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans I will give evidence Do you intend to call witnesses on your behalf ?
Ans Yes Sir Are they witnesses as to character only ? Ans No Sir
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B(c). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s) ~~of Guilty~~ of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s) being subject to confirmation, will be promulgated later.(1) ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Forms B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and them to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir by my defending officer .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Con 508, 530, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. As to assembly and disposal of record after trial see instrs on back of Convening Order.*
2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No L.67556 Pte Samuel Delehay, 64 Army Tpt Coy., R.C.A.S.C., a soldier of the Can Army Overseas, is charge with:

FIRST CHARGE
A.A. Sec 18(4)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY

in that he

in the field on 12 Jan 45, stole two tire (Dunlop 10.50 X 16 serial No. 10.50 X 16 No. AZ 2000 and Goodyear 10.50 X 16 serial No. 743M978 N), public property.

SECOND CHARGE
(Alternative)
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 12 Jan 45, was improperly in possession of two tires (Dunlop 10.50 X 16 No. AZ 2000 and Goodyear 10.50 X 16 No. 743M978N), public property.

In the Field
Jan 45

"H.B. Gow" Major
(Sgd) H.B. Gow Major
Officer Commanding
64 Army Tpt Coy, RCASC

TO BE TRIED BY F.G.C.M.

In the Field
29 Jan 45

"V.R. Jones"
(Sgd) V.R. Jones Lt-Col
Comd 1 Cdn Army Tpt Coln

DAF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-67556	Private	Samuel	DELEHAY	64 Cdn Army Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Jan 45 endorsed by me, (~~a copy of or extract from~~) VRJ To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~for the following reason(s) namely~~ (because of the exigencies of the service) VRJ

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. VRJ

~~4. I direct that the proceedings of the Court be confined to the charge(s) numbered~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D.A. FERGUSSON (Must be named. RP 106.)	4 Cdn Armd Div Tpt Coy RCASC (Unit.)	

MEMBERS.

Captain	K.H. PUDNEY	64 Cdn Army Tpt Coy RCASC	
Captain (Rank.)	J.A. HERRIGNER (Named or detailed. RP 106.)	4 Cdn Armd Div Tpt Coy RCASC (Unit.)	

WAITING MEMBER.

Lieut (Rank.)	D.S. BIRKS (Named or detailed, if any. RP 106.)	Att HQ 1 Cdn Army Tpt Coln (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	G.H. JEHMIN (Must be named, if any. RP 106.)	ADJA HQ Army Tp Area First Cdn Army (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 29 Jan 45

"V R Jones"

(Sgd) V.R. Jones (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Commanding 1 Cdn Army Tpt Coln

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Pages 1 to 3 inc. of AFA3) 40-7 & 8-1697 (4611)

Date

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this date examined No L67556 Pte Delehay, S 64 Cdn Army Transport Coy RCASC and found him fit to undergo trial by Court-Martial.

2 Feb 45

(Sgd) "A.E. Farmer" Capt
Medical Officer

D.3

Prosecution

First Witness

H.37248 Pte CARRIERE, E.R. 64 Cdn Army Tpt Coy sworn states:

I first saw two civilians with two tires outside "D" Pln Wksp around 9 o'clock, 12 Jan 45. I made them roll them into the shop. Later, in the afternoon Pte Delehay asked me where the tyres were and I said I had them in the shop and was going to use them on tippers. I am the pl fitter. He muttered something about them being his tyres. The garage doors were not locked that night because M/C's were going in and out. The next morning when I came into the shop around 8 o'clock I missed the tyres. I reported to the officer.

I didn't see Pte Delehay around when I had the tyres put in the workshop. The first time I saw the tyres the two civilians had them. I recognized them as WD tyres and asked where they got them. They made no dispute about handing them over. There was a pile of empty ammo boxes beside the wksp.

Cross-examination

I looked at the tyres. They were mounted on a split type rim. One of them was a Goodyear tyre. I saw the WD arrow on the tyres. Pte Delehay just asked me if I saw the tyres. He just muttered something about they were his tyres. The last time I saw them was about 1700 hrs. The next morning avout 0800 hrs they were gone off the rims. The two civilians knew where they were put in the shop. There were civilians doing patrol and using same building as we used. This is not the wksp bldg but is about 50 feet away.

R.P. 83 (b) complied with.

SECOND WITNESS

B.50844 Cpl Tennah, R.J. 8 Cdn Pro Coy Cdn Pro Corps sworn states

At about 0815 hrs 18 Jan 45 I went to 64 Cdn Army Tpt Coy with Lt Cummings and two civilian police. I questioned several civilians as a result we searched the house of Mr van Uden and found two WD tires hidden in the barn under some mangels. One was a Dunlop 10.50 AZ 2000 The other was a Goodyear 10.50 X16. I questioned him and as a result I held an identity parade at the unit in the Orderly Room at about 15.15 hrs 18 Jan 45. 12 men were paraded in the orderly room. Mr van Uden recognized Pte Delehay as the man in question. I questioned Pte Delehay but he stated he knew nothing about the tyres. Then Lt Cummings and myself took Pte Delehay to Mr van Uden's home where his mother identified Pte Delehay.

CROSS-EXAMINATION

Mr van Uden did not say which soldier it was when he was in the room. He told us after they went out which one it was. Delehay was wearing a black leather jacket with sleeves. I couldn't say whether there were others on the parade with leather jackets on or not. At Mr van Uden's house I was right with them all the time. After Mr Van Udens' identification I did not think an identification parade was necessary for the mother. Mr Van Uden was positive.

R.P. 83 (b) complied with.

THIRD WITNESS

Antonius Hendrekens Van Uden, 192 Abdijstraat, Heewijk Holland sworn states:

On 13 Jan 45 in the morning two tyres were standing at the back of my home. The day before a soldier came to my house and asked me if I wanted to buy tyres. I made a deal with the soldier to pay 400 guilders for the tyres when they were brought over to me. After I found the tyres I put them in the stable under the mangels. In the afternoon of the 13th the soldier came and I paid him 400 guilders in my bedroom. I think that is the soldier. Points at accused.

Cross-Examination

It might be the same soldier or it might not. He wears the same uniform. I think he is the man but I am not sure. He looks the same, he is the same height.

It was the same soldier who asked me to buy the tires as who collected the money. He wore the same leather jacket. I did not know there were tow tyres in the workshop. I do not know where the two tyres came from. I did not see anyone leave the tyres there.

By the Court

I made the deal for the soldier to bring the tyres at half past seven in the morning but I was not up. Another civilian did ask me if I could get some tyres and I said I would try and supply them. I asked a Cdn soldier if he had any tyres to sell. This was on Friday between 6 to 8 PM. I saw him in my Cafe. The lights were on. I next saw the soldier on Saturday when he came for his money. It was a round noon. The soldier said he had brought the tires and he came for the money. I know it was the same soldier by his height and his leather jacket and because he said he had brought the tires and wanted the money. I remember attending the identity parade. I recognized the soldier because he was the same height and wore a leather jacket. There was no one else on the parade with a leather jacket with sleeves in it. (Accused is asked to stand.) I cannot say whether this is the man or not.

R.P. 83 (b) complied with.

FOURTH WITNESS

Adriana Driessens 192 Abijstraat, Heewijk, Holland sworn states:

On a Saturday morning when I got up between 730 and 8 o'clock I saw two tyres at the back of the house. On the same day I saw my son give a soldier money. They were in my son's bedroom. I had seen the soldier before in the cafe. I had seen him in the cafe more than once. I recognize that soldier in the middle as the soldier who paid the money to my son. I know him quite well but when he was at my place he had a leather jacket on. He gave it to him in one bundle.

CROSS EXAMINATION

He was wearing a dark leather jacket. I may have been brown. All the others have jackets without sleeves but this one had a jacket with sleeves.

R.P. 83 (b) complied with.

D-5

Defence

L.67556 Pte Delehay, S., 64 Army Tpt Coy RCASC sworn states:

In morning of 12 Jan I was coming out of the guard room and I saw the two civilians looking at two tyres. They were moving them from one side of the rubbage pile. About 3.30 I came back by the rubbage pile and I noticed the tires were gone. Pte Carriere was working on a truck in front of the rubbage pile and I asked him what happened to the tires. He told me he had put them in the workshop.

On the night of 12 Jan I was on the first shift of the guard from 6 - 8 PM. Then I went to bed. I was in the guard room until my shift came on again. In the mroning about 0730 Pte Carriere came to me and said the tyres were missing. He asked me if I knew anything about them. I said no. All guards were CB'd to the guardroom. We had a parade at 1300 hrs. There was no trace found of the tyres. I have a leather jacket with sleeves. I dyed it black on 16th Jan. Before that it was a yellowish tan.

Cross-examined

It is not an issue jacket. I found it in my truck. I know where Van Udens cafe is. I have been in it a couple of times. I was not in his cafe on 13th Jan. I did not see Carrier with the two civilians.

By the Court

I had the day off on the 13th. The guard is from 1800 hrs 12 Jan to 0600 hrs 13th. My shifts were 1800 to 2000 hrs and from 0001 to 0200 hrs. I was in the guard room all the time between the 1st and 2nd shift. After my second shift I went to sleep at about 0200. The Cpl woke me about 0700 hrs for breakfast. After I came back from breakfast the fitter asked me if I knew anything about the tyres. I said no. I went into the guard house and went to sleep. I slept until about 0945. When I woke up we were all CB'd to the guardroom until 1145. After that I had dinner then went to the orderly room. Nothing had been discovered about the tyres. It was about 1330 when I came out of the orderly room. Between 1700 and 1800 hrs on 12th I was getting ready for guard. I did not say anything about them being my tyres when Carriere said they were in the workshop. I had nothing to do with the tyres after Carriere said they were in the workshop. I did not go to him at any time and get 400 guilders. I never had any dealings with Van Uden at all. I did not tell him that I could get any tires. I did not take any tires to his house.

R.P. 83 (b) complied with.

SECOND WITNESS

H117317 Pte Drynan, G.". 64 Army Tpt Coy RCASC sworn states:

I was on guard with Pte Delehay on 12-13 Jan. I was with him all the time from 1800 hrs 12 Jan until 0600 hrs 13 Jan except when making our rounds. One man acts as sentry at the veh park and the other makes the round. It was only a small parking lot. A round only took a couple of minutes and we made alternate rounds. I know Van Udens Cafe. It is a good ten minute walk from the vehicle park. Delehay wouldn't have had time to get there and back without me knowing it. He was not away to the best of my knowledge. I went to bed in the guard room 0600 hrs and slept until 1000 hrs when they woke us up and told us the guard was CB'd. When I woke up Pte Delehay

was in the guard room. I asked him why he didn't wake me for breakfast. He said he called me but I didn't wake up.

No cross-examination

By the Court

After our first shift we sat in the guard room and talked to the Cpl until the next shift. He was wearing a leather jacket with sleeves in it. It was a light tan. Not the same colour it is now. I remember him dying it later after the time the tyres were missing.

R.P. 83(b) complied with.

THIRD WITNESS

A42330 Cpl Craoer, J. 64 Army Tpt Coy RCASC sworn states:

I live in the same billet as Pte Delehay. His leather jacket was dark in colour on the day of the identification. It was a light brown almost yellow colour before but he had it darkened about a week before the identification parade. It might have been less.

No cross-examination.

Def Offrs closing address.

Evidence against accused is circumstential and very indefinite. Reviews evidence, no opportunity, colour of jacket.

Prosecuting officer's closing address.

Although Van Uden seemed dowbtful. His mother had no doubt that he was the man who got the money from herson. She did not depend on the jacket because she had seen him in the cafe. Possible for Delehay to have taken the tyre between 0600 and 0730 hrs 13 Jan.

SUMMING UP BY JUDGE ADVOCATE

What facts have been proved, the credibility of witnesses and the weight to be given to the evidence of any witness are matters for the court to decide. The accused is charged with stealing two tyres, public property or alternatively with being in improper possession of them. The court can only find him guilty of one of these offences although it may, of course, find him not guilty of both.

Stealing is defined in MML P 118 para 50 sentence 1 reads So to prove this charge the prosecution must show that the accu used carried away the tires with the intention of permanently depriving the government of them. Intent can only be inferred from the facts which the court find to be proved.

The evidence is to a great extent circumstantial and I suggest the court consider para 42 p.81 MML Reads. Moreover the evidence for the prosecution is merely that of an obvious accomplice and I must warn the court of the danger of convicting the accused on such evidence. Reads para 45 MML p.83.

Applied to this case these principles mean that if you believe Mr Van Uden and find he is not mistaken in his identification of the accused as the person who made the deal and next day came to collect the 400 guilders it is within your power to find the accused guilty on his evidence. But there is grave danger in doing so because he being implicated in an illegal transaction may be attempting to minimise his guilt or be protecting someone entirely different from the accused by

implicating the accused.

If you believe Mrs Driessens and her identification of the accused as the person who received the 400 guilders there is corroboration of Van Udens story that is to say there is evidence that the accused received some money from Van Uden.

But there is not direct evidence that the accused took the tyres. Van Uden's identification may have been based solely on the fact that the soldier wore a leather jacket with sleeves in it similar to that of the soldier with whom he made the deal and Mrs Driessens identification of the accused here to day may have been a result of taking the accused alone to her when she first identified him as the soldier to whom her son paid the money. Van Uden tells two different stories as to who began the negotiations. He says the soldier came for the money around noon and finally he was not sure that the accused in court today is the man he picked on the identity parade as being the man who made the deal and collected the money. The accused denies that he had any further knowledge of the tyres after he had noticed them missing from the rubbish pile and had been told by Carriere that they were in the workshop. The tyres were taken sometime between 1700 hrs 12 Jan and 0800 hrs 13 Jan according to Pte Carriere and were behind Van Udens house between 0 730 and 0800 hrs13 Jan according to Mrs Driessens. The identification parade was on 18 Jan. The accused says his leather jacket was yellow until 16th where he dyed it black. Cpl Bracer says this change took place about a week before the identification parade or may be less. Pte Dryman says on the night of 12th Jan the jacket was a light tan, not black as it is now. The accused was on guard from 1800 hrs 12 Jan to 0600 hrs 13th. He says he took the shifts from 1800 to 2000 hrs and from 0001 hrs to 0200 hrs and was in the guard room the rest of the time until 0700 hrs 13th when he went for breakfast after which he went to sleep in the guard room to 0945 hrs and was then CB'd to the guard room until 1145 hrs. Pte Dryman says he was with the accused from 1800 hrs 12 Jan to 0600 hrs 13 Jan except for short periods when they separated on their rounds during their tours of duty.

The Court must always keep in mind that the accused is presumed innocent until he has been proved guilty beyond reasonable doubt. To warrant an acquittal the doubt must not be light or capricious, a mere hesitation to pronounce a finding of guilty, it must be such a doubt as would reamin in an honest heart after an unbiased, calm, consideration of all the evidence before the court. But if there is a reasonable doubt, if you are not convinced of the guilt of the accused he must be given the benefit of the doubt and be acquitted.

J.A. Mr Prseident are there any further matters on which you wish me to advise the Court?

Pres. No
J.A. Mr Prosecuting Officer, are there any further matters on which you wish me to advise the Court?
Pros. No.
J.A. Mr. Defending Officer, are there anyfurther matters on which you wish me to advise the Court?
Def No.

E3

The accused has been overseas for six months and during that time has had no crime.

"G.K. Jermyn" Capt
J.A.

Deb EXHIBIT A

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
L.67556	Pte	DELEHAY, S	64 Cdn Army Tpt Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 11	1	times.
For A.A. Sec 15(1)	2	times.
For A.A. Sec 15(2)	3	times.
For A.A. Sec 40	1	times.

[redacted] DMS

[redacted] DMS

2. [redacted] DMS

*3. [redacted] DMS

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 15 days in military custody, i.e., [redacted] DMS; of which NIL days were spent in hospital.

5. The present age of the accused is 21 years 10 months

6. The date of his attestation is 30 Nov 42

7. The service which the accused is allowed to reckon is 2 yrs 1 mon 26 dys

8. The accused is in possession of† CVSM & Clasp

†State the military decorations (if any) held by accused.

9. [redacted]

Date of Promotion.

[redacted] DMS

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt 55906/1692 20,000 3/44 61-4755. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 26 day of Jan 45

"C M Fisher"
(CM Fisher) - Lieut

EXHIBIT "B" DAF

3/17 MFM 6 (AFB 122)

NJ.67556 Name Delehay, S. | Sqn, Battery, or Company | Corps RCASC | Date of enlistment | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 23 Feb 43 | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with remd	By whom awarded	Remarks
Sheet destroyed on completion of six months service of last case of drunkenness NIL					30 May 43 date of last entry 23 Feb 43 No and date				
North Bay	5 Oct43	Pte		AWL from 2200 hrs 5 Oct 43 to 0200 hrs 6 Oct 43 (Absent 2 hrs 20 min) A.A. Sec 15(1)	Cpl Barker Pte Andrews	3 dys CB	6 Oct 43	Capt P Lorriman	
Shilo Camp	17 Jan 44	Pte		A.A. Sec 15(1) AWL 10 dys 10 hrs	Cpl Eriskson	28 days Detn	28 Jan44	Col R.L. Mitchell	Forf 11 dy FR&I 149(1)a for 28dy pay
						Remitted 4 days of sentence.			FR&I 149(1)b
" "	4 Mar 44	Pte		AA Sec 15(2) Failing to appear at place of parade.	Cpl Keir L/Cpl Smith	7 dys C.B.	6 Mar 44	Capt I.C. Ketchen	
Red Deer	11 May44	Pte		AA Sec 15(2) Failing to appear at place of parade appointed by his O.C.	Cpl Mutrie Cpl Busby	11 dys Detn	Col J.J. Burton-Willison		Forf 11dy pay FR&I 149(1)b

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
d Deer	12 May44	Pte	(2)	AA Sec 40 Neglect to the prejudice of good order and military discipline					
			(3)	AA Sec 11 Neglecting to obey Company Part One Orders					
			(4)	AA Sec 15(2) Failing to appear at place of parade appointed by his Company Commander.					

Certified true copy.

T Oldford

(Sgd) T. Oldford Capt

CERTIFIED THAT ORIGINAL SUMMARY OF EVIDENCE

ACCOMPANIES THE ORIGINAL PROCEEDINGS

.....

Officer certifying proceedings

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-67556 Private DELEHAY, Samuel - 64 Army Tpt Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd ALTERNATIVE	NOT GUILTY	~~NOT GUILTY~~ GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~[illegible]~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one year.

(Sgd) Gordon H. Jennings
Judge-Advocate, if any. Capt.

1 Feb 45
Date awarded.

(Sgd) A.G.T. Ferguson
President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-572. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

Date 16 Feb 45

(Sgd) (W.R. JONES) LT COL.
Commanding COMD, 1 CDN ARMY TPT C. RASC
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
L-67556 Private DELEHAY, Samuel	19 FEB 45	A.B. Ferguson (A.B. FERGUSON) Major

Officer Commanding 64 Cdn Army Tpt Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 5F-127.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 40/P&R/1608 (2604)

Convened by Order of Lt-Col V.R. Jones, ED Comd Hq 1 Cdn Army Tpt Coln dated 29 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L-67556	Private	Samuel	DELEHAY	64 Cdn Army Tpt Coy RCASC

PROCEEDINGS REVIEWED

16 Feb 45

[illegible] Lt Col
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 1 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/13.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to 4-3330 Cpl Brown, J. as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No objn.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.G.T. Ferguson	4 Cdn Armd Div Tpt Coy RCASC
Member	Capt	K.H. Rudney	64 Cdn Army Tpt Coy RCASC
Member	Capt	J.A. Pennington	4 Cdn Armd Div Tpt Coy RCASC
Judge-Advocate	Capt	G.H. Jennings	HQ ATS Cdn Armd Corps Army
Prosecutor	Capt	F. Oldford	64 Cdn Army Tpt Coy RCASC
Defending Offr	Lt	R.C. Lamb	64 Cdn Army Tpt Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32.)

A8. The accused before arraignment make(s) (no) plea.(1)

(1. If a special plea is made (for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to R of P cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty to them, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 34 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I will give evidence. Do you intend to call witnesses on your behalf? Ans Yes sir. Are they witnesses as to character only? Ans No sir.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s) ~~of not guilty~~, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and as to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is altered and signed.(2)~~
(1. *AA 54(2) (b), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Services as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 353 or MFB 296.* 2. *MFB 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement of Services and Conduct Sheet, and in mitigation of punishment?(1) Ans Yes sir by my Defending Officer .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-346, Overseas RO 3019, 2323. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-346, Overseas RO 3019, 2323. RP 48

1.

CHARGE SHEET

The accused, No. L.67556 Pte Samuel Delehay, 64 Army Tpt Coy., R.C.A.S.C., a soldier of the Cdn Army Overseas, is charge with:

FIRST CHARGE
A.A.Sec 18 (4)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY

in that he

in the field on 12 Jan 45, stole two tires (Dunlop 10.50 X 16 No. AZ 2000 and Goodyear 10.50 X 16 serial No. 743M978 N), public property.

SECOND CHARGE
(Alternative)
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 12 Jan 45, was improperly in possession of two tires (Dunlop 10.50 X 16 No. AZ 2000 and Goodyear 10.50 X 16 No. 743M978N), public property.

(H.B. Gow) - Major
Officer Commanding
64 Army Tpt Coy, R.C.A.S.C.

In the field
Jan 45

To be tried by F.G.C.M.

(W.R. Jones) Lt-Col
Comd 1 Cdn Army Tpt Coln

IN THE FD
29 Jan 45

FIELD GENERAL COURT-MARTIAL

CFASC (In lieu of AFAS)
40/FAS/1697 (1968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-67556	Private	Samuel	DELEHAY	64 Cdn Army Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Jan 45 endorsed by me, (~~xxxxxxxxxxxxxxxxxx~~ I/C) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~xxxxxxxxxxxxxxxxx

A84.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this date examined No. L.67556 Pte DELEHAY S.....

64 Cdn Army Transport Coy RCASC and found him *...fit..... to undergo trial

by Court-Martial.

*Insert "fit" or "unfit"

2 Feb 45.....
Date

.....
Signature of Medical Officer

D. 3

Prosecution

First Witness

H-37248 Pte Carriere, E.R. 64 Cdn Army Tpt Coy sworn states.

I first saw two civilians with two tires outside 'D' Plan Whsp around 9 o'clock 12 Jan 45 I made them roll them into the shop. Later, in the afternoon Pte Helehay asked me where the tyres were and I said I had them in the shop and was going to use them on tippers. I am the pl. fitter. They were the same type of tyres as used on split rim W.D. vehicles. He muttered something about them being his tyres. The garage doors were not locked that night because m/c's were going in and out. The next morning when I came into the shop around 8 o'clock I missed the tyres. I reported to the officer.

I didn't see Pte Helehay around when I had the tyres put in the workshop. The first time I saw the tyres the two civilians had them. I recognised them as W.D. tyres and asked where they got them. They made no dispute about handing them over. There was a pile of empty ammo boxes beside the whsp.

Cross-examination

I looked at the tyres. They were mounted on a split type rim. One of them was a Goodyear tyre. I saw the W.D. arrow on the tyres. Pte Helehay just asked me if I saw the tyres. He just muttered something about they were his tyres. The last time I saw them was about 1700 hrs. The next morning about 0800 hrs they were gone off the rims. The two civilians knew where they were put in the shop. There were civilians doing patrol and using same building as we used. This is not the whsp bldg but is about 50 feet away.

RP 83(b) complied with

Second Witness

B 508 44 Cpl Tunnah R.J. 8 Cdn Pro Coy Cdn Pro Corps sworn states

at about 0815 hrs 18 Jan 45 I went to 64 Cdn Army Tpt Coy with Lt Cummings and two civilian police I questioned several civilians as a result we searched the house of Mr van Uden and found two W.D. tires hidden in the barn under some mangels. One was a Dunlop 10.50 x 16. Serial AZ 2000 The other was a Good year 10.50

x16. I questioned him and as a result I held an identity parade at the unit in the Orderly Room at about 15.15 hrs 18 Jan 45. 12 men were paraded in the orderly room. Mr van Uden recognised P.te Helehay as the man in question. I questioned P.te Helehay but he stated he knew nothing about the tyres. Then Lt Cummings and myself took P.te Helehay to Mr van Uden's home where his mother identified P.te Helehay

Cross examination

Mr van Uden did not ~~identify~~ say which soldier it was when he was in the room. He told us after they went out which one it was Helehay was wearing a black leather jacket with stones. I couldn't say whether there were others on the parade with leather jackets on or not. At Mr Van Uden's house I was right with them all the time. After Mr Van Uden's identification I did not think an identification parade was necessary for the mother. Mr Van Uden was positive

RP 83 (A) complied with

Third Witness

Antonius Hendrikus Van Uden, 197 Abdystraat, Heesing K, Holland sworn states.

On 13 Jan 45 in the morning two tyres were standing at the back of my house. The day before a soldier came to my house and asked me if I wanted to buy tyres. I made a deal with the soldier to pay 400 guilders for the tyres when they were brought over to me. After I found the tyres I put them in the stable under the mangels. In the afternoon of the 13th ~~I found~~ Ext the soldier came and I paid him 400 guilders in my bedroom. I think that is the soldier. Points at accused.

Cross-examination

It might be the same soldier or it might not. He wears the same uniform. I think he is the man but I am not sure. He looks the same, he is the same height.

It was the same soldier who asked me to buy the tires as who collected the money. He wore the same leather jacket. I did not know there were two tyres in the workshop. I do not know where the two tyres came from. I did not see anyone leave the tyres there.

wasn't accused or quoid duty at this time?

By the Court

I made the deal for the soldier to bring the tyres at half past seven in the morning but I was not up. Another civilian did ask me if I could get some tyres and I said I would try and supply them. I asked a Cdn soldier if he had any tires to sell. This was on Friday between 6 to 8 P.M. I saw him in my cafe. The lights were on ~~[illegible]~~. I next saw the soldier on Saturday where he came for his money. It was around noon. The soldier said he had brought the tires and he came for the money. I know it was the same soldier by his height and his leather jacket and because he said he had brought the tires and wanted the money. I remember attending the identity parade. I recognized the soldier because he was the same height and wore a leather jacket. There was no one else on the parade with a leather jacket with sleeves in it. (accused is asked to stand) I cannot say whether this is the man or not.

RP 83(b) complied with

Fourth Witness

Adriana Driessens 192 Abijstraat, Heerlingh, Holland sworn states

On a Saturday morning when I got up between 7.30 and 8 o'clock I saw two tyres at the back of the house. On the same day ~~a soldier~~ I saw my son give a soldier money. They were in my son's bedroom. I had seen the soldier before in the cafe. I had seen him in the cafe more than once. I recognize that soldier in the middle as the soldier who paid the money to my son. I know him quite well but when he was at my place he had a leather jacket on. He gave it to him in one bundle.

Cross-examination

He was wearing a dark leather jacket. It might have been brown. All the others have jackets without sleeves but this one had a jacket with sleeves.

RP 83(b) complied with

7

D-5

Defence

L-67556 Pte Hilchay S. 64 Army Tpt Coy RCASC sworn states.

In morning of 12 Jan I was coming out of the guard room and I saw the two civilians looking at two tyres. They were moving them from one side of the rubbage pile. About 3.30 I came back by the rubbage pile and I noticed the tires were gone. Pte Carriere was working on a truck in front of the rubbage pile and I asked him what happened to the tires. He told me he had put them in the workshop.

On the night of 12 Jan I was on the first shift of the guard from 6-8 P.M. Then I went to bed. I was in the guard room until my shifts came on again. In the morning about 0730 Pte Carriere came to me and said the tyres were missing. He asked me if I knew anything about them. I said no. All guards were C.B'd to the guardroom. We had a parade at 1300 hrs. There was no trace found of the tyres. I have a leather jacket with sleeves. I dyed it black on 16th Jan. Before that it was a yellowish tan.

Cross-examine

It is not an issue jacket. I found it in my truck. I know where Van Adams café is. I have been in it a couple of times. I was not in his café on 13th Jan. I did not see Carriere with the two civilians

By the Court

I had the day off on the 13th. The guard is from 1800 hrs 12 Jan to 0600 on 13th. My shifts were 1800 to 2000 hrs and from 0001 to 0200 hrs. I was in the guard room all the time between the 1st & 2nd shift. After my second shift I went to sleep at about 0200. The Cpl woke me about 0700 hrs for breakfast. After I came back from breakfast the fitter asked me if I knew anything about the tyres. I said no. I went into the guard house and went to sleep. I slept until about 0945. When I woke up we were all C.B'd to the guardroom until 1145. After that I had dinner then went to the orderly room. Nothing had been discovered about the tyres. It was about 1330 when I came out of the orderly room. Between 1700 & 1800 hrs on 12th I was getting ready for guard. I did not say anything about them being my tyres when Carriere said they were in the workshop. I had nothing to do with

~~I did not see the tyres or take them~~

the tyres after Carriere said they were in the workshop. I did not go to him at any time and get 400 guilders. I never had any dealing is with Van Uden at all. I did not tell him that I could get any tires. I did not take any tires to his house.

R.P. § 3(b) complied with.

Second Witness

B-117317 Pte Hrynan, G.W. 64 Army Tpt Coy RCASC sworn states

I was on guard with Pte Hilehay on 12-13 Jan. I was with him all the time from 1800 hrs 12 Jan. until 0600 hrs 13 Jan. except when making our rounds. One man acts as sentry at the veh. park and the other makes the round. It was only a small parking lot. A round only took a couple of minutes and we made alternate rounds. I know Van Uden's cafe. It is a good ten minute walk from the vehicle park. Hilehay wouldn't have had time to get there and back without me knowing it. He was not away to the best of my knowledge. I went ~~off~~ to bed in the guard room ~~the guard room at~~ 0600 hrs and slept until 1000 hrs when they woke us up and told us the guard was C.B'd. ~~when we came off at 0600~~ When I woke up. Pte Hilehay was in the guard room. I asked him why he didn't wake me for breakfast. He said he called me but I didn't wake up.

No cross-examination

By the Court

After our first shift we sat in the guard room and talked to the Cpl until the next shift. He was wearing a leather jacket with sleeves in it. It was a light tan. Not the same colour it is now. I remember him dying it later. after the time the tyres were missing.

R.P. § 3(b) complied with.

Third Witness

A42330 Cpl. Braver, J. 64 Army Tpt Coy RCASC sworn states

I live in the same billet as Pte Hilehay. His leather jacket was dark in colour on the day of the identification. It was a light brown almost yellow colour before but he had it darkened about a week before the identification parade. It might have been lost.

No Cross-examination

Def. Offrs Closing Address

Evidence against accused is circumstantial and very indefinite. Reviews evidence, no opportunity, colour of jacket

Prosecuting officer's closing address

Although Van Uden seemed doubtful. His mother had no doubt that he was the man who got the money from her son. She did not depend on the jacket because she had seen him in the café. Possible for Stelchay to have taken the tyre between 0600 and 0730 hrs 13 Jan.

Summing up by Judge Advocate

What facts have been proved, the credibility of witnesses and the weight to be given to the evidence of any witness are matters for the court to decide. The accused is charged with stealing two tyres, public property or alternatively with being in improper possession of them. The court can only find him guilty of one of these offences although it may, of course, find him not guilty of both.

Stealing is defined in MML P118 para 50 sentence 1 Reads. So to prove this charge the prosecution must show that the accused carried away the tires with the intention of permanently depriving the government of them. Intent can only be inferred from the facts which the court find to be proved.

The evidence is to a great extent circumstantial and I suggest the court consider para 42 p81 MML Reads. Moreover the evidence for the prosecution is mainly that of an obvious accomplice and I must warn the court of the danger of convicting the accused on such evidence. Reads para 45 MML p 83.

Applied to this case these principles mean that if you believe Mr Van Uden and find he is not mistaken in his ~~identity~~ identification of the accused as the person who made the deal and next day came to collect the 400 guilders it is within your power to find the accused guilty on his evidence. But there is grave danger in doing so because he being implicated in an illegal transaction may be attempting to minimise his guilt or be protecting someone entirely different from the accused by implicating the accused.

If you believe Mrs Strivens and her identification of the accused as the person who received the 400 guilders then is corroboration of Van Ederens story that is to say there is evidence that the accused received some money from Van Eden.

But there is no direct evidence that the accused took the tyres. Van Ederens identification may have been based solely on the fact that the soldier wore a leather jacket much similar in it similar to that of the soldier with whom he made the deal and Mrs Strivens identification of the accused has a day may have been a result of taking the accused alone to her when she first identified him as the soldier to whom her son paid the money. Van Eden tells two different stories as to who began the negotiations he says the soldier came for the money around noon and finally he was not sure that the accused ~~is the~~ am in court today is the man he picked on ~~in~~ identity parade as being the man who made the deal and collected the money. The accused denies that he had any further knowledge of the tyres after he had noticed them missing from the rubbish pits and had been told by Carrier that they were in the workshop. The tyres were taken sometime between 1700 hrs 12 Jan and 0800 hrs 13 Jan according to Pte Carrier and were behind Van Ederens house between 0730 and 0900 hrs 13 Jan according to Mrs Strivens. The identification parade was on 18 Jan. The accused says his leather jacket was yellow until 10th when he ~~had~~ dyed it black Cpl Brewer says this change took place about a week before the identification parade or may be less. Pte Hayman says on the night of 12th Jan the jacket was a light tan, not black as it is now. The accused was on guard from 1900 hrs 12 Jan to 0600 hrs 13th. He says he took the shifts from 1900 to 2000 hrs and from 0001 hrs to 0200 hrs and was in the guard room the rest of the time until 0700 hrs 13th when he went for breakfast after which he went to sleep in the guard room to 0945 hrs and was then CO'd to the guard room until 1145 hrs. Pte Hayman says he was with the accused from 1800 hrs 12 Jan to 0600 hrs 13 Jan except for short periods when they separated on their rounds during their tours of duty.

The court must always keep in mind that the accused is presumed innocent until he has been proved guilty beyond reasonable doubt. To warrant an acquittal the doubt must not be light or capricious, a mere hesitation to pronounce a finding of guilty, it

must be such a doubt as would remain in an honest heart after an unbiased, calm, consideration of all the evidence before the court. But if there is a reasonable doubt, if you are not convinced of the guilt of the accused he must be given the benefit of the doubt and be acquitted.

J.A. MR. President, are there any further matters on which you wish me to advise the Court?

Pres. No

J.A. Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?

Pros. No

J.A. Mr. Defending Officer, are there any further matters on which you wish me to advise the Court?

Def. No.

E-3.

The accused has been overseas for six months and during that time has had no crime.

G. Fermyn Capt
J.A.

EXHIBIT A 13

ARMY FORM B 296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
L.67556	Pte	DELEHAY, S.	64 Cdn Army Tpt Coy., R.C.A.S.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 657, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. Sec 11	1 times	1 times
For A.A. Sec 15 (1)	- times	2 times
For A.A. Sec 15 (2)	3 times	3 times
For A.A. Sec 40	- times	1 times
For	times	times

[redacted] Nil

[redacted]

2. The accused has not been previously convicted. [redacted] Nil

[redacted] Nil

3. The accused is not under sentence at the present time. [redacted] Nil

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 8 15 days in military custody, making a total of 8 15 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 21 years 10 months [redacted] Nil

6. The date of his attestation specified in his record of service is 30 NOV 42 [redacted] Nil

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 1 mon 26 dys

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 1 mon 26 dys service

9. The accused is entitled to reckon 2 yrs 1 mon 26 dys service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, [redacted] CVSM & Clasp (*state any military decoration or reward*).

11. [redacted] Nil

of

12. [redacted] Nil

[redacted]

W.L.37655/1559 20M. 5/44. P. Ltd. TH-5

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of Jan 45

(O.M. Fisher) - Lieut

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years _____ N/A

In the rank of _____ years _____

In the rank of _____ years _____

In the rank of _____

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

EXHIBIT B

MFM 6
(AFB 122)
40/P&S/136 (3429)

No L.67566 Name DELEHAY S. | Sqn. Battery or Company | Corps R.C.A.S.C. | Date of enlistment 30 Nov 42 | GC Badges | Service of Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 23 Feb 43 No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature (OC Company, etc)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed on completion of six months service 30 May 43 date of last entry 23 Feb 43 No. and date					
North Bay	5 OCT 43	Pte		A.W.L. from 2200 hrs 5 OCT 43 to 0200 hrs 6 OCT 43 (Absent 2 hrs 20 mins)	Cpl Barker Pte Andrews Documentary Cpl Ericksson	3 dys C.B.	6 OCT 43	Capt P. Lorriman	
				A.A. Sec 15 (1)		28 dys Detn.	28 Jan 44	Col. R.L. Mitchell	Forf 11 dy pay FR&I 149 (1)a)
Shilo Camp	17Jan44	"		A.A. Sec. 15 (1) AWL 1day. 10 hrs.		Remitted 4 days of sentence 7 dys C.B.	6 Mar 44	Capt ICS Ketchen	Forf 28dy pay FR&I 149 (1)b)
" "	4Mar44	"		A.A. Sec 15 (2) Failing to appear at place of parade.	Cpl Keir L/C Smith Cpl Busby Cpl Mutrie	11 dys Detn.	Col. J.J. Burton-Williason		Forf 11 dy pay FR&I 149 (1)b)
Red Deer	11May44	"	(1)	AA Sec 15 (2) Failing to appear at place of parade appointed by his O.C.					

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer	12May44	Pte	(2)	A.A.Sec 40 Neglect to the prejudice of good order and military discipline.					
			(3)	A.A.Sec11 Neglecting to obey Company Part One Orders.					
			(4)	A.A. Sec 15 (2). Failing to appear at place of parade appointed by his Company Commander.					

Certified true copy

(T. Oldford)-Capt

SUMMARY OF EVIDENCE

Summary of Evidence in the case of L.67556 Pte Delehay, S.,
64 Cdn Army Tpt Coy, R.C.A.S.C.
Charges as attached.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS FOR PROSECUTION: Lt C.D. Cummings, "D" Pl Comd, 64 Cdn Army Tpt Coy, R.C.A.S.C., having been duly sworn states:

"On the morning of 13 Jan 45, H.37248 Pte Carriere, E.R., my platoon fitter, reported that two tires were missing from the platoon fitters shop. I had the guardsparaded at 1330 hrs and they were questioned regarding the missing tires. They have been confined to barracks since 0830 hrs this morning. Nothing came to light.

On the afternoon of 17 Jan 45, A.42330 Cpl Braser, J., of my platoon reported that through conversation with the civilian policeman he felt quite sure that he could trace the tires. I contacted 8 Cdn Pro Coy for their help. The morning of the 18 Jan 45, B.50844 Cpl Tunnah, R.J., of 8 Cdn Pro Coy, reported to me and I turned the investigation over to him."

The accused declines to cross-examine the witness.

C. D. Cummings

(C. D. Cummings) Lieut

SECOND WITNESS FOR PROSECUTION: A.42330 Cpl Braser, J., 64 Cdn Army Tpt Coy, R.C.A.S.C., having been duly sworn states:

"I knew that two tires had been taken from the platoon fitter's garage. I speak Dutch and in conversation with a civilian on 17 Jan 45, he told me that someone knew where the tires were but that he himself didn't know. I reported the matter to Lt Cummings, who drew the matter to thecivilian policeman's attention and contacted 8 Cdn Pro Coy. On the 18 Jan 45, a corporal from the Cdn Provost reported to Lt Cummings and he, Lt Cummings, the civilian policeman, Sgt Boyd and myself commenced the investigation. We questioned five civilians and then Mr Van Uden. He suggested we search the grounds of the local coal dealer. We did this but without success. Then Sgt Boyd suggested we search Mr Van Uden's place. We did this and found two tires under a pile of sugar beets in his stable. Mr Van Uden then admitted that he had bought them from a Canadian soldier for 400 guilders. He said he could identify the soldier because he wore a black leather jacket and had a dark complexion and dark hair. Then we held an identification parade. We marched in seven men including Pte Delehay. (Iam notsure of the exact number but I think it was about seven.) Mr Van Uden said the man was not present. Then after we marched the men out he said, "The man is present - it was the one in the black leather jacket." We brought Pte Delehay in and when asked if that was the man who sold him the tires Van Uden replied "Yes that is the man". When asked if anyone had seen him buy the tires Mr Van Uden said that his mother had seen him. Then we went to question his mother and took Pte Delehay along. She said she recognized him as the man who was dealing with her son. She had seen them talking but she had not seen any money change hands. She hadn't seen the tires.

The accused declines to cross-examine the witness.

J. Braser Cpl

(J. Braser) Cpl
A.42330

A.42330 Cpl Bracer, J. is duly sworn as interpreter.

THIRD WITNESS FOR PROSECUTION:

Antonius Hendrikus Van Uden, passport H 42 No.001560, of 192 Abdijstraat, Heeswijk, Holland having been duly sworn states:-

"Another civilian asked me if I had any tires to sell him and I replied that I would try to do my best. I then asked a Cdn soldier if he had any tires to sell to me and he replied that he had. He brought the tires to me on the morning of 13 Jan 45. In the afternoon of 13 Jan 45 I paid the soldier the sum of four hundred (400) guldens for the tow tires. On the afternoon of 18 Jan 45 two civilian police in company with two Cdn Military Police searched my house and found the tires and took them from me.

Q. 1. "Is Pte Delehay, the man standing beside you, the Cdn soldier who sold you thetires ?"

A. 1. "I can not say for sure but I think he is. He is the same height and he wears the same kind of dark leather jacket."

Q. 2. "How did you know he was a Canadian ?"

A. 2. "By his hat badge."

At this point the witness is called upon to identify the hat badge of the officer conducting the summary. He identified it as an English not a Canadian badge at a quick glance. This was true as it was an RASC badge not RCASC. It was noted that the accused at the time had no hat badge on his cap.

Q. 3. "Did the man who sold you the tires have a badge on his cap ?"

A. 3. "I can not say for sure."

At this point the witness is cautioned that he is on oath and that he has given conflicting statements.

Q. 4. "How did you know that the soldier who sold you the tires was a Canadian ?"

A. 4. "I had seen him before in the cafe and on his jacket (not his leather jacket) he had Royal Canadian - And something else I think it was - Army Corps."

The accused declines to cross-examine the witness.

(A. H. Van Uden)

FOURTH WITNESS FOR PROSECUTION: M.37248 Pte Carriere, E.R., fitter of "D" Platoon, 64 Cdn Army Tpt Coy., having been duly sworn states:

"I saw two civilians examining two tires beside the salvage dump near our platoon workshop on the morning of 12 Jan 45. I recognized the tires as W.D. property and I made the civilians roll them into the shop. Pte Delehay came along in the afternoon and asked where the tires were. I said they were in my shop and that I was going to put them on the tippers. Pte Delehay muttered something about the tires being his tires. I didn't lock the shop that night because motorcycles were going in and out. In the morning the tires were gone and I reported the matter to Lt Cummings.

The accused declines to cross-examine the witness.

E.R. Carriere
(E.R. Carriere) Pte

FIFTH WITNESS FOR PROSECUTION Adriana Driessens, (mother of Mr Van Uden), passport H 42 No. 000469 residing at 192 Abdijstraat, Heeswijk, Holland having been duly sworn states:

"I have seen that soldier (Pte Delehay) in my cafe on various occasions. The week before last, I cannot remember the exact date, there were two tires behind the house. My son told me he had bought them for four hundred guilders but had not yet paid for them.

That afternoon Pte Delehay was in a bedroom with my son Van Uden. I saw money change hands. I did not see my son count the money, but I saw him hand it over to the soldier. I recognized Pte Delehay because I had seen him in the cafe before.

Q. 1. "How was he dressed ?"

A. 1. "He was dressed as he is now, with a black leather jacket on. I have never seen him dressed differently."

The accused questions the witness.

Q. 1. "What time was I in the room ?"

A. 1. "I did not notice the time because I was not aware of the consequence of the case."

Wed H. A v. Uden.

(Adriana Driessens)

SIXTH WITNESS FOR PROSECUTION: ✓ B.50844 Cpl Tunnah, R.J. 8 Cdn Provost Company having been duly sworn states:

"At approx 1630 hrs 17 Jan 45 Lt Cummings, Platoon Commander, "D" Platoon, 64 Cdn Army Tpt Coy, RCASC, reported to Sgt. M. Hunter, "A" Section, 8 Cdn Pro Coy, of the sale of two Government tires. At approx 0815 hrs 18 Jan 45, in company with L/Cpl May, A.E., I proceeded to the a/m Unit, located at MR 443413, sheet 4 (Holland) to investigate the case. On arrival at "D" Platoon I contacted Lt Cummings and in company with two Civil Police Constables we commenced to question a number of civilians regarding the two tires. After further investigation we searched the house of Antonius Van Uden, residing at 192 Abdijstraat, Heeswijk and found the tires under the mangels in the barn. These tires were: one Dunlop 10.50 X 16 serial No. A Z-2000 and one Goodyear 10.50 X 16 serial No. 743 M 978 M. After questioning Mr Van Uden he admitted that he had bought the two tires from a Cdn soldier, paying the sum of four hundred (400) guilders and also that he could identify the soldier. At approx 1515 hrs 18 Jan 45 an identification parade was held at the Orderly Room, "D" Platoon, 64 Cdn Army Tpt Coy, RCASC, where Mr. Van Uden identified L.67556 Pte Delehay, S., "D" Platoon, 64 Cdn Army Tpt Coy., as the soldier who sold him the tires. Upon questioning Pte Delehay he denied having sold the tires. At this time H.37248 Pte Carriere, E.R., of the same Unit was called in and questioned. Pte Carriere stated that Pte Delehay had made inquiries about the tires and also that the tires were there on the evening of 12 Jan 45 but were missing on the morning of 13 Jan 45. At approx 1630 hrs 18 Jan 45 Pte Delehay was escorted to 192 Abdijstraat, Heeswijk, where Adriana Dressens, mother of Mr. Van Uden, identified him as being the Canadian soldier whom she saw making a deal with her son in the afternoon of 13 Jan 45."

The accused declines to cross-examine the witness.

(R. J. Tunnah) Cpl
B.50844

The accused does not call any witnesses.
The accused declines to make a statement or give evidence on oath.

I certify that the foregoing Summary of Evidence, consisting of four pages was taken down by me in the presence of the accused and that RP 4 (C), (D), (E) and (G) have been complied with.

.....
(T. Oldford)
Officer Taking Summary
64 Cdn Army Tpt Coy, R.C.A.S.C.

In the Field
26 Jan 45.

List of Witnesses for Prosecution

First Witness - Lt. C.D. Cummings, 64 Cdn Army Tpt Coy, R.C.A.S.C.

Second Witness - A.42330 Cpl Braoer, J., 64 Cdn Army Tpt Coy, R.C.A.S.C.

Third Witness - Antonius Hendrikus Van Uden, 192 Abdijstraat, Heeswijk, Holland.

Fourth Witness - H.37245 Pte Carriere, E.R., 64 Cdn Army Tpt Coy,

Fifth Witness - Adriana Driessens, 192 Abdijstraat, Heeswijk, Holland.

Sixth Witness - B.50844 Cpl Tunnah, R.J. 8 Cdn Pro Coy.

(T. Oldford) - Capt
Officer Taking Summary
64 Cdn Army Tpt Coy, R.C.A.S.C.

Field
25 Jan 45

26 JAN 45

I, hereby request the service of Capt Price, 1 Cdn Army Tpt Coln, R.C.A.S.C. to conduct my defence at forthcoming Court-martial.

(L.67556 S. Delehay) Pte
6A Army Tpt Coy, R.C.A.S.C.

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

COUNTER NUMBER 543918

HOUR 2240

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR [illegible]

YYY-99

Pte Deline F.G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn b.)

At present under sentence for ..... beginning on (date) 14 Sept 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... 8 Sept 44 (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 90.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn b,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(7). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date .....
Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 19 OCT 1944 2 CDN BRANCH AFPU

RECORDED AT CMHQ IN AB 160 VV4-99

FIELD GENERAL COURT-MARTIAL

CPA98 (In lieu of AFA31) 40-P.M.S./1698 (3864)

Convened by Order of Lt-Col F. F. Comer Comd 1 Cdn Corps Tps HQ dated 6 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-4693	Private	Fletcher Godfrey	Adeline	16 Cdn Spec Sv Coy

PROCEEDINGS REVIEWED 16 Oct 44
D. Doodeller
Capt

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 8 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ~~----~~ as interpreter ? Ans ~~--~~
The Interpreter is sworn.(1) Do you object to L-22658 Cpl DF McLeod as shorthand writer ? Ans no
The shorthand writer is sworn.(1) Hq 1 Cdn Corps
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans Not(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	JBW Shirley	HQ 1 Cdn Corps Sp Coy
Member	Capt	WJ Armstrong	201 Cdn Inf Bde Sp Coy RCASC
Member	Lieut	EC Bruce	CRCEME 1 Cdn Corps Tps
Judge-Advocate			
Prosecutor	Capt	JR Plourde	16 Cdn Spec Sv Coy
Defending Offr	Capt	AJ Bishop	2 Cdn Tk Bde Sect

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be retained separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arrainment makes(s) (~~no~~) plea
(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I give evidence ..... Do you intend to call witnesses on your behalf ? Ans Yes ..... Are they witnesses as to character only ? Ans Not .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 6. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 340-344, Overseas RO XX, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

gpcs.

The accused, No. C-4693 Pte Fletcher Godfrey DELINE, of No 16 Canadian Special Employment Company, CMF, a soldier of the Canadian Army Overseas is charged with:

When on active service, using insubordinate language to his superior officer,

First Charge
Section 8(2)
Army Act

in that he,

in the Field, in Italy, whilst serving F.P. within the unit at 0800 hrs 26 Aug 44, on being checked for reading whilst on duty did reply to H-6399 Sgt Inge, W.J., "I don't give a fuck what you do.", or words to that effect.

When on active service, disobeying a lawful command give by his superior officer,

Second Charge
Section 9(2)
Army Act

in that he,

in the Field, in Italy, at 0800 hrs 26 Aug 44 when ordered by Sgt Inge, W.J. to double, replied "I won't double." or words to that effect, and he did notdo so.

W.J. Richmond

(W.J. Richmond) Major
Officer Commanding
16 Cdn Spec Emp Coy., CMF.

In the Field

27 August 44

To be tried by Field General Court Martial.

H G Conn

(H G Conn) Lieut-Col.
CRCME 1 Cdn Corps Tps

In the Field
6 Sep 44

JMA.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-4693	Private		Fletcher Godrey	DELINE	16 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 6 Sep 44 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) J B W Shiles (Must be named. RP 106.) HQ Comd 1 Cdn C Tpt Coln RCASC (Unit.)

MEMBERS.

~~Capt~~ Lieut To be detailed by CRCEME 1 Cdn Corps Tps

Capt or Lieut (Rank.) To be detailed by (Named or detailed. RP 106.) ADOS 1 Cdn Corps Tps (Unit.)

WAITING MEMBER.

Capt or Lieut (Rank.) to be detailed by (Named or detailed, if any. RP 106.) OC 16 Cdn Spec Emp Coy (Unit.)

JUDGE-ADVOCATE.

(Rank.) --------- (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in ITALY (Country.) (H G Conn) (Signed personally. RP 105 fn 2.) Lieut-Col. (Rank.)

Date 6 Sep 44 Commanding 1 Cdn Corps Tps RCEME
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution:

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used (or not) is suggested as being fair to the accused):

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 42 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(m).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 507.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 118(C), MML p 709.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

JWS

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. C. 4695 Pte. Deline, F.G. of No 16 Chm Spec. Employ'd Cog. C.M.F. and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Field General Court Martial.

E H Stull Capt
(Medical Officer)

Station _____

Date 8 Sept 44

FGCM proceedings in the case of C-4693 Private Fletcher Godfrey Deline 16 Cdn Spec Emp Coy

At 1500 hours the trial commences, 8 Sep 44

First Witness for the Prosecution: H-6399 Sgt W J Inge, 16 Cdn Spec Emp Coy, being duly sworn is examined by the prosecution:

Q-1 Will you identify yourself to the court?
A-1 I am H-6339 Sgt W J Inge, Camp Sergeant, 16 Cdn Spec Emp Coy.

Q-2 Do you recognize the accused?
A-2 Yes, he is deline (indicating accused.)

Q-3 Will you tell the court under what circumstances you remember the accused as to what happened on 26 Aug 44?
A-3 On 26 Aug 44 I had the accused and some other men digging a sump hole behind the kitchen. At approx 0800 hours on that date I was making my rounds and came by the hole and so Deline leaning up against the hole reading a Canada Weekly. I ordered him out of the hole and took the book away and told him to double. He said "Fuck you I won't" or words to that effect. I took him to the SM and laid charges against him and sent him back to the guard room.

Q-4 Will you tell the court under what circumstances the accused was at that time?
A-4 The accused at that time was doing 28 days Field Punishment.

Q-5 You have just said that you ordered the accused to double. Did he do so?
A-5 No, sir.

Q-6 You are ready to swear before this court that the accused did not do so?
A-6 Yes, sir, I am.

Q-7 Will you tell the court what your duties were before you joined this company?
A-7 I was Section sergeant with No 3 Cdn Pro Coy.

Q-8 You were a provost sergeant?
A-8 Yes, sir.

XX'd by Defence

Q-9 I want to get the account of this incident before the court quite straight. Do you remember giving evidence in the summary of evidence before Captain Plourde on the 27 Aug 44?
A-9 Yes, sir.

Q-10 Your statement at that time in giving your account of the incident was: "I took this Canada Weekly away from the accused and was giving him a piece of my mind and the accused whom I now recognise as being present here, answered "I don't give a fuck what you do" I ordered him out of the whole and told him to double."" That was the evidence you gave then. The evidence you have just given now is that you ordered him out of the whole and took the book away from him and ordered him to double then he said "Fuck you I wont"

Just what is the correct version?

A-10 I ordered him out of the hole and took the book away from him and ordered him to double and he said "Fuck you, I won't".

Q-11 Where were you standing at that time?
A-11 Going past the hole on the way to the kitchen.

Q-12 Where were you with respect to the accused?
A-12 Standing on top of the hole.

Q-13 When he climbed out of the hole where was he standing with respect to the hole?
A-13 He was standing on top of the hole, too.

Q-14 How far from you?
A-14 1½ yards.

Q-15 Was he facing you?
A-15 Yes.

Q-16 In the summary you said you were giving the accused a piece of your mind?
A-16 Yes sir.

Q-17 It was following that the accused used the words he is alleged to have used in the charge?
A-17 Yes,

Q-18 Then you ordered him to double?
A-18 I ordered him to double up the road until I told him to about turn.

Q-19 You ordered him to double until you gave the order to about turn. What was the object of that?
A-19 As FP sergeant I was ordering him to double as with FP everything is to be done on the double.

Q-20 You weren't sending him on any errand?
A-20 No.

Q-21 You wanted him to double. How could he double if he was facing you about a yard and a half away?
A-21 If I was facing you I could start doubling.

No re-x'm

In the opinion of the Court and the JA it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Second Witness for the Prosecution: L-35024 Sgt E T Williams, 16 Cdn Spec Emp Coy, being duly sworn, is examined by the prosecution:

Q-22 Will you identify yourself to the Court?
A-22 I am L-35024 Sgt E T Williams, 16 Cdn Spec Emp Coy.

Q-23 Will you tell the court what your duties are in this company?
A-23 I am sergeant cook in 16 Cdn Spec Emp Coy.

Q-24 Do you recognize the accused in this tent?
A-24 That is Deline (indicating the accused.)

Q-25 Will you tell the court in your own words what happened with reference to a particular event which took place on or about 26 Aug 44?

A-25 On or about that day I was on duty in the kitchen. I left the kitchen to supervise the holes that were being dug. I walked over to the hole to sergeant Inge where the prisoner and some other lads were digging. The accused had a shovel in his hand and was reading. Sgt Inge told him to put down the book and got to work or words to that effect. The accused said he couldn(t shovel until the ground was picked. Sgt Inge told him if he did not like that job he could give him another. Sgt Inge then told him to get out of the hole and double. He said "Fuck it" or words to that effect. I went away then.

Q-26 What were the accused and Sgt Inge doing the last time you saw them?

A-26 They were conversing the last I saw then and I started to walk away.

Q-27 The work that was being done at that time. Did it have any relation to your duties?

A-27 They were digging a new sump hole for the kitchen. The old hole was almost full and I wanted to see how long it would be before the new hole would be ready.

Q-28 Who did you happened to come along at that time?

A-28 We had just finished breakfast and I wanted to see what hole would be ready for us.

XX'd by the Defence

Q-29 You said Sergeant Inge told him to get out of the hole after he said he could not work until the ground was picked. Did he at that time use the words "I do not give a fuck what you do".

A-29 I do not want to say whether it was in the hole or on top of the hole.

Q-30 Were you working?

A-30 Yes.

Q-31 What was your duty?

A-31 I was supervising at the other hole.

Q-32 Were you paying any attention to what was going on at the other hole?

A-32 I just happened to over hear their conversation. I was able to hear the conversation to some extent.

Q-33 Do you remember the exact words?

A-33 No, I could not say the exact words.

Q-34 When the sergeant ordered the accused to get out of the hole did you hear the sergeant order the accused to double? Can you swear to that?

A-34 Yes, I heard him say something about doubling.

Q-35 Do you remember the conversation that took place between you and me in the presence of the accused yesterday?

A-35 Yes, sir.

Q-36 At that time I asked you if you had heard Sgt Inge order the accused to double. Do you remember that?

A-36 I said I did not think so, that I was not certain.

Q-37 Do you remember telling me anything else? Why did you not hear that part of the conversation?

A-37 At that time I did not think I would be called as a witness and after that I went to discuss it with Captain Plourde. I just said what I thought.

Q-38 You are under oath now. I want you to answer this question and to recall what you have already said in evidence. Did you hear sergeant Inge order the accused to double?

A-38 I heard him say that in so many words to that effect.

Q-39 Did you hear the accused make any reply?

A-39 He said "Fuck it - I won't double" or words to that effect.

No re-x'm

Questioned by the Court

Q-40 In your evidence you said there was a prisoner digging a hole. Who was the prisoner?

A-40 Deline and the other lads.

Q-41 Which one of the soldiers in the hole made the statements you have given in evidence?

A-41 Deline was the one whom he was speaking to so I imagined it was he who made the remarks.

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

THE CASE FOR THE PROSECUTION IS CLOSED.

First Witness for the Defence: C-4693 Pte F G Deline, 16 Cdn Spec Emp Coy, being duly sworn is examined by the Defence:

Q-42 Will you identify yourself to the court?
A-42 I am C-4693 Pte F G Deline, 16 Cdn Spec Emp Coy.

Q-43 Will you tell the court in your own words exactly what happened at or about 0800 hours, 26 Aug 44, with reference to the incident which is the basis of the charge in this case?
A-43 On 26 Aug 44, at about 0800 hours I was sent out with the FP men to work on the sump hole. I got in the sump hole and the refuse from the night before was still there.

Q-44 Was there anybody else with you?
A-44 Pte Wilcox was in the hole with me, Pte Baker was waiting on the side of the hole, and Pte Peters was nearby washing dishes.

Q-45 What happened then?
A-45 I was in the hole working. There was a Canada Weekly there and while waiting for the lad to pick I was looking at the casualty lists in the Canada Weekly.

Q-46 What did you have? A pick or a shovel?
A-46 I had a shovel.

Q-47 What did the other soldier in the hole have?
A-47 He had a pick which was of little use as the head kept coming off.

Q-48 What took place then?
A-48 I was reading the casualty lists in the C.W. when Sgt Inge came along and told me to put the book down and get to work. I put the book down and put a piece of earth on it and told him I could not shovel until Wilcox had got the earth picked. Sgt Inge told me to put the book down and I said "I can't work till it's picked, Sergeant". Once again he replied "Get to work". I said "Sergeant, it is too hard to shovel until it is picked". The sergeant said "if that is too hard I will get you something harder". I said I could not shovel until it was picked. He ordered me to get out of the hole.

Q-49 In the charge the particulars state "on being checked for reading whilst on duty did reply to H-6399 Sgt Inge WJ, "I don't give a fuck what you do" or words to that effect" Did you make that statement?
A-49 No, I did not. The only words I used were that I could not shovel until it was picked. When I was ordered out of the hole I got out and Sgt Inge was standing about two feet away directly in front of me. He said "Double" and before I had time to double he had his hand in front of my face to give me a piece of his mind. He then told me to go to the orderly room and report to the SM.

Q-50 When the Sgt said "Double" where did he want you to double?
A-50 He just said "Double".

Q-51 If you had doubled at the time he ordered you to what would have happened?
A-51 I would have run right into him.

Q-52 What happened then?
A-52 He had his hand in my face and I stood listening to him. After he had finished bawling me out I saw the SM in the orderly room.

Q-53 The second charge states in the particulars "when ordered by Sgt Inge W J to double, replied "I won't double" or words to that effect, and he did not do so". Did you say that?
A-53 No, I did not have an opportunity of replying.

XX'd by the Defence

Q-54 Do you understand the nature of an oath?
A-54 Yes.

Q-55 You have just told the court on oath that when Sgt Inge ordered you to work in the first place you said "I can't work"till it's picked". A few minutes after on a the same question by the defending officer you said you had stated "I can't shovel till it's picked". Will you tell the court which is right.
A-55 I was working by shovelling.

Q-56 Another point, do you remember reading the Canada Weekly?
A-56 Yes.

Q-57 At Another point in your evidence you said you said that Pte Wilcox had a pick but that it was no good. How did you expect Wilcox to work if the pick was no good?
A-57 On man had been sent after a pick.

Q-58 Who was that man?
A-58 That man was Pte De Young.

Q-59 Where is Pte De Young now?
A-59 In detention.

Q-60 Where?
A-60 I can't tell you where.

Q-61 When you were told to get to work by Sgt Inge you replied "I can't pick". When he told you to get to work you replied something else again?
A-61 I told him two or three times that I could not work till it was picked.

Q-62 You made another statement to the Sgt, What was it?
A-62 The sgt told me that if that work was too hard he would get something hard for me to do. I replied I still could not shovel until it's picked.

Q-63 Then you stated that Sgt Inge gave you a piece of his mind?
A-63 Yes.

Q-64 What did he say to you? Can you remember one word he said?
A-64 He was just giving me a piece of his mind.

No re-examination

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Second Witness for the Defence: A-116077 Pte W G Peters, 16 Cdn Spec Emp Coy, being duly sworn, is examined by the Defence:

Q-65 Will you identify yourself to the Court?
A-65 Yes. I am A-116077 Pte W G Peters, 16 Cdn Spec Emp Coy.

Q-66 At about 0800 hours on 26 Aug 44 can you tell the court where you were and what you were doing?
A-66 I was washing dishes near the sump hole.

Q-67 Was that where the accused was working on that day?
A-67 Yes, sir.

Q-68 Did you overhear the conversation which took place between Sgt Inge and the accused?
A-68 Yes.

Q-69 Did you hear the accused make this statement "I don't give a fuck what you do" or did you hear the Sgt order the accused to double?
A-69 No, sir.

Q-70 How far were you from the sump hole?
A-70 About six feet.

Q-71 Could you hear plainly?
A-71 Yes, sir.

Q-72 If those words had been said do you think you would have heard them?
A-72 Yes, I think I would have heard them.

Q-73 The accused has given evidence that what he said was, "I can't shovel until it's been picked" when ordered to get to work. Did you hear him say that?
A-73 Yes, sir.

Q-74 Are those the exact words he used? Can you tell the court exactly what you did hear?
A-74 He said he could not shovel till it was picked.

Q-75 Did you hear the accused being ordered to double by Sgt Inge?
A-75 No, but I went back to work when he was getting out of the hole.

XX'd by the Defence

Q-76 You have just told the court, Peters, and you are on oath, that you were standing about six feet from the sump hole?
A-76 Yes, sir.

Q-77 Was the sump hole round or square?
A-77 It was square.

Q-78 Will you explain your position in relation to the sump hole?
A-78 I was on one side of the sump hole and Sgt Inge was on the opposite side of the hole.

Q-79 How wide was the sump hole?
A-79 About 6 feet.

Q-80 You said you were about 6 feet from the sump hole?
A-80 Yes, approximately.

Q-81 How many feet was Sergeant Inge away from the edge of the hole?
A-81 I can't say.

Q-82 Where was the accused in relation to the square?
A-82 The accused was in the hole.

Q-83 You mean to tell me that you were standing six feet away from the hole, that the hole was six feet wide, Sgt Inge was on the opposite side of the hole and that you didn't hear what sgt Inge Said?
A-83 I was going by the sump hole

Q-84 I thought you told us you were working beside the sump hole?
A-84 Yes, I was working by the sump hole.

Q-85 You just told us you heard the accused's words? You say you heard the accused say "I cant shovel until it is picked". Now in all reasoning, the accused would not have said those words until he had been spoken to before. Is that right?
A-85 Yes, but I only stopped work and look up when I heard the accused say those words, "I can't shovel till it is picked".

Q-86 I still want you to explain to the court how it is that you were ~~the~~ washing dishes by the hole and yet you did not hear what Sgt Inge said?
A-86 The accused was a lot closer to me?

Q-87 How deep was the hole?
A-87 His head was still out of the ground.

Q-88 Did you hear Sgt Inge say anything?
A-88 Nothing, sir.

Q-89 How do you know it was on 26 Aug 44?
A-89 The witness does not answer.

Questioned by the Court

Q-90 This place where you were washing dishes. Is it the usual place for you to wash dishes?
A-90 Yes, sir.

Q-91 Was this on the table or on the ground?
A-91 I was washing the dishes in a tub on the ground.

Q-92 How far were you from the accused?
A-92 About six feet.

Q-93 How far were you from Sgt Inge?
A-93 I can't say exactly. He was on the opposite side of the hole.

Q-94 How wide was the hole?
A-94 About six feet.

In the opinion of the Court ~~and the Ja~~ it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

Third Witness for the Defence:- Pte Baker, 16 Cdn Spec Emp Coy, being duly sworn, is examined by the defence:-

Q-95 On or about 26 Aug 44 at about 0800 hours can you tell the court what you were doing?
A-95 We were digging a sump hole for the kitchen. There was Pte Wilcox, Pte Deline, and myself.

Q-96 What did you say you were doing?
A-96 Digging a sump hole for the kitchen.

Q-97 Can you tell the court just what job each man was performing?
A-97 I was standing on top of the hole and Wilcox and Deline were in the bottom of the hole.

Q-98 What tools did they have?
A-98 Deline had a shovel and Wilcox a pick.

Q-99 How is it that you weren't working?
A-99 There was no room in the hole.

Q-100 What happened while you were there?
A-100 Sgt Inge came along.

Q-101 Did you hear the conversation that took place between Inge and Deline?
A-101 Yes, up to the time he got out of the hole.

Q-102 Did you hear the accused use these words to Sgt Inge, "I don't give a fuck what you do"?
A-102 No, sir.

Q-103 Did you here the accused soldier say, when ordered by Sgt Inge to double, "I won't double"?
A-103 No, sir.

Q-104 Will you tell the court in your own words as closely as you can the words you did hear?
A-104 As far as I could hear Sgt Inge came along when the accused was in the hole reading the Canada Weekly. He told Deline to get to work and Deline said "I can't work until the ground is picked".

Q-105 Did you hear him say "I don't give a fuck what you do".
A-105 No, sir, I did not hear that.

Q-106 What happened then?
A-106 Deline put his book down and got out of the hole and I jumped down in and I started to go to work and did not pay any further attention to what was going on outside the hole as it was not my business.

XX'd by the Defence

Q-107 You have told the court that when Deline got out of the hole you jumped in and started to work. What tool did you used? Did you use a shovel?
A-107 I took the pick.

Q-108 Who took the shovel?
A-108 Wilcox took the shovel.

Q-109 What did he do?
A-109 He said for me to pick.

Q-110 How was the pick?
A-110 It was all right. The other one was no good.

Q-111 You told the court in the beginning of your evidence that you understood the coversation between Sgt Inge and Deline until Deline got out of the hole. When Deline got out of the hole you went to work in the hole. Now what did you hear Sgt Inge say?

A-111 I did not hear the conversation after Deline got out of the hole.

Q-112 What happened before? You were on top of the hole. The accused was in the hole. Do you remember what the accused said? What Did Inge Say?

A-112 He ordered Deline to put the book down and get to work. I did not hear him say anything other than that "I can't work till the ground is picked".

Q-113 What were you doing on top of the hole?

A-113 I had a shovel.

Q-114 What was the shovel for?

A-114 It was for digging purposes.

Q-115 Was it for work on the hole?

A-115 Yes, sir.

Q-116 You were standing on the hole waiting to go to work?

A-116 Yes, sir.

Q-117 What was the position of the soldiers around the hole?

A-117 Wilcox and Deline were in the hole. Sgt Inge was on one side of the hole and Pte Peters was near the opposite side of the hole.

Q-118 How far was Peters from the hole?

A-118 About 8 feet.

In the opinion of the Court it is not considered necessary to comply with RP 83(B).

THE WITNESS WITHDRAWS.

The CASE FOR THE DEFENCE IS CLOSED.

Summing up by the Defence attached as Exhibit "D".

No Summing up is made by the Prosecution.

Exhibit "D"

Summing up by the Defence

The first charge, if you will note, is when on active service, using insubordinate language to his superior officer, and the essence of the particulars are "on being checked for reading whilst on duty did reply to H-6399 Sgt Inge, W J, 'I don't give a fuck what you do', or words to that effect".

In this charge the essence of the charge is the language used. He is charged with using insubordinate language and the onus of proof rests on the shoulders of the prosecution to prove the actual words used in the charge. He is charged with using the words "I don't give a fuck what you do". The only evidence to that effect is brought by Sergeant Inge. When Sgt Inge was asked to quote the exact words he stated that the accused said "Fuck you I won't". The evidence of the accused himself and the other witnesses brought by the defence is that the words which were used were "I can't shovel till it's picked. On these grounds I submit that the prosecution has failed to prove the actual words used.

For the defence the accused soldier has brought two witnesses who gave their evidence in a straightforward manner and despite the efforts of the prosecution did not waver to any extent in what they said and in both cases they deny having heard the accused use these words and evidence was brought that they were in easing hearing distance and were able to overhear the conversation It is established that the actual words he did use were "I can't shovel till it's picked". In addition to the two witnesses brought by the defence we have the testimony of the accused himself which he likewise gave in a straightforward manner,

Against this evidence produced by the defence we have only the evidence of Sgt Inge himself who in his evidence does not give the exact words that he gave in his evidence in the Summary of Evidence.

I submit that the charge has not been proved and that the accused should be found 'not guilty'. In this respect I must draw your attention to the element of law which requires a charge to be proven beyond any reasonable doubt and that the onus of proof rests with the prosecution.

The second charge is "when on active service, disobeying a lawful command given by his superior officer, in that he, in the Field in Italy, at 0800 hours, 26 Aug 44, when ordered by Sgt Inge, W J, to double, replied, 'I won't double' or words to that effect, and did not do so".

First of all let us look at this charge. If you care to look up MML under Section 9(2) of the Army act you will find in fn 3 the definition of "a lawful command". The definition given there is "The command must be one relating to military duty, that is to say, the disobedience of it must tend to impede, delay, or prevent a military proceeding. In sergeant Inge's evidence he states that he did not order him to double to any particular place or for any particular purpose, he just told him to double. It seems to me that there is a lot of doubt as to whether or not the order to double as it is brought out in Sgt Inge's evidence would amount to a command the disobedience of which would tend to impede, delay or prevent a military proceeding, and I submit that as such was not a lawful command.

The second part of the offence is that he disobeyed this command. If it is proven that this was a lawful command, which we deny, we have the evidence of the accused, which was given in a straightforward manner and which was not shaken in any respect by the prosecution, in which he categorically denies that he said "I won't double". He says that when Sgt Inge ordered him to double

he was standing directly in front of him with his finger in his face and was giving him a piece of his mind. He admits that the sergeant ordered him to double but he denies that the sgt gave him an opportunity to do it.

The fact that there is grave doubt that the command given was a lawful command, that the prosecution has failed to establish the words alleged to have been used in this charge, and the fact that the accused denies that he was given an opportunity to carry out the command, would I submit, lead only to an acquital of the charge in this case.

That is the case for the defence.

Summary of Evidence
in the Case of.

C.4693 Pte. Fletcher Godfrey DELINE of no. 16
Canadian Special Employment Company,
A Soldier of the Canadian Army, Overseas.

The Commanding Officer directs that the
Evidence be taken on oath:

FIRST WITNESS for the PROSECUTION

H-6399, Sgt. Unge, W.T. of no. 16 Cdn.
Special Employment Coy, C.M.F.
having been duly sworn, states:
"I am H-6399 Sgt. Unge, W.T. of no 16.
Cdn. Spec. Employment Coy. C.M.F.
On the 26 aug. 44 I had the accused.
who was doing 28 days F.P., helping
to dig a "Sump-hole" by the Kitchen.
One of the men was sent to the Q.M.
Stores for another pick. On passing
this hole I saw the accused leaning
against the wall of the hole, reading
a Canada Weekly. I took this Canada
weekly away from the accused and
was giving him a piece of my mind
and the accused, whom I now recognize
as being present here, answered:
"I don't give a fuck what you do"!
I ordered him out of the hole and
told him to double. He came out of
the hole but refused to double. I
brought him to the C.S.M. and
reported the matter and then I sent
him back to the Guard Room while
I laid the charges. When ordered to
double he said: "I won't double".
This happened at about 0800 hrs on
26 aug. 44. I am Camp Sergeant

JWS

First Witness for the Prosecution. (cont'd)

of No. 16 Cdn. Spec. Empt. Coy. in Charge of Camp duties and all T.P. Personnel of the Unit. It's my direct responsibility to find work for all men doing T.P. within the Unit. The accused did not double.

The accused declines to cross-examine this witness.

W G Ingle

The accused was cautioned as follows:

"Do you wish to make a Statement or to give Evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in Evidence."

The accused declines to make a Statement and reserves his defence.

Taken down by me in the presence and hearing of the accused this 27th Aug. 44.

I hereby certify that Provisions of R.P. 4 (c)(d)(e)(f) and (g) have been complied with.

W R Klaus Capt.
Officer detailed to take the Summary of Evidence

On the Field
In Italy.
27 Aug 44.

ABSTRACT OF EVIDENCE

in the case of

C-4693 Pte.Fletcher Godfrey DELINE, of No.16 Canadian Special Employment Company, C.M.F., a Soldier of the Canadian Army, Overseas:

YOU ARE HEREBY NOTIFIED, in compliance with R.P.76 That L-35024, Cpl Williams, E.T., of No.16 Canadian Special Employment Coy, C.M.F. will be called as a witness at your forthcoming Court-Martial trial to give evidence as follows:

"At about 0800 hrs on the 26 Aug.44, In the Field, in Italy, he heard Sgt. Inge, W.J. of No.16 Cdn. Spec.Employ't Coy. order the accused to double to which order the accused replied "I won't double" and that he did not do so"

Officer detailed to take the Summary of Evidence.

In the Field,
In Italy,

7 Sep.44

737V

DELINE, GO

137V

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court. "1"

On Active Service, this FIFTEENTH day of JANUARY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 2nd Canadian Division Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[redacted]

CAPTAIN W M W Shaw A D J A 2 CDN DIV
IS HEREBY APPOINTED JUDGE-ADVOCATE

122

President.

Rank.	Name.	Regiment.
MAJOR	J W A RUSSELL	H Q 2 Cdn Div R C A S C

Members.

Rank.	Name.	Regiment.
Captain	J.C.H.Anderson	R.Regt C.
Captain	R.B.MacNeill	Cams of Can.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J H Roberts) Maj-Gen
Commanding 2 Cdn Div
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B83911 Pte George Otis Deline, RCASC attd H Q 2 Cdn Div	FIRST CHARGE SECTION 40 Army Act CONDUCT ETC (See charge sheet attd)	Guilty	Guilty To undergo detention for 120 days and to be placed under stoppages of pay in the sum of £2-16-0 to make good the damage 16 Jan 43 J W Russell Major	Confirmed. J.W.R.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (J W Roberts) Major-General
Commanding 2 Canadian Division
Confirming Officer (*d*)

(Signed) (J W A Russell) Major
President

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of Jan 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~(The Interpreter)~~
4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this 16 day of Jan 1943.

J W Russell Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier ~~named in the margin be not committed to prison~~ or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 16th day of Jan 1943.

J W Roberts Major-Gen
Confirming Officer.

Promulgated and extracts taken in the case of B 83911 Pte Deline, R.C.A.S.C.

(*a*) (Dated) 18 JAN 43 (Signed) (W.O. Mullins) Captain
A/ Camp Comd., H.Q., 2 Cdn. Div.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(Ex) W. 3892/1316 Thos. Lee W. & Co., Ltd. Gp. 565.2

CHARGE SHEET

The accused, B83911, Pte George Otis Deline, R.C.A.S.C., H.Q., 2 Cdn Div., a soldier of the Canadian Army Overseas, is charged with:

Charge
Sect. 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the field on 6 Jan 43 used Cdn Military vehicle CM 195184 without authority, occasioning damage thereto to the extent of £2-16-0.

In the field
15 Jan 43

Captain
A/Camp Comd., H.Q., 2 Cdn Div

TO BE TRIED BY F.G.C.M.

for J.H.[illegible] Major-General
Comdg, 2 Cdn Div.

In the field
15 Jan 43

B2

MEDICAL CERTIFICATE (R.R (CAN) 557)

I certify that I have this morning examined B. 82911 Pte Deline, C.C., of H.Q., 2 Cdn. Div. and, in my opinion, he is fit to undergo trial by Court-Martial.

Field,
18 JAN. 43.

(Medical Officer)

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a ~~Field General~~ Court-Martial held at In the field

on the 16 day of January 19 43 by order of

Maj Gen J H Roberts

Commanding 2 Cdn Div

dated the 15 day of January 19 43

President.

Major J W A Russell, HQ 2 Cdn Div RCASC

Members.

Captain J C H Anderson, R. Regt C

Capt R B MacNeill, Coms of C.

Capt W M W Shaw, ADJA, 2 Cdn Div

, Judge Advocate.

Trial of* B73911, Pte George Otis Delong, RCASC, HQ, 2 Cdn Div

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut 2 A Hamer, Edmonton Regt.

defending officer† Lieut W W Leach, Lens Scots

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked "A" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No, Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

The President, members and judge-advocate are duly sworn.

WMWS ~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read? *Question to the accused.*

Guilty, Sir *Answer.*

WMWS ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

WMWS ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

WMWS ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

† To be struck out in case no plea of "Not Guilty" has been proceeded with.

WMWS ~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused B83911, Pte George Otis Deline is found guilty of the charge.

WMWS †The summary (~~or abstract~~) of evidence is read, marked "C" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No, Sir

WMWS ~~[The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character? No, Sir.

Question to be answered

Answer

Evidence as to character

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

WMWS ~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction before Sentence.

WMWS ~~The Court being reopened, the accused is again brought before it.~~

Lieut L. A. Hamer, Prosecutor is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes Sir, AFB 296 certified copy MFM 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked D & E, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes, Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes, Sir

Question.—If to answer to the nature of the service of the accused in a departmental context or otherwise, the finding of the Court requires that value to the disciplinary punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must require that the nature and amount of that additional punishment.]

WMWS ~~Cross-examined by the accused.~~ Defending officer declines to cross-examine

Question to the accused.

Do you wish to address the Court? *Answer.* Yes, Sir through my defending officer (see over)

WMWS ~~The Court is closed for the consideration of the sentence.~~

Sentence.

WMW

~~The Court sentence the accused~~

~~Sentence~~

Deline a young man - driving almost 3 yrs - has not had previous accident - crimes have been minor, nothing criminal. Unfortunate that he had an accident - now realizes seriousness of use of WD vehicles - Has occasional fair flare-ups but are only occasional - Fact that he has driven 3 years on active service should be taken into consideration on passing sentence.

Court closed to consider sentence

W.M.W. Shaw
Capt
Judge Advocate

[signature]
Major
President

SUMMARY OF EVIDENCE IN THE CASE OF B 83911 Pte. George Otis Deline, R.C.A.S.C., H.Q., 2 Canadian Division, a soldier of the Canadian Army Overseas.

The accused is informed of his rights

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION: H 24178 L/Cpl Champniss, G.A. being duly sworn states:

Whilst carrying out Transport Cpls duties for another N.C.O. I received a phone call from the accused at approximately 2230 hrs. 6 JAN. 43., stating that he was bogged down off the road and asked if I could send a vehicle to tow him out. I did not know if the vehicle was out without authority or not so I asked him if the trip was authorized and the accused said that it was not.

The accused declined to cross examine

Geo. A. Champniss.

SECOND WITNESS FOR THE PROSECUTION: D.105629 Cpl. Hinton, N.E. being duly sworn states:

On the night of 6 JAN 43 at 2245 hrs L/Cpl Champniss called me ~~and told me Pte. Deline's car was stuck in a ditch.~~ I got a work ticket signed by the duty officer to take a lorry out. Upon reaching destination I found vehicle No CM 195164, driven by the accused had been involved in an accident.

The accused declined to cross examine

W E Hinton

THIRD WITNESS FOR THE PROSECUTION: Mr. W. Matthews, North Lodge, Greatbuckswood, Crawley, Sussex:

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this Summary and attached as exhibit "A", having regard to loss of time involved the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

[illegible] Capt

/2

Exhibit "C"

[illegible] Major.

FOURTH WITNESS FOR THE PROSECUTION: M.S.S. Platt, C., 2 Cdn Div Pet Coy., R.C.A.S.C.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this Summary and attached as exhibit "B", having regard to the exigencies of the Service and the loss of time involved the attendance of this witness cannot, in my opinion, be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

K. C. Campbell Lieut

FIFTH WITNESS FOR THE PROSECUTION: Colonel H. Pawle, R.A., 2 Cdn Div.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this Summary and attached as exhibit "C", having regard to the exigencies of the Service the attendance of this witness cannot, in my opinion, be readily procured.

The Accused does not demand the attendance of this witness for cross-examination.

K. C. Campbell Lieut

SIXTH WITNESS FOR THE PROSECUTION: Captain J.T. Black, Camp Commandant, R.A., 2 Cdn. Div.

A written statement of this witness' evidence purporting to be signed by him, has been read to the accused and is included in this Summary and attached as exhibit "D", having regard to the exigencies of the Service the attendance of this witness cannot, in my opinion, be readily procured.

K. C. Campbell Lieut

The Accused, having been duly cautioned in accordance with R.P. 4(2), says: -

I do not wish to say anything.

The accused does not wish to call witnesses in his defence at this point.

CERTIFIED THAT R.P. 4 complied with.

K. C. Campbell Lieut

In the Field,
13 JAN. 43.

(K.C. Campbell) Lieutenant

EXHIBIT "A"

At 2230 hrs. 6 Jan 1943 I heard a commotion outside of my house. I went out to investigate. I found that a staff car driven by Deline had crashed into the fence between my house and the road. The driver offered to make a settlement for damage done to the fence.

12 Jan 1943

Witnessed - Lieut. K C Campkin. W Matthews.

WMWS

Exhibit 'B' 12 Jan 43

Repairs to CM/95184, Ford Sedan
accident of 6 Jan 43

Work on the m/v vehicle is completed as far as available replacements permit.

Cost is as follows.

9 hrs labour at 3/ per hour	£1-7-0
Parts - 1 headlight	£1-9-0
Total	£2-16-0

[illegible]
2 Cdn Div Pet Coy (5)
W/S Platoon.

WMWS

Exhibit "C"

At approximately 1230 hrs on Wednesday, 6 JAN. 43, I dismissed my driver, B.83911 Pte Deline, G.O., with instructions that I would not require him for duty again that day.

(H. Pawle) Colonel

11 JAN. 43

Hanbury Pawle

WMLOS

Exhibit "D"

B.83911 Pte. Deline, G.O., was the allotted driver for Colonel H. Pawle, Chief Umpire.

Standing Orders for H.Q. 2 Cdn. Div. M.T. Section require staff car drivers to return their car and person to the car park when dismissed by their officers.

On 6 JAN 43 Pte Deline was not given authority or instructions to take car CM 195184 out after being dismissed by Colonel Pawle.

(J.R. Black) Captain,
Camp Comdt., H.Q., 2 Cdn. Div.

9 JAN. 43.

WMWS

I desire to have Lieut W.W. Leach, Lorne Scots., H.Q., 2 Cdn Div. defend me at my F.G.C.M.

14 JAN 43

Witness [illegible] Lieut - (Signature) [illegible]

WWLS

872 36-83-Sept-1

No. B 83911 Name DELINE G.C. Sqn., Battery, or Company Corps RCASC Date of enlistment 9 SEP 1939 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 1735 - 7-41 (210-20) H.Q. 1777-39-1652

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed on completion of 2 yrs Service 9 SEP 41					
Field	18-1-41	Pte		AA 40 unauthorized use of WD veh		7 days detn	18-1-41	Capt J.T.	Wilson
Field	25-1-41	Pte		AA 40 improper possession of prop. belonging to an officer	Capt Sisley	28 days detn	25-1-41	Capt. J.T.	Wilson
Field	27-10-41	Pte		AA 15(1) AWL from 2359 hrs 26-10-41 to 0821 hrs 27-10-41 - 8 hrs 22 minutes	Sgt Barrow	1 days pay forf 1 days pay forf	30-1-41	Capt W.B.	PRAI 149(1)(a) PRAI 149(2)
Field	14-2-42	Pte		AA 15(1) AWL 2359 hrs 14-2-42 to 1200 hrs 16-2-42 - 36 hrs 1 min	CSM Coca	2 days pay forf 5 days pay forf	17-2-42	Capt W.B.	PRAI 149(1)a PRAI 149(2)
Field	9-12-43	Pte		AA 11 neglect to obey standing orders - leaving door of WD veh open	Cpl Hinton	forf 1 days pay	11-12-43	Capt. J.R. Black	PRAI 149(20

Certified copy as at 14 JAN 43.

J.R. Black Capt.

Enclosed

(P.T.O.)

(Substitute for A.F.B. 206 or
M.F.B. 355)

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED.

No B 83911 Name Deline, S.G. Unit H.Q. 2 Cdn Div

Age 22 Married or Single S No of Dependents One (mother)

Date of Attestation 9 SEP 1939

No of days spend in Close Arrest (to date of trial)

Civil NIL Military NIL Hospital Total NIL

Dates of Promotions, Appointments and Confirmation, if any

Nil

A certified true copy of M.F.M. 8 Must Accompany this Form.

J.M. Black
(J.M. Black) Captain,
Camp Sand., H.Q., 2 Cdn. Div.

Dated at In the Field
This 16 day of JAN. 1943.

(To be signed and dated as of date of trial)

Exhibit "D"
J.M. Carmel
major.

XX-126 (case #2)

PTE DELINE R.G.

See 335 for 1st case

Correspondence to be PINNED here

XX-126

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this Twenty-ninth day of November, 1943

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial: [redacted]

* Omit where Convening Officer is a Commanding Officer, or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

[redacted]

Proceedings Reviewed

[redacted]

Reviewing Officer (J.A.G.) C.M.H.Q.

	President	
Rank	Name	Regiment
Major	L.G.B. Lavoie	RCR
	Members	
Rank	Name	Regiment
Captain	W.J. Palmer	48 Highrs
Lieutenant	R.G. Beuley	Hast & PER
Waiting Member Lieutenant	A.M. Park	Hast & PER

* Must be signed personally by the Officer actually in command at the time and all alterations in the composition of the Court to be initialled by him.

Signed (H.D. Graham, DSO., ED.) Brigadier

Commanding 1 Cdn Inf Bde.

Convening Officer

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C4334 Pte DELINE, Robert, Gordon Hastings & Prince Edward Regiment.	FIRST CHARGE A.A. Sec 15 (1)	Guilty	Guilty Sentence: ~~to~~ ~~[illegible]~~ ~~[illegible]~~ 30 Nov 43 Nine months Detention 30 Nov 43	Sentence and finding confirmed but ~~[illegible]~~ to permit three months detention 30 Nov 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer: (To be recorded on separate sheet if necessary) :—

(Signed) Brigadier (H.D. Graham, [illegible], [illegible])
Commanding 1 Cdn Inf Bde.
Convening Officer (e)

(Signed) Major (L.G.B. Lavoie)
The Royal Canadian Regiment
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here

B — Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th day of November 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~3. The Interpreter~~
~~4. The officers under instruction~~
were duly sworn.

* Omit if not applicable.

Signed this 30th day of November 1943

Major
(L.C.B. Lavoie)
President of the Court Martial.
The Royal Canadian Regiment.

C — Certificate in case of death sentences.

* See Section 70 of the Army Act, 1955

I certify that the terms of A.C.I. 370 of 1918 have been complied with.

Signed this day of 19

Major
(L.C.B. Lavoie)
President of the Court Martial.
The Royal Canadian Regiment.

D — Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority recommends suspension.

I direct that the soldier named in the margin be not committed to prison until further order.

Signed this 30 day of Nov 1943

Brigadier
(H.D. Graham, [illegible], [illegible])
Comd *Confirming Officer.*
1 Cdn Inf Bde.

Promulgated and extracts taken in the case of C4334 Pte Deline, R.G. Hastings & PEI Regt

(a) (Dated) 5 Dec 43 (Signed) Asst Comdt Pte

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B-2

CHARGE SHEET

The accused, 94334 Pte Robert Gordon DELINE, "A" Coy, The Hastings & Prince Edward Regiment, a soldier of the Canadian Army (O) C.M.F. placed on active service

is charged with:

W.O.A.S. A.W.L.

1st Charge
A.A.Sec
15 (1)

In that he
at, "In the Field" did absent himself without leave from 1900 hrs 1 Nov 43 until 1630 hrs 26 Nov 43.

(total absence 24 days 21 hrs 30 min)

"In the Field"
28 Nov 43

(A.T. Kennedy) Major
A-Comd
The Hastings & Prince Edward Regiment,
C.M.F.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Brigadier

In the Field
29 Nov 43

(H.D. Graham, [redacted], MD)
Comd., 1 Cdn Inf Bde.

I certify that I have to-day examined C 4334 rank Pte.

Name Dalins. R.G. and that in my opinion he is fit

to undergo trial by Court Martial.

L Krakauer Capt

(Krakauer) Capt.
M.O.

30 Nov 43.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at

on the 30th day of November 1943 by order of

Brigadier H. D. Graham

Commanding 1 Cdn. Inf. Bde.

dated the 29th day of November 1943

President. Maj. L. G. B. Lavoie, RCR

Members. Capt. W. J. Palmer, 48th Highrs

Lieut. R. G. Beuley Hast & PER

, ~~Judge Advocate~~

Trial of* C-4334 Pte. Robert Gordon DELINE, Hast & PER

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. D.C. Smith, Hast & PER

~~Counsel~~ or defending officer† Capt. G. Dennis, Hast & PER

At 11.30 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] 10,000 sets 12/41 [illegible] Form [illegible]

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 16 (8) this fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

"Guilty" *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~ *Question*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

~~The accused having pleaded~~ Guilty to the charge, ~~the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

~~The accused is found guilty of~~

†The summary (or abstract) of evidence is read, marked CC - 2 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No

~~The accused in mitigation of punishment says:—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No Sir.

Answer.

~~*Evidence as to character.*~~

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before* Sentence.

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*~~The Court being re-opened, the accused is again brought before it.~~

Capt J. A. Bird Hist to PER duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked AFB 246 certified MEMC signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

~~Cross-examined by the accused.~~

(Construction.—If by means of the matter of the service of the accused in a departmental cards, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the matter and account of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused C-4334 Pte. Robert, Gordon, DELINE, Austr. PER. to Nine months detention.

30 Nov 43

CANADIAN SPIRIT YMCA

ON ACTIVE SERVICE

Address by Prosecutor, Capt D.C. Smith

The accused record speaks for itself, and as apparent the punishment already awarded has at any of the man any time.

I would urge the Court to consider what effect the sentence awarded will have on the soldier in the unit & in the field.

PLEASE WRITE ON BOTH SIDES

CANADIAN
YMCA

ON ACTIVE SERVICE

Address by Defending offr. Capt ~~R. D. Chworth~~ Wm G. Dennis

First although the accused pleads guilty, in the last 4 months he has been A.W. in twice. They are minor offences.

Second, the accused did not go absent when the unit was in action. He is not yellow.

Third, the accused gave himself up he was not arrested.

PLEASE WRITE ON BOTH SIDES

LIST OF WITNESSES FOR THE PROSECUTION

Capt. J.A. Bird	Hast. & P.E.R.
CSM R.H. Huycke	Hast. & P.E.R.
Lcpl A.C. Miller	Hast. & P.E.R.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF WITNESSES FOR THE PROSECUTION

Capt. J.A. Bird	Hast. & P.E.R.
C/M R.H. Huycke	Hast. & P.E.R.
Lcpl A.C. Miller	Hast. & P.E.R.

LIST OF WITNESSES FOR THE DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A"	Declaration of a court of Inquiry on the illegally absence of the soldier, C;4334 Pte; Robert Gordon Deline.

Statement in accordance with R of P 14 (b)

C4334 Fte. Robert Gordon DELINE, "A" Coy Host. & MER desire to have an officer assigned to represent me at my trial by Field General Court Martial.

I desire the service of Capt. R. O. Cleworth if he is available.

R G Deline

C4334 Fte. Robert Gordon DELINE

ARTICLES.		Vocabulary Price £	s	d	value of unexpired wear
Cap F.S.	1				
Drawers Cellular,			3	8	N I L
Shorts pr,	2		4	1	
Gloves knitted,	1		2	7½	
Greatcoat	1	3	17	1	
Shirts angola,	1		9	2½	
Shoes canvas	1		8	10	
Socks pr,	2		3	4	
Brass Cleaning,	1			2	
Brass button	1			8	
Brush clothes	1		1	1	
" Hair	1		1	1	
" tooth	1			4½	
Cape Comforters,	1		1	1½	
Comb Hair	1			2	
Dressing Field	1		1	1	
Housewife,	1		2	3	
Fork Meat	1			5	
Knife Clasp	1		5	8½	
" Table	1			9½	
Patches,	1				
Distinguishing, pr,	1			4½	
Spoon Dessert,	1		1	11	
Towels, Hand	2				
Unit Titles, pr,	1		4	8	
Belt Waist,	1		2	11	
Bottle Water,	1		4	3	
Braces S.A.	1		2		
Carriers, M.K.	1			11½	
Frog Bayonet,	1		10	8½	
Helmet Steel	1				
Net Camouflage,	1		13	4	
Pouches, Basic	1		9	6½	
Sock	1		1	1	
Sling Rifle	1		2	6½	
Tins Mess	1				
Entrenching tool	1				
Respirator complete	1	1	11	6½	
Tapes Anti Gas,	1		19	10	
Bottle Oil	1			3	
Pullthrough	1				
Rifle,	1	10	3	6	
Webbers Bayonet,	1		3	9	
Emergency Ration	1				
	£	21 -	16	- 4	

Exh A

RECORD of the Declaration of a Court of Inquiry assembled at "In the field" on the 23rd day of November 19 43, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C4334 Pte. Deline, R.G., "A" Coy. Hast. & P.E.R.

DECLARATION.

The Court declare, C4334 Pte. Deline, R.G. The Hastings and Prince Edward Regiment CMF illegally absented himself without leave or other sufficient known cause "In the Field" from 1900 hrs 1 Nov 43 and that he is still absent and that on the 23rd Nov 43 he was and is still deficient of the following articles.

Names of President and Members :

President	Capt. M.D.	Yearwood	Hast. & PER
Members	Lieut J.D.	Seaton	Hast. & PER
	Lieut I.H.	Dearness	Hast. & PER

Signature of Commanding Officer [signature] Commanding
The Hastings & Prince Edward Regt.
CMF

95-7058. Wt. 10120. 3,000 Bks. 1/40. D.P.W.

RECORD of the Declaration of a Court of Inquiry assembled at on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION.

The Court declare,

Names of President and Members :

Signature of Commanding Officer

61-7254. Wt. 10125. 3,000 Bks. 1/40. D.P.W.

Summary of Evidence in the case of C-4334, Pte. Robert Gordon Delisle "A" Coy. The Hastings and Prince Edward Regiment.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st Witness for the Prosecution.

Capt. J.A. Bird, Adjutant, The Hastings and Prince Edward Regiment, having been duly sworn states :-

I, Capt. J.A. Bird am Adjutant of the Hastings and Prince Edward Regiment. In my capacity as Adjutant, I produce record of the Declaration of a Court of Inquiry held 'in the field' on the 28th of November 1943. This record states that the accused illegally absented himself without leave at 1900 hrs. 1st November 1943. This I produce and mark Exhibit 'A'.

J.A. Bird Capt

The accused declines to cross-examine the witness.

2nd Witness for the Prosecution.

C-5766 C.S.M. R.H. Huycke, The Hastings and Prince Edward Regiment, having been duly sworn states :-

I, C-5766 C.S.M. R.H. Huycke, The Hastings and Prince Edward Regiment am C.S.M. of 'A' Coy. At 0800 hrs. 2nd November 1943 while at breakfast, Sgt. Leroux reported to me that the accused was absent. At 0830 hrs 2nd November 1943, while calling my parade, I found that the accused was absent. He has not appeared on any of my parades since that date. At approximately 1620 hrs. he was brought to 'A' Coy. Headquarters by a Provost He was turned

over to the Orderly Sgt., given his supper, and returned to Detention Barracks. He was not in 'A' Coy. lines any time between those dates.

C S M R H Huyche

The accused declines to cross-examine the witness.

3rd Witness for the Prosecution. C. 6096. L/Cpl. Miller A.C. The Hastings and Prince Edward Regiment, having been duly sworn, states:-

I, C. 6096 L/Cpl. Miller A.C. The Hastings and Prince Edward Regiment, being Duty Provost Corporal, on the 26th day of November 1943 ~~and that~~ the accused turned himself in to me at the Regimental Detention Rooms at approximately 1630 hrs. I then took the accused to his Coy. to get his supper and his equipment. He was returned to me after having had his supper, about an hour later.

A.C. Miller

The accused declines to cross-examine the witness.

The accused reserves his defense.

Certified that Rules of Procedure 4(c)(d)(e) and (f) have been complied with. Taken down before me in the presence and hearing of the accused "In the Field" this 28th day of November 1943.

[illegible] Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	25/12 40	Pte		WOAS AWL from Battle posn. from 1400 hrs 25 Dec 40 to 1000hrs 26 Dec 40. AA Sec 15(1)	CSM Laurie, Sjt Clarke Capt Fenton Lcpl Miller	90 days detn for 1st and 2nd charge 72 hrs detn	6 Jan41	FCCM	
Witley	12/4 41	"		WOAS AWL from 2200 hrs 12 Apr 41 to 1100 hrs 13 Apr 41. AA Sec 15(1)			14/4/41	Lt-Col. Glack	1 days pay & 3 days pay
"	15/6 41	"		WOAS charged with appearing on parade unshaven. A.A. Sec 40.	Sjt Nobbs	Reprimanded	16/6/41	Maj. Kennedy	

On completion of 2 yrs service this soldier previous sheet was destroyed 8 Sep 41 and the above entries were transferred in accordance with SO 71, CASF (Overseas).

In the field	10/5/42	"		WOAS AWL from 1730 hrs 10 May 42 to 1615 hrs 15 May 42. AA 15(1)	Cpl Brown Lcpl Forshee	14 days CB	18/5/42	Lt-Col. Graham	4 days pay
"	21/10 42	"		WOAS AWL from guard from 1730 hrs 21/10/42 to 1700 hrs 22/10/42. AA Sec 15(1)	Lsjt McCaw	14 days CB	24/1042	Capt Campbell	1 days pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	14/11 42	Pte		Offence under Sec 15(1)		7 days FP		Col. Sutcliffe	4 days pay 7 days pay
"	1/6/43	"		WOAS AWL from 1000 hrs 1 Jun 43 til 0600 hrs 2/6/43. AA 15(1)				Auth. DO 34	1 days pay 7 days pay
"	25/8 43	"		AWL from 0545 hrs 25/8/43 till 0545 hrs 26/8/43. AA 15(1)	CSM Huyeke	28 days FP	28/8/43	Lt.-Col. AA Kennedy	Forf 29 days pay

CERTIFIED TRUE COPY

J Bud Capt

M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

No. C4334 Name Deline, R.G. Sqn., Battery, or Company "A" Corps Hest & TER Date of enlistment 8 Sep 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. Three | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	1/11 42	Pte		WOAS AWL from 2300 hrs 1/11/42 to 1640 hrs 5 Nov 42. AA 15(1)	Sjt Potts	7 days FP	6/11/42	Maj. Sutcliffe.	4 days pay 7 days pay
"	2/12 42	"		WOAS AWL from 0900 hrs 2/12/42 to 0145 hrs 3/12/42. AA 15(1)	Cpl. Foster	5 days FP	3 Dec 42	Col. Sutcliffe	1 days pay 5 days pay
"	12/12 42	"		WOAS AWL from 0830 hrs 12/12/42 to 16/12/42. AA Sec 15(1)	Doc.	28 days FP	17/12/42	Maj.R.R. Church	costs/ 4 days pay 25 days pay costs 8/9.
"	22/1 43	"		AWL from 0900 hrs 22/1/43 to 2200 hrs 28/1/43 A.A. 15(1)	Doc	21 days FP	30/1/43	Col. Sutcliffe	costs 8/9.
"	19/2 43	"		AWL from 0900 hrs 12/2/43 to 0900 hrs 2/3/43. A.A. 15(1)	"	28 days F.P.	8/3/43	"	39 days pay stopp. of 7/8

(P.T.O.)

M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

No. C4334 Name DELINE, R.G. Sqn., Battery, or Company "A" Corps Hest & TER Date of enlistment 8 Sep 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. Three | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	12/4 40	Pte		WOAS AWL 2300 hrs 12 Apr 40 to 1800 hrs 13 Apr 40. AA Sec 15 (1)	Cpl. Warwick	14 days CB	15/4/40	Maj. Sutcliffe For.	1 days pay
In the field	31/7 40	"		WOAS AWL 2230 hrs 31 Jul 40 to 2330 hrs 15 Aug 40. AA Sec 15(1)	Lcpl Lloyd " Pearson	28 days Detn	22/8/40	Lt-Col. Edgar	16 days pay.
"	7/10 40	"		WOAS AWL from 2330 hrs 7 Oct 40 to 2200 hrs 17/10/40. AA Sec 15(1)	Cpl. Clarke Lcpl. Fluery	28 days Detn	22/10/40	Lt-Col. Graham	10 days pay
"	14/12 40	"		WOAS charged with being in possession of goods not belonging to him. A.A. Sec 40.	Sjt Potts	24 hrs detn	17/12/40	Capt. O.C. O'Conor-Fenton	
"	25/12 40	"		WOAS charged with being improperly possession of a WD Veh. AA 40	SM Laurie Sjt Clarke, Capt Fenton	90 days Detn for charge 1 & 2.	6/1/41	FGCM	

(P.T.O.)

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
04334	Pte.	DELINE, ROBERT GORDON, Hast & P.E.Regt.	

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	• Within last 12 months.	•Since Enlistment.
For AWL	seven times	Fourteen times.
For A.A. sec 40	times	three times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, nil

There are ~~xx~~ entries in the conduct sheets of the accused.

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

• The numbers herein stated should correspond with the number of entries in the conduct sheets, punishment being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

2. The accused has ~~not~~ been previously convicted ~~xx~~.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~xxxx

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C4334 Rank Pte Name DELINE, Robert Gordon Hast & Pe Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	6 Jan 41 In the field	WOAS charged with being improperly in possession of a W.D. vehicle. A.A. Sec 40	90 days Detn for both charges	
FGCM	6 Jan 41 In the field	WOAS AWL from battle posn from 1430 hrs 25 Dec 40 to 1000 hrs 26 Dec 40. A.A. Sec 15 (1)	"	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~20th~~ 30th day of Nov 43

J.D. Bird Capt

[illegible]

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years .....

Date of Promotion

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

4 M - 2

Pte Deline R. G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C4334 Pte Robert Gordon DELINE HPER

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 12(1)(a)AA	Not Guilty	Not Guilty of Desertion but Guilty of absent without Leave	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2. RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn b.)

~~Adjustment under subsection~~ ~~beginning on (date)~~ "JMH"

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting trial—a total of 58 days, of which 30 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned for a period of eighteen months without hard labour

(Sgd) ..... Judge-Advocate, if any. 27 Nov 44 Date awarded. (Sgd) "J.M.Houghton" Major President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be sent to a convalescent or special detention barracks until further ordered.~~(1) "JAC"

(1. AA 57A. Delete if not used.)

Date 8 Dec 44 (Sgd) "J.A.Calder" (J.A.Calder) Brigadier Commanding Comd 1 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
C4334 Pte Robert Gordon Deline	10 Dec 44	"G.E. Baldwin" Capt & Adjt H&PER

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY (D.M.Cowan) Capt Cdn Sec GHQ 2 ~~ECH~~ AFHQ

RECORDED AT CMHQ IN AB 160 4M-2

CFAB6 (In lieu of AFA2) 40/P & R/1698 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.A. Calder Comd 1 Cdn Inf Bde dated 25 Nov 44

12 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4334	Private	Robert Gordon	DELINE	HPER

PROCEEDINGS REVIEWED "W.P.Taylor" Major 4 Jan 45 DJA Cdn Sec GHQ 2 Ech AAI

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 27 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member ~~(if any) and Offr reading instr (if any)~~ assemble, and the "JMH" Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn HQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFS, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 65-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(a) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and "JMH" each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0920 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) "JMH"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President (if necessary). The new objects to ... as interpreter. I ... duly ... as interpreter. The interpreter is sworn (if ... the oath/affirmation). The interpreter ... translated under I ... Ans~~ "JMH"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 187, MML p 742.)

A7. The President, Members, ~~(if any) and Offr reading instr, sworn~~ are sworn.(1) The following are the "JMH" ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.M. Houghton	R.C.R.
Member	Capt	J.B. Morgan	H.P.E.R.
Member	Lieut	K.L.H. Hudson	48 Highrs
Judge-Advocate			
Prosecutor	Capt	O.W. Christiansen	H&PER
Defending Offr	Lieut	A. Moffat	H&PER

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 88 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused ... before arraignment make(s) (no) ~~(an)~~ plea(s) "JMH" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GE)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in Yes to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ "JMH" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AFAs to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is advised as to~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D "JMH"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*II*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination(4); and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(5)

President to accused: Do you wish to make a statement? Ans. _____(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

"JMH"

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ____, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of forms D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

"JMH"

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record, attached as a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

"JMH"

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the first charge(s) and allowed on the ~~charge(s)~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty of the latter charge(s) if~~.(4)

"JMH"

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. Wishes to make a statement. Do you intend to call witnesses on your behalf?
Ans. No. ~~Another witness as to character, only? Ans.~~

"JMH"

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

"JMH"

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty~~ and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)

"JMH"

~~(1. The President announces that the sentence is awarded by the Court, and is subject to confirmation, and that the proceedings are terminated. Part I of the Schedule is completed and signed by the President and JA, if any.~~

(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

"JMH"

(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.(2)

"JMH"

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to [illegible] on with anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 114, 119(A), KR Can 308, 330, 363-366, Overseas AO 209, 2323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C4334 Pte Roberts Gordon DELINE, The Hastings and Prince Edward Regiment, a soldier of the Canadian Army Overseas (CMF) On active service, is charged with:-

FIRST CHARGE — WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S

SEC 12(1)(a) — SERVICE

Army Act — IN THAT HE,

In the field, on 14 Sep 44, when serving with his section in a forward area, with intent to avoid such service, absented himself from his section from approx 2300 hrs 14 Sep 44 until surrendering himself to the Regimental Police at approx 1530 hrs 30 Sep 44.

Time absent- 15 days- 16 hours 30 min.

"IN THE FIELD"

17 Nov 44

"D.C. Cameron"
(D.C.Cameron) Lt-Col
Officer Commanding
The Hastings and Prince Edward Regt
C.M.F.

To be tried by Field General Court Martial

"J.A. Calder"
(J.A. Calder) Brigadier
Comd 1 Cdn Inf Bde

25 Nov 44

"JMH"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C4334	Private		Robert Gordon	DELINE	HPER

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 25 Nov 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". "JAC"

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) "JAC"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "JAC"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ "JAC"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.M. Houghton	RCR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by	HPER
Lieut	To be detailed by	48 Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

"J.A. Calder" (Signed personally. RP 105 fn 2.)

(J.A. Calder)

Brigadier (Rank.)

Date 25 Nov 44

Commanding 1 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

"JMH"

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p.763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 90(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 45(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy or item of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 118(C), MML p. 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE

(KR (Can) para 577)

I certify that I have this morning examined No. C.4334
Rank PTE Name DELINE R.G. of HPER
and in my opinion he is fit to undergo trial by Court-Martion.

Station IN THE FIELD "M. Lerner Capt"
Date. 27 Nov 44 (Medical Officer)

"JMH"

FIELD GENERAL COURTS-MARTIAL

in the case of C.4334 pte, Deline, Robert Gordon HPER.

1st Witness for Prosecution — I am Lt. W.R. Walters B Coy 10 Pl of H & PER Reg. having been duly sworn state. The accused in the Court is pte. Deline R.G. of 10 Pl. On 14 Sept 44 At 0230 hrs we moved up to San [illegible] Ridge where we spend most of the day about the middle of the afternoon Coy Com called "O" group, warned us we would be moving forward approx 1830 hrs. we were forced to wait till about 1900 hrs to allow another coy to pass through before moving off, everyone in coy had been warned of the time of the move, apprx an hour and a half after we moved we came under enemy shell fire. We went to ground but continued forward after a few moments. We reached our objective sometime after 2200 hrs and before 2400 hrs. Cpl Smith now deceased reported to me that Pte Deline was not with his section. Pte Deline was a member of his section. I did not see this man again untill the time of the Summary of Evidence.

pros. Was pte Deline with your Pl when you moved off on your advance.

wit. I could not be sure.

pros. When was the last time prior to the advance that you saw pte Deline

"JMH"

---

wit. While the coy was waiting to move OFF, the coy was gathered in a big house on the ridge.

pros. Was he present when the platoon was warned of the advance

wit yes.

pros. When reaching objective were any others reported missing or absent.

wit yes.

pros. name them.

wit Pte Lunde, Pte Morris, Pte Morrow, Pte Hart.

pros. When did you next see these four.

wit The following ~~morning~~ day.

cont'd page II

pros. approx time.

wit. shortly before noon.

pros. under what circumstances did you see them.

wit. I saw them just before noon meal parade, in courtyard of house.

pros. That's all with this witness.

Defense. Mr Walters you say there were 3 men A.W.L. from your Pl.

wit. Four.

def. If they had been missing before pl moved OFF would not sec leader have reported them immediately.

"JMH"

Page III

wit. you mean from San Maria

def. from where coy moved OFF from.

wit. yes certainly

def. do you think it possible ~~xxx~~ pte Deline did move OFF with the Platoon.

wit. Yes.

2nd Witness for Pros. wit. I am C.1999 Pte Mahoney B Coy 10 Pl H & PER, having been duly sworn state. The accused in the Court room is pte Deline R.C.

pros. Tell the court all you know and your appointment in the platoon at that time.

wit. In the evening about 1800 hrs. leaving san Maria Ridge I was 2 i/c of 3 section 10 pl pte Deline was with us. We continued down the road for a couple of hrs. when we came under enemy shell fire. We took cover and continued on after a few moments to our objective, Cpl Smith section leader told me pte Deline was missing, I have not seen him since till the court of enquiry on this case.

pros. That is all with this witness.

Def. Cpl Mahoney in your experience with a section have you found that moving to an objective under darkness and shell fire a man taking cover could become detached from his section

"JMH"

Wit. Yes Sir.

pros. Can you give me a date when you were on San Maria Ridge

Wit. Sept 14.

3rd wit for pros.

I am pte D.139615 Hart G. B Coy 10 pl. H & PER having been duly sworn stute. The accused in the court is Pte Deline We were in house on San Maria hill we moved at about 1800 hrs marched about 2½ hrs and came under shell fire, myself pte Lunde Morris and Morrow took cover. The coy moved off and left us. We were there that night, next morning we looked for the coy. We came to a Xrds and there met pte Deline we asked him how the roads were, he said an english Capt of the Bank Corps, told him the roads were under heavy shell fire, so we took cover again, stayed there that day, at night went into farm house. Next morning made up mind to find coy. myself, pte Lunde, Morris and Morrow went to look for them. We asked pte Deline if he were coming, he kept putting it off so went without him, I never saw pte Deline again till rest area.

"JMH".

pros. Do you remember approx dates.

Wit. Sept Between 13th - 17th.

pros. On the morning you returned to coy, what words did you use to ask pte Deline if he were coming.

wit. pte. Deline are you coming back with us to the Coy.

pros. What was his reply.

wit. he gave no satisfactory answers.

pros. Did you say anymore to him

wit. No Sir.

Pros. approx how long did it take to reach the Coy.

Wit. Twenty minutes to half an hour.

pros. Any shelling.

wit. No sir.

Pros. How did you find Coy.

Wit. directions from people on the road.

pros. Thats all with this witness.

Def... When you met pte Deline had you been detached from your section due to shell fire.

wit. yes.

def. you did not return next morning.

wit. no sir.

def. did you know you were only twenty minutes to half an hour away

"JMH"

wit. No Sir

def. Did pte Deline at any time suggest that he did not intend joining the coy.

wit. No sir.

This witness called to co-oborate last witness.

president to def. any objections.

Def. No sir.

wit. I am D.139661 Pte Lunde B Coy 10 Pl H & PER having been duly sworn states. We left big house on San Maria ridge late one afternoon. I Mile before objective we came under shell fire. Took cover in culvert. I got out coy had moved one. I went to Xrds. Did not know which way to go, returned to culvert and stayed night, day break returned to X rds met Deline. The road was under shell fire so went to house had something to eat and stayed the night, next morning returned to Coy. left Deline behind.

pros. Who was with you in culvert

wit. Ptes. Hart, Morris, Morrow.

pros. who was in house with you

wit. Ptes Hart, Morris, Morrow and Deline.

pros. Was there any talk between you and Deline.

wit. yes sir.

"JMH"

---

pros. Tell court of that conversation

wit. nothing special just small talk

pros. was there any conversation when you left.

wit. We told him we were leaving he said wait awhile I will come along but he stretched it out too long so we left him behind.

pros. did he or you say anything else

wit. No sir.

pros. With whom did you leave.

wit. ptes Hart, Morrow and Morris.

pros. How long did it take to reach the Coy.

wit. less than ~~hour~~ an hour.

pros. do you know approx date.

wit. Sept. must have been last half not sure.

pros. have you seen pte Deline since.

wit. No sir not till to-day.

def. Pte Lunde when you met pte Deline had you been detached from your coy due to sheal fire.

wit. yes sir.

cont'd page VIII

def. You did not return to coy next morning.

wit. No sir.

def. did pte Deline suggest at any time that he did not intend returning to the coy.

"JMH"

---

wit not to me sir.

4th wit for pros. I am C.6051 L/Cpl Grogan E. H & PER Reg Police. The accused in the court is pte Deline, having been sworn states, at approx 1530 hrs 30th Sept 44 pte Deline surrendered himself to me at the unit detention room I placed him under close arrest.

Pros. what was his condition.

wit. properly dressed and sober.

Prosecutions Summing up address:

The question of absence is clearly supported, both the absence and duration. The question of whether or not this absence constitutes desertion is a matter of wether or not there was intention to avoid a certain military service. The prosecution contends that this intention did exist and bears out its contention as follows. The original detachment from the coy was no doubt unavoidable due to the nature of enemy action, however there was nothing to prevent the accused returning to duty with the other four men of his coy. In fact the evidence shows that at least two of these companions asked him to return with them. While he did not refuse and while he did not indicate to them any intention "JMH"

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of non return. The fact that he did not accompany them and the fact that he did not accept their suggestions to return indicated the absence of intention to return. Further he continued his absence voluntarily. For a matter of some 15 days. There was no apparent danger on the route of return to the coy, and pte Deline's return did not take place till his unit had come out of action. The prosecution contends that this constitutes intention to avoid action with his unit at that particular time.

Accused makes statement not under oath.

Accused. On the night of Sept 14 as our coy advanced up to a point where we came under enemy shell fire, I like the rest took cover, as we were to crowded in the culvert and it was too dangerous for so many together after shelling had stopped I found coy had moved off. I stayed that night in cover. next morning went 200 yds up road where I met an English capt of the tank corps. he said it was best not to go up the road as it was likely to draw fire with the movement. I did not at any time intend to avoid any service whatsoever, thats all sir.

Counsel for defense closing address.

def. In summing up it is easy to realize that the criticism of desertion and AWL lies in the intention. The fact

The fact that the accused moved with his platoon towards the objective is alone sufficient to show that he intended to carry out his service when he came under shell fire and beca e detached from his section he did not know what to do, logically he waited till daybreak before moving, his meeting with a capt caused him to decide that it was not safe to try and rejoin his coy. ~~he realized that he was absent from his coy.~~ he realized that he was absent from his coy unintentionally, but made up his mind that he would return when he could, now! he was ~~it~~ sidetracked from performing service that was required of him and although he was AWL. There is no indication whatsoever that he is guilty of desertion or intention to avoid the service that he was to perform.

E3 Plea in mitigation def. The accused has only one charge against him. The one commited when not in action.

"JMH".

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
04334	Pte	Robert Gordon DELINE	HPER

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For Nil "GEB" ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet Nil

~~Date of last entry in Field Conduct Sheet~~ "GEB"

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is not under sentence for ~~conviction on civil charge~~ ~~sentence~~ "GEB"

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for no days in civil custody; and for 58 "OWC" days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which 30 "OWC" days were spent in hospital.

5. The present age of the accused is 33 yrs 5 mths 17 days

6. The date of his ~~enlistment~~ "GEB" ~~calling up for military service~~ is 8 Sep 39

7. The service which the accused is allowed to reckon is 5 yrs 2 mths 5 days

8. The accused is in possession of CVSM & Clasp 1939-1943 Star.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously ~~without reduction~~ to the present date "GEB"

Date of Promotion.

~~In the substantive rank of~~ .....

In the non-substantive rank of "GEB"

~~In the acting rank of~~ .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Ex A. "JMH"

W 5000/1921 35,000 3/44 H1-4781. Forms/B.296/W(C)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
FGCM	30 Nov 43 inthe field	AWL from 1900 hrs 1 Nov 43 to 1630 hrs 26Nov 43. Absent 24 days 21 hr 30 min Army Act Sec 15 (1)	6 mths Detn	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 17th day of Nov 44

"CR"Baldwin" Capt.
and Adjt - Offr i/c Regt'l Records
H & FER.

S72 36-83-Ref 1

No. C.4334 Name Deline RG Sqn. Battery or Company B Corps CIC Date of enlistment 8 Sep 39 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1Nov43	Pte		WOAS AWL from 1900 hrs 1 Nov 43 to 1630 hrs 26 Nov 43. Absent 24 dys 21 hrs 30 min) AA Sec 15 (1)	Doc	6 months detn	30Nov43	FGCM Forfeits 25 dys pay FRI 149(1) A. 182 dys FRI 149(1) B 4 dys pay FRI 149 (1)C Total 211 dys pay.	

CERTIFIED TRUE COPY TAKEN FROM REGIMENTAL RECORDS.

"G.E. BALDWIN" CAPT 17 Nov 44 DATE.
and Adjutant - Offr i/c Regimental books H &PER.
EX - B. "JMH"

"JMH".

(PTO)

EEE-20

PTE DELISLE A.

Correspondence to be PINNED here.

D34

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint:~~

~~*(1. - - Three Officers to form the Court.)~~

~~*(2. - - A Field Officer as President.)~~

~~for the following reasons, namely - - -]~~

PROCEEDINGS REVIEWED
J. L. Miquelon, Capt
20 Mar 44.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.		Name.	Regiment.
Major	J P	Ensor	Carlt & York R

Members.

Rank.		Name.	Regiment.
Capt	M	Trudeau	R 22é R
Capt	E M	Crouse	West NSR
Lt	A E	Warnes	3 CIB Sp Gp (SLI)

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brig

Commanding 3 Cdn Inf Bde
Convening Officer.

D 34

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E.4606 Pte. (a/L/Cpl.) DELISLE, Arthur R 22e R	First Charge Sec 9 (2) A.A.	Guilty	Guilty	
			To undergo imprisonment 2 years with hard labour Pte.	Confirmed Nicholson Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) Brigadier (Signed) Major
Commanding 3 Cdn Inf Bde
Convening Officer (c)
Canlt and York R
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B.

I certify that the above Court assembled on the twenty-fourth day of January, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

Certificate of President as to proceedings

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 24th day of January 1944.

President of the Court Martial.

C.

*See footnote (j) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Certificate in case of death sentences.

Signed this day of 19

President of the Court Martial.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldiers named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 25 day of Jan 1944.

Nicholson Brig
Confirming Officer.

Promulgated and extracts taken in the case of E.4606 Pte. (a/L/Cpl.) Delisle, A. R 22e R

(a) (Dated) 27 Jan. 1944 (Signed) Capt J.A. LeClaire Regt 22e Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] BY ARTHUR BLOCK LTD A.A.G.W.1.Ltd. Op.499

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the field on the 24th day of January 1944 by order of Brig. T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 22 day of January 1944

President.

Major J. P. Ensu — Carlt and York R

Members.

Capt. M. Trudeau — R22eR

Capt. C. M. Crouse — West N.S.R

, Judge-Advocate.

Trial of*

E 4606 Pte (Mhl Cpl) Delisle, Arthur R22eR

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N.A. [illegible] is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. J. A. Girolami R22eR

~~Counsel~~‡ or defending officer† Lieut. J. P. S. Charette R22eR.

At 1425 o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. [illegible] K. & H., Ltd. [illegible] Form A 9[illegible]

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

N.A.

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N.A. *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N.A. *Answer.*

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CHARGE SHEET

B2

The accused E.4606 Private(a/L/Cpl.) Arthur DELISLE, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service is charged with:-

1st Charge: A.A.Sec.9(2) — WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, at about 1000 hours on the 7th January 1944, did not proceed to his company on the front line when ordered to do so by Captain J.B. Jalbert, Royal 22e Regiment.

(J.V. Allard), Lt-Col.,
Commanding Royal 22e Regiment.

In the Field
15th January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(T.G. Gibson) Brig
Comd 3 Cdn Inf Bde

In the Field
22 Jan 44

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. [illegible]

Rank. Lieut. Name [illegible] of Royal 22e Regiment

and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station. In the Field

Date. 24 JAN. 1944

[illegible]
(Medical Officer)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

R 22 é R

The accused E 4606 Pte (a/Lt/Cpl) Delisle, Arthur is found guilty of the charge.

†The summary (or abstract) of evidence is read, marked C, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked X, signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

JRG

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut. J. G. Girolami, R 220'R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce A.F.B. 296

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked D, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused. NA.

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor may call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

Close address of the Defence

Re: E-4606 A/Hcpl Delisle A Royal 22e Regt. This man ~~has~~ was enlisted at Montreal some 4 years and 3 months ago. Since 39 he has always been with the Royal 22e Regt and always showed willingness. He was with the Regt at the Sicilian landing and carried on all the way thru to Ortona and there could'nt stand it any longer. Even before ~~that~~ the Regt. last attack, he refused to be L.O.B. (left out of battle) cause he had in mind that he could carry on unfortunately after doing his best, he dropped behind! And to-day, he feels that he can't carry on any longer at the front line. So I ask clemency of this Court for this man.

J.P.J. Charette Lieut.
Royal 22e Regiment

F

Sentence.

The Court sentence the accused E 4606 Pte (a/L/Cpl) Deleste, Arthur, R220'R to undergo imprisonment for a period of two years with hard labour

JPE.

Close address of the Defence Plan No X

Re: E-4606 A/Cpl Delisle A Royal 22e Regt. This man ~~has~~ was enlisted at Montreal some 4 years and 3 months ago. Since 39 he has always been with the Royal 22e Regt and always showed willingness He was with the Regt at the Sicilian landing and carried on all the way there to Ortona and there could'nt stand it any longer. Even before the Regt. last attack, he refused to be L.O.B. (left out of battle) cause he had in mind that he could carry on unfortunately after doing his best, he dropped behind! and to-day, he feels that he can't carry on any longer at the front line. So I ask clemency of this Court for this man.

J.J. Charette Lieut.
Royal 22e Regiment

SUMMARY OF EVIDENCE

In the case of E.4606 Private (a/L/Cpl.) Arthur DELISLE, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this Summary Of Evidence is taken under oath.

1st Witness: For the Prosecution. Captain J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:-

" I am Captain J.B. Jalbert, R.22e.R. On the 7th January 1944, I, Captain J.B. Jalbert, was O.C. "HQ" company of the Royal 22e Regiment and in charge of the "B" Echelon. At about 1000 hours on the 7th January 1944, I had a parade of soldiers A.W.L. I explained them the situation that now they have had a night or two of good sleeping and a good rest they were to go back to their respective company. I told them that their absence will be judged by their Company Commander but I was now giving them a definite order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to the Military Law. I then called each name and gave to each one the order to get in the truck, when I called the name of the accused Pte. (a/L/Cpl) Delisle,A. Whom I now recognize, the accused answered " I dont go" or words to that effect. After I had organized those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was then put under close arrest.

The accused declines to cross examine the witness.

Capt.

2nd Witness: For the Prosecution. E.4591 P/Sgt. Despres, R.O. Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 P/Sgt. Despres, R.O. R.22e.R. On the 7th January 1944, at about 1000 hours, I was present when Capt. J.B. Jalbert, gave the order to Pte. (a/L/Cpl) Delisle, A. the accused, whom I now recognize, to rejoin his company on the front line line. Pte. (a/L/Cpl.) Delisle, A. did not do so and refused saying "I dont go" or words to that effect. The accused did not go forward and after four or five minutes, time taking by Capt. Jalbert, to organize the ones going forward, as the accused has not yet obeyed the order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

P/Sgt.

In the case of E.4606 Private (a/L/Cpl.) Arthur DELISLE, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness: For the Prosecution.

E.4671 L/Cpl. Beaudet, E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl. Beaudet, E. R.22e.R. clerk at "HQ" company. On the 7th January 1944, at about 1000 hours, I was present when Captain J.B. Jalbert ordered Pte. (a/L/Cpl.) Delisle, A. the accused, whom I now recognize, to rejoin his company on the front line. The accused refused saying "I dont go" or words to that effect. He did not go forward and after four or five minutes, time taken by Captain Jalbert to organise the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was turned the guard room.

The accused declines to cross examine the witness.

Beaudet E. L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c),(d),(e),(f) and (g) were duly complied with.

Lieut.
Officer taking summary.

In the Field
15th January 1944.

LIST OF WITNESSES FOR THE PROSECUTION

in the case of,

E.4606 Private (a/L/Cpl) Arthur DELISLE, Royal 22e Regiment.

FOR THE PROSECUTION:	Captain	J.B.	Jalbert,	
	E.4591	P/Sgt.	Despres,	R.O.
	E.4671	L/Cpl.	Beaudet,	E.

FOR THE DEFENCE: N I L

I hereby acknowledge the receipt of a true copy of the summary of evidence taking prior to my trial by F.G.C.M. I further acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into Court Martial.

I desire the services of an Officer to represent me at my trial.

I desire the services of ~~Lieut. J.A. [illegible]~~ J. P. T. Charette Lt.
if he is available.

A. Delisle Pte.

In the Field

15th January 1944.

872 36-83-4 of 4

No. E 4606 Name DELISLE A Sqn., Battery, or Company "A" Corps C. I. C. Date of enlistment 13/11/39 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	3-1-41	Pte		Sec 15(1) A W L. from 2230 hrs 3-1-41 until 1300 hrs 4-1-41 — Total abs. 14 hrs 30 min	Sgt Paulin L/C Noith	7 days C B	7-1-41	Lt Col Flynn	1 Day's pay
"	2-9-41	"		Sec 10 (4) Breaking out of quarters 18 hrs. A.W.L.	Sgt Michaud	7 day F P.	3-9-41	Mgr Payan	9 days pay

On the 13-11-41 this soldier completed two years service and in accordance with R. R. (71) the above Regt'l entries were transferred from the previous sheet which was destroyed 15-11-41

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	26-1-42	Pte		Sec 40 When on Parade left on parade without permission from his supt off.	Csm St Amand Sgt Marchand	3 days C. B	26-1-42	G.A. Turcot Mgr	
"	2-4-42	"		Sec 10 (4) Broke out Billet while on Stand to	Tk Treedeau Sgt Michaud	7 days C B	4-4-42	G.A. Turcot Mgr	
"	16-4-42	"		Sec 15(1) A W L from 1100 hrs 16-4-42 until 2230 hrs 16-4-42	Sgt Lamelin Sgt Michaud	7 days C.B.	15-4-42	G.A. Turcot Mgr	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	31-12-42	Pte		Sec 40. W.O.A.S. C.P. of G. Dru that he so properly handled a fire arm as to cause injuries to a Comrade	Pte Vaillancourt Capt G. Latour	14 days C B.	6 Jan 43	Lt Col Bernatchez	
In the Field	21-1-42	"		Sec 25 - Absent himself on Parade	Cpl Lecours " Richard	7 days C B.	22-1-43	Raymond Caron Capt	

certified true copy
J. B. Bourseault Capt

J. Renner Major

87236-8-2 Pt 1

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
E. 4606	Pte (a/L/Cpl)	Dilisle. A.	R. 22e. R.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provided that in instance being given to the most serious offence in each entry and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For A.A.1.5 (.)	two	times.	three	times.
For A. A. 10(4)	one	times.	two	times.
For A A 40	one	times.	two	times.
For		times.		times.
For		times.		times.

~~Number of instances of gallantry or distinguished conduct~~:

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____.

4. The accused has been in confinement, awaiting trial on the present charge(s) for _____ days in civil custody, and _____ days in military custody, making a total of _____ days, of which _____ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 years old

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 11 Nov 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or award*) N.A.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____ N.A.

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or corps or department*) the rank of _____ dated _____ N.A.

(*[illegible]*) W.31708 1917 10,000 10/40 A.& E.W.Ltd. Op.456
(5307) W.12624-1287 12,000 3/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
	N/A.			

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Jan 44.

J.R. Bousseault Capt

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of a/d/cpl. 5 months + 10 days ago. Date of Promotion 31 Jul 43

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Certified true Copy Spare copy
A. McDougall Capt.

EEE 20

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-second day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~] "T.C.G."

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint~~ :—

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~ "T.C.G."

~~for the following reasons, namely :—~~]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J. E. Ensor	Carlt & York R.

Members.

Rank.	Name.	Regiment.
Capt	M. Fundeau	R. 22e R
Capt	E. M. Crouse	West N S R
Lt	A. E. Warnes	3 C I B Sp Gp (SLI)

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "F. G. Gibson" Brig

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E 4606 Pte (A/L/CPL) Delisle, A R. 22e R	First Charge Sec 9(2) A A	Guilty	Guilty	
			To undergo Imprisonment 2 years with hard labour "JPE"	Confirmed "F. F. Gibson" Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "F. F. Gibson" Brigadier (Signed) "J. P. Ensor" Major

Commanding 3 Cdn Inf Bde Carlt + York R
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twenty-fourth day of January, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*~~(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 24th day of January 1944.

"J. P. Ensor" Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 25 day of Jan 1944.

"F. F. Gibson" Brig
Confirming Officer.

Promulgated and extracts taken in the case of E 4606 Pte (A/L/CPL) Delisle, A. R. 22e R

(a) (Dated) 27 Jan 1944 (Signed) "Lieut. J. A. Girolami" Royal 22e Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) W1.47532/242 25,000 2/42 A.S.E.W.Ltd. Gp.698
(21781) W1.28098/1359 40,000 7/42

J.P. Ensor major "B 2"

C H A R G E S H E E T

The accused E.4606 Private (A/L/Cpl.) Arthur DELISLE, a soldier of the Royal 22e Regiment, Canadian Army, Overseas, on Active Service is charged with:-

1st Charge
A.A. Sec.9(2)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he

In the field, at about 1000 hrs on the 7th January 1944, did not proceed to his company on the front lone when ordered to do so by Captain J.B. Jalbert, Royal 22e Regiment.

"J.V. Allard"
(J.V. Allard) Lt-Col.,
Commanding Royal 22e Regiment.

In the Field,
15th January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field,
22 Jan 44

"T.G. Gibson"
(T.G. Gibson Brig.
Comd 3 Cdn Inf Bde

"JPENSOR MAJOR"

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No E4606 Rank L/Cpl Name Delisle A. of Royal 22e Regiment, and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station In the Field

Date 24 Jan 44

Richard L. Berk Capt.
(Medical Officer)

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at

In the field on the 24th day of January 19 44 by order of

Brig A J Gibson,

Commanding 3 Cdn Inf Bde

dated the 22 day of January 19 44

President.

Major J B Ensor, Carl and York R.

Members.

Capt M. Audeau R 22e R.

Capt. C M. Crouse, West N S R

"JPE"

~~Judge Advocate~~

Trial of* E 4606 Pte (a/Sgt) Dubuk, Arthur R 22 R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that ~~to serve owing to~~ n/a - JPE ~~is not available~~, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J A Girolami R 22e R

~~Counsel~~ or defending officer† Lieut J P J Chartte, R 22 R

At 1425 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer.

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

N A

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N A *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N A *Answer.*

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused F 4606 Pte (A/U/CPL) Delisle, Arthur

R. 22e R is found guilty of the charge

†The summary (or abstract) of evidence is read, marked C signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment ——

[or hands in a written statement, which is read, marked X , signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

No.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

"JPE"

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut J A Geraldine, R 22e R is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce

A F B - 296

The above statement, with the schedule of convictions and of cases in which trial has been dispensed with, is read, marked D, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes

Cross-examined by the accused. N A

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

(3)

"J.P. Ensor Major"
"X"

Close address of the Defence

Re. E.4606 A/L/Cpl Delisle A. Royal 22e Regt. This man was enlisted at Montreal some four years and three months ago. Since '39 he has always been with the Royal 22e Regiment and always showed willingness. He was with theRegt atthe Sicilian landing and carried on all the way through to Ortonia andthere could not stand it any longer. Even before the Regt last attack, he refused to L.O.B. (left outof battle) cause he hadin mind that he could carry on. Unfortunately after doing his best, he dropped behind, and today he feels that he can't carry on any longer at the front line. So I ask clemency of this Court for this man.

J.N. Charette lieut.
Royal 22e Regiment.

No. E 4606 Name DELISLE, A Sqn., Battery, or Company "A" Corps C.I.C. Date of enlistment 13-11-39 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 40/P & S/138 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	3-1-41	Pte		Sec 15(1) awl from 2230 hrs 3-1-41 until 1300 hrs 4-1-41 Total abs 14 hrs 30 mins)	Sgt Paulin L.C. North	7 Days C.B	7-1-41	Lt-Col Flynn	1 Days Pay
"	2-9-41	"		Sec 10(4) Breaking out of quarters. 18 hrs AWL	Sgt Michand	7 Days F.P	3-9-41	Major Payan	9 days Pay

On the 13-11-41 This Soldier completed two years service and in accordance with R.O(71). The above Regtl entries entries were transferred from the previous sheet which was destroyed 15-11-41

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	26-1-42	Pte		Sec 40 when on parade left parade without permission from his superior officer.	CSM St Armand Sgt Marchand	3 days C.B	26-1-42	G.A. Turcot	Mjr
"	2-4-42	"		Sec 10(4) Broke out of Billets while on Stand to	Lt Trudeau Sgt Michand	7 days C.B	4-4-42	G.A. Turcot	Mjr
"	16-4-42	"		Sec (15(1)) awl from 1100 hrs 16-4-42 until 2230 hrs 16-4-42	Sgt Lemelin Sgt Michand	7 days C.B	15-4-42	G.A. Turcot	Mjr

(P.T.O.)

572 36-8-5 Pt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	31.12.42	Pte		Sec 40 W.O.A.S.-C.P. of F. in that he so properly handled a fire arm as to cause injuries to a comrade	Pte Vaillancourt Capt F Latour	~~6 Jan~~ 14 days CB	6 Jan 43	Lt. Col. Bernatchez	
"	21.1.42	"		Sec 15 - absent himself on parade	Cpl Lecoyed Muchand	7 days CB	22-1-43	Raymond Carons Capt	

Certified True Copy "J B Rousseau"

"J. P. Ensa" Major

57236-8-C-4

"J. B Enser" major D

M.F.B. 355
22M—5-41 (372-S)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E 4606	Pte (A/Lt/Cpl)	Delisle, A.	R 22e R

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 15 (1)	two times	three times
For A.A. 10 (4)	one times	two times
For A.A. 40	one times	two times
For	times	times

~~Number of awards of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and declarations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time~~ is under sentence for ..... beginning on the ~~day of~~ .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and three days in military / Air Force custody, making a total of three days in custody, of which one day were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 years old

6. The date of his ~~enlistment~~ attestation specified in his record of service is 11 Nov 1939 ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon Nil service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military / military possession of or entitled to). State any air force decoration or reward.

Nil

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....

Nil

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

31 Jul 43 Date of promotion.

In the rank of A/Cpl 5 mos 10 days ~~years~~.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Unit Regiment

of .....

Name .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th ~~June~~ day of June 44 J O Bourneau Capt & adjt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J.P. Ensor Major "C"

SUMMARY OF EVIDENCE

In the case of E.4606 Private (A/L/Cpl.) Arthur DELISE? a soldier of the Royal 22e Regiment, Canadian Army Overseas, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness for the Prosecution

Captain J.B. Jalbert, Royak 22e Regiment, having been duly sworn states:-

" I am Captain J.B. Jalbert, R 22e R On the 7th January 1944 I, Captain J.B. Jalbert, was O.C. "HQ" company of the Royal 22e Regiment and in charge of the "B" Echelon.
At about 1000 hours on the 7th January 1944, I had a parade of soldiers A.W.L. I explained them the situation that now they have had a night or two of good sleeping and a good rest they were to go back to their respective company. I told them thattheir absence will be judged by their Company Commander but I was now giving them a definite order to get in the truck and rejoin their company at the front line; if they refused now they were fusing to obey an order given by a superior officer and according to the Military Law. I then called each name and gave to each one the order to get in the truck, when I called the name of the accused Pte. (A/L/Cpl.) Delisle A. whom I now recognize, the accused answered "I don't go" or words to that effect. After I had organized those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was then put under close arrest.

The accused declines to cross examine the witness.

J.B. Jalbert Capt.

Second Witness for the Prosecution

E.4591 P/Sgt Despres, R.C. Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 P/Sgt Despres R.C. R22e R On the 7th January 1944 at about 1000 hours I was present when Capt. J.B. Jalbert, gave the order to Pte. (A/L/Cpl.) Delisle, A. the accused, whom I now recognize, to rejoin his company on the front line. Pte. (A/L/Cpl.) Delisle A. did not do so and refused saying "I don't go" or words to that effect. The accused did not go forward andafter four or five minutes, time taking Capt. Jalbert to organize theones going forward, as the accused has not yet obeyed theorder given though this order had been repested he was turned to theguard room.

The accused declines to cross examine the witness.

Despres R.C. P/Sgt

In the case of E.4606 Private (A/L/Cpl.) Arthur DELISLE, a soldier of the Royal 22e Regiment, Canadian Army, Overseas.

3rd Witness: for the Prosecution

E.4671 L/Cpl Beaudet, E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl Beaudet, E. R.22eR. clerk at "HQ" company. On the 7th January 1944, at about 1000 hours, I was present when Captain J.B. Jalbert ordered Pte.(A/L/Cpl.)Delisel A. the accused, whom I now recognise, to rejoin his company on the front line. The accused refused saying "I don't go" or words to that effect. He did not go forward and after four or five minutes, time taken by Captain Jalbert to organize the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was turned into the guard room.

E. Beaudet L/Cpl

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that foregoing summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c)(d)(e)(f) and (g) were duly complied with.

(Undecipherable) lieut. -
Officer taking summary

In the Field,
15th January , 1944.

LIST OF WITNESSES FOR THE PROSECTUION

in the case of,

E.4606 Private (A/L/Cpl.) Arthur DELISLE, Royal 22e Regiment.

FOR THE PRO SECUTION — Captain J.B. Jalbert
E4591 P/Sgt Depres, R.C.
E.4671 L/Cpl Beaudet, A.

FOR THE DEFENCE — N I L

I hereby acknowledge the receipt of a true copy of thethe summary of evidence taking prior to my trial by F.G.C.M. I further acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into the Court Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of Lieut J.P.T. Chevette if he is available.

A Delisle Pte

In the Field,
15th January, 1944.

COUNTER NUMBER 544639

HOUR 2310

OPERATOR'S INITIALS GW

RELIEVING OPERATOR EJM

Carlt + York R

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twentieth day of August, 1941

Whereas it appears to me, the undersigned, an officer in Command of H.Q. 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ Huy

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~ Huy

for the following reasons, namely:—]

PROCEEDINGS REVIEWED

5/11/41

Reviewing Officer (Jas) 6 Mtg

President.

Rank.	Name.	Regiment.
Major	W.B. Carson	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	R.M. Smith	3 Cdn Inf Bde
Lieut	C.E. Bent	West NSR
Capt	E.L. Corcoran	Carlt & York R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*). Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E9774 Pte. Delisle. R) R 22e R	1st Charge A.A. 18 (4)	Guilty	Guilty	Confirmed subject to finding Reg
	2nd Charge A.A. 40	Not guilty	Not guilty	
	3rd Charge A.A. 40	Not guilty	Not guilty	
	4th Charge A.A. 40	Not guilty	Not guilty	
			Six months Detention	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)–(d)): "Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*): — NO.

(Signed) H.W. Farnons Brigadier (Signed) [illegible] Major
Commanding 5 Cdn Inf Bde *Officer* (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of August 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

Signed this 22 day of Aug 1941.

[illegible] Major
President of the Court Martial.

* Omit if not applicable.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ Reg

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 26 day of August 19 41

H.W. Farnons Brigadier
Comd 5 Cdn Inf Bde *Confirming Officer.*

Promulgated and extracts taken in the case of corrigendum R. Delisle

(*a*) (Dated) 27 Aug 41 (Signed) [illegible] Capt Adjutant, R.H.R. 5th Canadian Armoured Brigade, C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B.

C H A R G E S H E E T.

The accused, E. 4774, Pte. R. Delisle, Royal 22e.Regiment, a soldier of the Canadian Army is charged with, when on active service:-

1st Charge. A.A. 18 (4) — STEALING GOODS, THE PROPERTY OF A PERSON SUBJECT TO MILITARY LAW

in that he,

in the Field, on 24 Jun 41, stole a watch valued at $30.00, the property of No. E. 4791, Pte. E. Benoit, Royal 22e. Regiment, a person subject to military law.

2nd Charge. A.A. 40. — AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the Field, on 24 Jul 41, was in possession of burglar's tools and weapons.

3rd Charge. A.A. 40. — AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

on 24 Jul 41, in the Field, was in improper possession of the following articles:- one hammer, one set regimental flashes, one suit brush, one writing pad, one writing case, one empty chocolate box containing one padlock, one jack-knife, two photos, three prayer books, one key, pencils, one small dictionary and several small articles, the property of No. E. 4041 Pte. A. Côté, Royal 22e.Regiment.

4th Charge. A.A. 40. — AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

on 24 Jul 41, in the Field, was in improper possession of a soft-ball, the property of "B" coy., Royal 22e.Regiment.

(L.F.P. PAYAN), Major,
A/Commandant, Royal 22e.Regiment,
Canadian Army, (Overseas).

In the Field,
11 Aug 41.

FORM A

Proceedings of a Field General Court Martial held
IN THE FIELD ON THE 22 DAY OF Aug. 1941

Trial No. E 5774 Pte Delisle R.

Prosecutor. Lt. L. Cannon. DEC

Defending Officer ~~Lt. P. Hart~~ Lt A.E. Cannon

Officer Under Instruction

1. The order convening the Court is read in the presence of the accused.

2. The accused is asked the following question:-

Do you object to being tried by the President or any Member of the Court, whose names you have heard read over?

Answer - NO.

3. The President, Members, Judge Advocate, Officers under instruction, Shorthand writer, and interpreter are duly sworn.

4. (a) The accused having pleaded guilty to the 1st charge. charge(s) P.P.35 (B) is complied with.

5. The accused is asked the question at the foot of Page 2 of A.F.A. 3, and his answer is recorded beneath the question. NO.

6. The Prosecutor makes (nO) (~~the following~~) opening NO.

NO.

NO

A.

23 Aug 41

EVIDENCE IN THE F.G.C.M. OF E4774, Pte. Delisle, R. R 22e R

1st Witness- (2nd charge) E5113, L/Cpl. Giraldeau, P., R22e R being duly sworn, states:
I am and have been at all times material hereto a member of Provost Section R 22e R. My duty is to carry out such details as my Sergeant requires of me and to apprehend such persons as he directs.
On 24 July 41, I was directed by the Provost Sgt to make examination of the kit of Pte. Delisle, of A Company. As I arrived in his billets I found under the floor under his bed, some articles hidden under a blanket; black jack, screw-driver, a pair of pliers, hammer, elbow protectors, ball belonging to B Company, some wire, one round piece of lead, one knuckle buster, one writing pad, one set of regimental flashes, one brush, one hammer, one chocolate box containing some letters, dictionary, knife, lock, some letters and various small articles belonging to Pte. Cote, which I recognize as the articles on display.

Defense Question: What was the position of loose board in relation to where Pte. Delisle slept?

A. I was told by the C.Q.M.S. and the C.S.M. that he slept on that space.

2nd witness (3rd charge) - F4041 Pte. Cote, A. R 22e R.
Being duly sworn states:
I am a member of A Company R 22e R.

Q. Certain articles are on the table. Do you recognize them as yours?

A. Yes, Sir.

Witness identifies: one hammer, chocolate box complete with contents, brush, one writing pad, one writing case.

Q. Will you tell the Court where your billet is?

A. Burntwood Lane, A Company lines.

Q. Did Pte. Delisle live and sleep in that billet?

A. Yes, Sir.

Q. Did he sleep in the same room as you did?

A. No, Sir.

3rd Witness - E4065, Pte. Ward, G. R 22e R.
Being duly sworn states:
I am Pte. Ward of A Company, R 22e R.

Q. Do you remember at any time having sold a set of regt'l badges to Pte. Delisle?

A. Yes, Sir.

Q. The badges were the same as those on exhibit?

A. Yes, Sir.

Q. But you cannot identify the ones on exhibit as yours?

A. No, Sir.

DWS

Defence summing up:-

Sir, I maintain that on 2nd, 3rd and 4th charges, the charges are of being in improper possession of certain articles. I maintain that the prosecution have not proven that the accused was in possession of those articles. The only evidence being that the articles were found under a board where the accused's kit was at one time. Anyone could have put the articles there. It has not been proved that the accused put the articles there. With regard to the Regt'l flashes, Pte. Cote did not identify them as his own but the charge states this and I produces a witness to show that Pte. Delisle may have had a pr in his possession and that they may have been the ones Pte. Ward sold to him.

Taking all these things into consideration, I contend that there has not been enough evidence submitted to find the accused guilty on 2nd, 3rd or 4th charges.

Prosecution -

Prosecution admits quite frankly that these articles were not found in possession of accused. But the witness L/Cpl. Giraldeau was in company of C.Q.M.S. and C.S.M. when he went to the billet and was shown where Delisle slept, where the articles were found.

It is quite possible that the flashes were the property of Delisle. If the Court decides that they were the property of Pte. Delisle, the court must also assume that the other articles found under the floor must also belong to Pte. Delisle.

1st Witness - (1st Charge) E4791. Pte. Benoit, E. R 22e R.
Being duly sworn states:- I am and have been at all times material hereto a member of the R 22e R.
I recognize and identify the watch on exhibit as mine.

Defence Summing Up in Plea of Mitigation -

I should like to explain the circumstances of what took place on 24 June 41. 24 June is a National Holiday with French Canadians, for that reason there was a party given by the Regiment for the men in A Company lines. At that party, at which I was present, I counted at least 10 casks of beer. The accused told me that he had imbibed beer to the extent of 14 or 15 large cupsfull. I maintain that at the time when he committed the offence, he was hald drunk and was not entirely responsible for his actions.

Lt. L. Cannon

F.

NO.

No. E. 5774 Name Delisle R. Sqn., Battery, or Company Corps R. 22e R. Date of enlistment 11-6-40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 132) 300M—8-29 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Caterham	5-2-41			W.O.A.S. Abs from Off duty 1915 hrs to 0630 hrs total abs. 11 hrs 15 min.	Cpl. Blondin Sgt. Marchand Sgt. Lemelin	5 days C.B. 7-2-41	7-2-41	Capt. Vallee	forfeit 1 day's pay
Grove Camp	30-6-41			W.O.A.S. A.W.L. from 1300 hrs 29 Jun 41, till 1300 hrs 30 Jun 41, Total abs. 24 hrs.	Sgt. Lemelin	4 days C.B. 30-6-41		Maj Trudeau	1 day's pay

Paul Garneau Capt.

Certified true copy. Adjutant

ROYAL 22e REGIMENT, C.A.S.F.

(P.T.O.)

SUMMARY OF EVIDENCE

in the case of

E. 5774 Pte. R. Delisle, Royal 22e.Regiment, a soldier of the Canadian Army, (Overseas).

Evidence taken on oath by order of the Commanding Officer.

FIRST WITNESS. FOR PROSECUTION. No. P. 48845 P/Sgt. A. Dubé, having been duly sworn, states:-

" I am Provost-Sergeant of the Royal 22e.Regiment. On the 24th June 41, as Regimental Provost-Sergeant, I was advised that a theft had taken place at "A" coy., Quarter-Master Stores and that two watches and 2000 cigarettes had been stolen. An investigation was conducted and revealed nothing. On the 22nd July 1941, however, Pte. Benoit of "A" coy., identified one of the stolen watches as belonging to him. The watch was being worn by Pte. Frappier of "D" coy., who declared to me that he had bought the watch from Pte. Dufour who in turn said that he had got it from Pte. Poulin and the latter stated that he had been given it by Pte. Delisle, the accused. Pte. Delisle declared to me, after having been duly cautioned that any statement would be used in evidence at his trial, he had stolen the watch, after climbing through a window of "A" coy., Quarter-Master stores on the night of the 24th June 41. I now recognize the watch as the one which was in the possession of Pte. Frappier, and was identified by Pte. Benoit as his own, and also as the one Pte. Delisle admitted to me having stolen from "A" coy., Quarter-Master stores. "

A. Dubé

.....
(A. DUBE), P/Sgt., P. 48845,
Royal 22e.Regiment, C.A. (O).

The accused declines to cross-examine the witness.

SECOND WITNESS FOR PROSECUTION. E. 4791, Pte. E. Benoit, having been duly sworn, states:-

" I am a soldier of the Royal 22e.Regiment, attached to "A" coy. On the 18th June 41, I brought my watch to Coy. Quarter-Master's. I saw my watch again being worn by Pte. Frappier on the 22nd July 41. I now recognize my watch (Crest Make) which I value at $30.00.

E. Benoit

.....
(E. BENOIT), Pte., E. 4791,
Royal 22e.Regiment, C.A. (O).

The accused declines to cross-examine the witness.

THIRD WITNESS FOR PROSECUTION.

No. P. 48745, C.Q.M.S. J.A. Parent, having been duly sworn, states:-

" I am C.Q.M.S. of "A" coy., Royal 22e.Regiment. I now recognize the watch (Crest Make) as the one brought to me by Pte. Benoit, for repairs, and as the one that was stolen from my stores on the 24th June 41. It was stolen along with another watch and 2000 cigarettes.

Geo. P. Parent, C.Q.M.S.
(G.P. PARENT), C.Q.M.S., P. 48745,
Royal 22e.Regiment, C.A. (O).

The accused declines to cross-examine the witness.

FOURTH WITNESS FOR PROSECUTION

E. 5113 L/Cpl. P. Giraldeau, having been duly sworn, states:-

" I am a Lance-Corporal attached to the Regimental Police, Royal 22e.Regiment. After Pte. Delisle had been apprehended and placed under arrest on the 24th July 41, I was detailed by the Regimental Provost-Sergeant to take an inventory of the effects of the accused. I found under under the floor, immediately under the place where Delisle slept, the following articles, which I now recognize as the same which I found on the 24th July 41; one black-jack, two lead elbow protectors, one screw-driver, one pair of pliers, one Jimmy, one M.B.M. I (FR), one knuckle-buster, one round piece of lead, length of wire, one soft-ball, the property of "D" coy., and also the following articles the property of E. 4041 Pte. A. Coté; one hammer, one set regimental flashes, one suit brush, one writing pad, one writing case, one empty chocolate box containing, one padlock, one jack-knife, two photos, three prayer books, one key, pencils, one small dictionary and several small articles. "

P. Giraldeau, L/Cpl.
(P. GIRALDEAU), L/Cpl., E. 5113,
Royal 22e.Regiment, C.A. (O).

The accused declines to cross-examine the witness.

TH WITNESS PROSECUTION.

No. E. 4041, Pte. A. Côté, having been duly sworn, states:-

" I am a soldier of the Royal 22e.Regiment, attached to "A" coy. I now recognize as my property the following articles: one hammer, one set of regimental flashes, one suit brush, one writing pad, one writing case, one empty chocolate box containing one padlock, one jack-knife, two photos, three prayer books, one key, pencils, one small dictionary, and several small articles. "

Côté
(A. COTE), Pte., E. 4041,
Royal 22e.Regiment, C.A. (O).

The accused declines to cross-examine the witness.

SIXTH WITNESS FOR PROSECUTION. E. 4067, Pte. L. Tanguay, having been duly sworn, states:-

" I am a soldier of the Royal 22e.Regiment, attached to "A" coy. On or about the 1st July 41, Pte. Delisle told me that he had in his possession two lead elbow protectors, and proceeded to demonstrate this weapon to me by nudging me in the ribs.

L. Tanguay

(L. TANGUAY), Pte., E. 4067,
Royal 22e.Regiment, C.A. (O).

The accused denies the evidence of this witness.

The accused was given the opportunity of making a statement and declared that the articles found under the floor, under where he slept, did not belong to him.

The evidence was taken in the presence and within the hearing of the accused.

Compliance with R.P. 4 (c), (d), (e) and (f) certified.

(L. CANNON), Lieutenant, R.22e.R.,
Officer detailed by C.O. to take
Summary of Evidence.

MEDICAL CERTIFICATE.

This is to certify that No. E. 5774 Pte Delisle R. Royal 22e. Regiment, (C.A.S.F.) is mentally and physically fit to undergo trial before a Court-Martial and is fit to undergo Detention with or without hard labor.

D

22-8-41

Certified true copy.

Signed Jean de Saint Victor, M.O.
Royal 22e. Regiment.

Paul Garneau Capt.
Adjutant,
ROYAL 22e. REGIMENT, C. A. S. F.

459

"E"

MEDICAL CERTIFICATE.

This is to certify that No. E. 5774 Pte Delisle R. Royal 22e. Regiment, (C.A.S.F.) is mentally and physically fit to undergo trial before a Court-Martial and is fit to undergo Detention with or without hard labo[illegible]

23-8-41

Certified true copy.

Signed Jean de Saint Victor, M.O.
Royal 22e. Regiment.

Jean de Saint Victor Capt.

M.O. 22e. REGIMENT, C.A.S.F.

STATEMENT BY THE ACCUSED
TO HAVE AN OFFICER ASSIGNED TO REPRESENT HIM
AT HIS TRIAL BY COURT- MARTIAL.

I, No. E. 5774, Pte. R. Delisle, Royal 22e.Regiment, a soldier of the Canadian Army, (Overseas), desire to have an Officer assigned to represent me at my trial by Field-General Court-Martial.

I desire the services of Lieutenant Paul Hart if he is available.

R. Delisle
(R. DELISLE), Pte., E. 5774,
Royal 22e.Regiment, C.A. (O).

1 Aug 41.

I have been given free of charge, a copy of the Proceedings for my trial by Field General Court-Martial.

R. Delisle
(R. DELISLE), Pte., E. 5774,
Royal 22e.Regiment, C.A. (O).

1 Aug 41.

LIST OF EXHIBITS

in the case of

E. 5774, Pte. R. Delisle, Royal 22e.Regiment, a soldier of the Canadian Army, (Overseas).

(a) one watch (Crest Make)
(b) One black-jack
(c) two lead elbow protectors
(d) one screw-driver
(e) one pair pliers
(f) one jimmy
(g) one M.P.M. I (FR)
(h) one knuckle-buster
(i) one round piece of lead
(j) length of wire
(k) one soft ball (marked "B" coy.)
(l) one hammer
(m) one set regimental flashes
(n) one suit brush
(o) one writing pad
(p) one writing case
(q) one empty chocolate box containing one pad lock, one jack-knife, two photos, three prayer books, one key, pencils, one small dictionary, and several small articles.

LIST OF WITNESSES

in the case of

E. 5774, Pte. R. Delisle, Royal 22e.Regiment, a soldier of the Canadian Army, (Overseas).

WITNESSES FOR THE PROSECUTION.

P. 48845,	P/Sgt.	A. Dubé,	R.22e.R.
E. 4791,	Pte.	E. Benoit,	R.22e.R.
P. 48745,	C.QMS.	J.A. Parent,	R.22e.R.
E. 5113,	L/Cpl.	P.E. Giraldeau,	R.22e.R.
E. 4041,	Pte.	A. Côté,	R.22e.R.
E. 4067,	Pte.	L. Tanguay,	R.22e.R.

WITNESSES FOR THE DEFENCE.

NIL.

29

None

20

11-6-40

Frank Garman Capt.
Adjutant,
ROYAL 22e. REGIMENT, C. A. S. F.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this third day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.)
*(3. Three Officers having more than one year's service.)
for the following reasons, namely:—]

President.

Rank.	Name.	Regiment.
Major	G.S. Gibson	Seaforth of C

Members.

Rank.	Name.	Regiment.
Lieut	G. Blair	Edmn R
Lieut	G.L.W. White	3 Cdn Fd Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Arthur F Potts Brig

Commanding 2 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H17044 Pte DELISLE, R.A.	First Charge Sec 22 A.A. W.O.A.S. when in confinement, escaping.	Guilty	Guilty	
	Second Charge Sec 15 (1) A.A. W.O.A.S. absenting himself without Leave.	Guilty	Guilty. 60 days detention [signature]	Confirmed A.E.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) Arthur E Potts Brigadier, Commanding Cdn. Inf. Bde. (Signed) [signature] Major President.
Commanding Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Sixth day of April 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this Sixth day of April 1941.
at Godstone, Surrey.

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 761 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 8 day of April 1941.

Arthur E Potts Brigadier, Commanding Cdn. Inf. Bde.
Confirming Officer.

Promulgated and extracts taken in the case of H.17044 Pte. Delisle, R.A.

(a) (Dated) 12th April 1941. (Signed) [signature] Lt Col.
[illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

5B.

10/D/386

~~28 Aug 41 [illegible]~~

H. 17044 Pte Detiele R.a.

P.P.C.L.D.

See 13B.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this third day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint —

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely —]

President.

Rank.	Name.	Regiment.
Major	G.S. Gibson	Seaforth of C

Members.

Rank.	Name.	Regiment.
Lieut	G. Blair	Edmn R
Lieut	G.L.W. White	3 Cdn Fd Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Arthur Potts Brig

Commanding 2 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H17044 Pte DELISLE, R.A.	First Charge Sec 22 A.A.	Guilty	Guilty	
	W.O.A.S. when in confinement, escaping.			
	Second Charge Sec 15 (1) A.A.	Guilty	Guilty	
	W.O.A.S. absenting himself without Leave.			Confirmed A.E.P.
			180 days detention	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) Arthur E Potts Brigadier, Commanding Cdn. Inf. Bde. (Signed) [signature] Major
Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Fifth day of April 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. ~~The witnesses~~
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

* Omit if not applicable.

Signed this Fifth day of April 1941, at Godstone, Surrey.

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 8 day of April 1941.

Arthur E Potts Brigadier, Commanding Cdn. Inf. Bde.
Confirming Officer

Promulgated and extracts taken in the case of H.17044 Pte. Delisle, R.A.

(a) (Dated) 12 April 1941. (Signed) [signature] Lt Col.
[redacted]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

3r

CHARGE SHEET

The accused, No. H17044 Pte. Rene Albert DELISLE, P.P.C.L.I., a soldier of the Canadian Army is charged with

[illegible] Charge
[illegible] 22 A.A.

Whilst on Active Service:

When in confinement, escaping,

In that he

At Godstone, Surrey, on 2 Mar 41, when undergoing 28 days detention in P.P.C.L.I. detention barrack at Godstone, Surrey, escaping from custody.

Second Charge
Sec. 15(1) A.A.

Whilst on Active Service:

Absenting himself without leave

In that he

At Godstone, Surrey on 2 Mar 41, absented himself without leave from 0630 hrs 2 Mar 41 until he rehended by C.M.P. at 1415 hrs 22 Mar 41.
(Time absent - 20 days, 7 hrs and 45 mins.)

[signature]
([illegible]) Lieut-Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
27 Mar 41.

To be tried by Field General Court-Martial.

[signature] Major.

Summary of Evidence in the case of No.H17044 Pte. Rene Albert DELISLE "D" Company, P.P.C.L.I.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st WITNESS for the PROSECUTION K85205 a/L/Cpl Humeston G., P.P.C.L.I., having been duly sworn states:

"On 2 Mar 41, I was in charge of prisoners in the P.P.C.L.I. Guard Detention Room. At about 0630 hrs I took 5 or 6 of the prisoners, including H17044 Pte. Delisle R.A., to the ablution room, Clayton Arms Hotel. At about 0645 hrs I turned the prisoners over to K85384 Pte. English G.A. of the Regimental Police, P.P.C.L.I., and continued with my other duties. At about 0700 hrs I returned to the Guard Room, P.P.C.L.I. and received a report from Pte. English that Pte. Delisle R.A. had escaped. I reported this to P22250 Sgt. Straiton A.K., P.P.C.L.I."

Q.1. At what time were the prisoners aroused in the Guard Detention Rm?
A.1. At about 0600 hrs.

G Humeston a/L/Cpl

2nd WITNESS for the PROSECUTION K85384 Pte. English G.A., P.P.C.L.I. having been duly sworn states:

"On 2 Mar 41, I was on duty in the Guard Detention Room, P.P.C.L.I At about 0645 hrs, K85205 L/Cpl. Humeston G., P.P.C.L.I., turned over the prisoners to me and proceeded about his other duties. At about 0700 hrs I discovered that H17044 Pte. Delisle R.A., one of the prisoners had escaped. I searched the immediate vicinity unsuccessfully. At about 0700 hrs, when L/Cpl. Humeston returned, I reported to him that Pte. Delisle had escaped."

Geo A English Pte.

The accused declines to cross-examine this witness.

3rd WITNESS for the PROSECUTION P22250 Sgt. Straiton A.K., P.P.C.L.I. having been duly sworn states:

"On 2 Mar 41 at about 0710 hrs, L/Cpl. Humeston G., K85205, P.P.C.L.I., reported to me that one of the prisoners confined in the Guard Detention Room, P.P.C.L.I., H17044 Pte. Delisle R.A., had escaped. I proceeded to the Guard Room, and forwarded a description of Pte. Delisle to the R.C.M.P. and to the civilian authorities. On 24 Mar 41, Pte. Delisle was returned by the military police to the Guard Room, P.P.C.L.I., having been apprehended by an N.C.O. of the Cdn Provost Corps at 1415 hrs 22 Mar 41."

A Straiton Sgt.

The accused declines to cross-examine this witness.

Evidence in case of L/Cpl. T.D. Vermilyea, C.P.C., att'd APP. "A".

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th day of March, 1941, at Battalion Orderly Room, P.P.C.L.I., Godstone, Surrey.

Waterman

(R.S.L. WATERMAN) Capt.
Adjutant, P.P.C.L.I.

LIST OF WITNESSES FOR

PROSECUTION

K85205 a/L/Cpl. Humeston, C.
P.P.C.L.I.
2 Cdn Inf Bde.

K85384 Pte. English, C.A.
P.P.C.L.I.
2 Cdn Inf Bde.

P22250 Sgt. Straiton, A.K.
P.P.C.L.I.
2 Cdn Inf Bde.

DEFENCE

N I L

(J.M. EDWARDS) Lieut-Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
27 Mar 45

C

1A

CHARGE SHEET

The accused, No. H17044 Pte. Rene Albert DELISLE, P.P.C.L.I., a soldier of the Canadian Army is charged with

First Charge Sec.22 A.A. Whilst on Active Service:

When in confinement, escaping,

In that he

At Godstone, Surrey, on 2 Mar 41, when undergoing 28 days detention in P.P.C.L.I. detention barrack at Godstone, Surrey, escaping from custody.

Second Charge Sec.15(1)A.A. Whilst on Active Service:

Absenting himself without leave

In that he

At Godstone, Surrey on 2 Mar 41, absented himself without leave from 0630 hrs 2 Mar 41 until apprehended by C.M.P. at 1415 hrs 22 Mar 41.
(Time absent - 20 days, 7 hrs and 45 mins.)

(J.N. EDGAR) Lieut-Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
27 Mar 41.

To be tried by Field General Court-Martial.

A.

1.

Proceedings of a Field General Court Martial held i
in the field on the fifth day of April 1941.

Trial of No. H 17044 Pte. Rene Albert DELISLE,
P.P.C.L.I.

At 1410 the trial commences.

1. The order convening the court is read in the presence of the accused, signed by the president and attached to proceedings.

2. The names of the president and members of the court are read over in the hearing of the accused, and they severally answer to their names.

Q.1 Do you object to being tried by me as president or by any of the officers whose names you have heard read over?

A.1 No.

3. The president and members of the court are duly sworn.

4. The accused is arrainged upon each charge in the above mentioned charge sheet.

Q.2 Are you guilty or not guilty of the (first) charge against you which you have just heard read?

A.2 Guilty

Q.3 Are you guilty or not guilty of the second charge against you which you have just heard read?

A.3 Guilty.

5. R.of P. 35 (B) were complied with.

6. The court closes for consideration of its findings.

7. The court having reopened the accused is again brought before it; and the charges to which he has pleaded guilty are read to him again.

8. The accused No.H 17044 Pte. Rene Albert DELISLE P.P.C.L.I. is found guilty of all the charges.

B

2

2.

9. The summary of evidence is read, marked, and signed by the president and attached to the proceedings.

Q.4 Do you wish to make any statement in mitigation of punishment?

A.4 No.

Q.5 Do you wish to give any evidence yourself or to call any witnesses as to character?

A.5 No.

10. The court is closed for considdration of the sentence.

The court sentence the accused H 17044 Pte Rene Albert Delisle to 180 days detention

Dated at Godstone, Surrey
This 25th day of April 1941

[signature] Major

[signature] Major

[illegible]

[illegible]

[illegible] of April [illegible]

Trial of No. H.17044 Pte. Rene Albert DELISLE, P.P.C.L.I.

At 1410 hours the trial commences.

1. The order convening the court is read in the presence of the accused, signed by the president and attached to proceedings.

2. The names of the president and members of the court are read over in the hearing of the accused, and they severally answer their names.

Q.1 Do you object to being tried by me as president or by any of the officers whose names you have heard read over?

A.1 No.

3. The president and members of the court are duly sworn.

4. The accused is arraigned upon each charge in the above mentioned charge sheet.

Q.2 Are you guilty or not guilty of the first charge against you which you have just heard read?

A.2 Guilty.

Q.3 Are you guilty or not guilty of the second charge against you which you have just heard read?

A.3 Guilty.

5. R of P 35(B) were complied with.

6. The court closes for consideration of its findings.

7. The court having reopened the accused is again [illegible] before [illegible] [illegible]

[illegible]

[illegible]

(signed)

[illegible]

9. The summary of evidence is read, marked and signed by the president and attached to the proceedings.

Q.4 Do you wish to make any statement in mitigation of punishment.

A.4 No.

Q.5 Do you wish to give any evidence yourself or to call any witnesses as to character?

A.5 No.

10. The court is closed for consideration of the sentence.

11. The Court sentence the accused H 17044 Pte. Rene Albert Delisle to 180 days detention.

(signed)

C.S. Gibson, Major

Dated at Godstone, Surrey
this fifth day of April 1941

D

No. H17044 Name DELISLE R. [redacted] or Company "D" Corps P.P.C.L.I. Date of enlistment 13/3/40 G.C. Badges Service or Proficiency Pay 4 M.F.M. 6 (A.P.B. 122) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1. Signature O.C. Company, etc. (Signed) R.S.Malone, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
F.O.B.	27/6/40	Pte	-	Absent from parade at 0800 hrs 27/6/40. Returned 1430 hrs 27/6/40 (Absent 6 hrs 30 min)	L/Cpl.Moore H.E.	5 days C.B.	28/6/40	Lt.F.J.R. Moore.	Forfeits 1 days pay by F.R.& I.
F.O.B.	28&29 Jun40	Pte	-	Absent from Garage Piquet duties from 0430 hrs 29/6/40 to 0750 hrs 29/6/40 causing another man to take his place. 2. Absent whilst a defaulter from 1800 hrs 28/6/40 to 0750 hrs 29/6/40 (Ab.13 hrs 50 min). 3. Being in the canteen whilst a defaulter.	L/Cpl.Moore H.E. Pte.Butcher N.S.	7 days C.B.	29/6/40	Lt.F.J.R. Moore.	Forfeits 1 days pay by F.R.& I.
F.O.B.	18/7/40	"	-	1. Absent from extra drill parade	L/Cpl.Walters J.	7 days C.B.	19/7/40	Lt.F.J.R. Moore.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				1730 hrs 18/7/40.2.Absent from Adjutent's parade 0745 hrs 19/7/40.					
F.O.B.	23/7/40	Pte	-	Absent from parade at 1500 hrs 23/7/40	Cpl.Moore H.	7 days C.B.	24/7/40	Lt.F.J.R. Moore.	
Guadaloupe Bks.	23/9/40	Pte	-	1.O.A.B.Conduct to the prej.of good order and mil. disc. whilst on guard duty between 1745 hrs & 1810 hrs near married quarters did behave in a disorderly and unsoldierly fashion. A.A.Sec.40.	Cpl.A.E. Hatton.	7 days C.B.	25/9/40	Major J.E. Sinclair.	-
Guadaloupe Bks.	29/10/40	Pte	-	1.O.A.S.I.a.W.L. 1930 hrs 27/10/40 to 1630 hrs 29/10/40(Absent 1 day 21 hrs)	Documentary	(has spent 4 days in close arrest in Det).	4/11/40	Major J.E. Sinclair.	Forfeits 2 days pay by F.R.A.I.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
O.A.S.	29/12/40	Pte	-	W.O.A.S.1.Absent from Church Parade at 0855 hrs 29/12/40 2.Failing to report sick when ordered to do so.	L/C. Polly	3 days C.B.	30/12/40	Capt.J.D. Ogilvie.	
O.A.S.	30/12/40	Pte	-	W.O.A.S.1.Leaving his duty without being properly relieved2.Breaking out of billets whilst a defaulter 3.Remaining absent from 1000 hrs 30/12/40 to 1445 hrs 12/1/41(Ab. 13 days 4 hrs and 45 min.)	L/C. Polly L/C. Bain	28 days detention.	13/1/41	Lt-Col.J. N. Edgar.	Forfeits 14 days pay by F.R. & I.
O.A.S.	16/2/41	Pte	-	W.O.A.S.1.A.W.L. from 1800 hrs 16/2/41 to 1930 hrs 17/2/41(Ab. 1 day 1 hr 30 min)	L/C.Hastings	28 days detention	19/2/41	Major R.A. Lindsay	Forfeits 2 days pay by F.R. & I.
O.A.S.	13/1/41	Pte	-	W.O.A.S.1.losing by neglect 1 steel helmet and 1 respirator a/gas.	Documentary	To make good cost £1/3/10	18/2/41	Major R.L. Mitchell.	

CERTIFIED TRUE COPY:

(N. EDGAR) Lieut-Col.
Commanding, P.F.C.L.I.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
O.A.S.	14/11/40	Pte	-	W.O.A.S.(A.A.10(4)1.Failing to book out.2.(A.A.15(1)A.W.L. from 1900 hrs to 2030 hrs 14/11/40(Absent 1 hr 30 min).3.(A.A.11)Failing to book in.4.(A.A.40) Improperly dressed.5.(A.A.11.Not complying with an order.	L/Cpl.J.C. Crabtree.	3 days C.B.	15/11/40	Lt.R.G.M. Gammell.	
O.A.S.	18/12/40	Pte	-	W.O.A.S.1.Absent from parade at 1720 hrs 18/12/40.	Cpl.Vigurs	7 days C.B.	19/12/40	Capt.J.D. Ogilvie.	
O.A.S.	23/12/40	Pte	-	W.O.A.S.1.Absent from his billets whilst a defaulter from 0600 hrs to 1330 hrs 23/12/40.2.Absent from duty at 1730 hrs.3.Remaining absent from 1730 hrs to 0600 hrs 24/12/40 (Absent 12 hrs 30 min)total absence 20 hrs.	L/C. Pelly	7 days C.B.	27/12/40	Lieut.E.G.	4 days pay forfeiture by F.R.A.I.

1 8

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED

(a) The accused has been in confinement awaiting trial on the present charges for six days. None of this time was spent in civil custody or hospital.

(b) The present age of the accused according to his Attestation Paper is 21 years.

(c) The date of his attestation specified in his Attestation Paper is 13 Mar 40.

(d) The accused is in possession of, or entitled to no military decoration or military reward.

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

(J.N. EDGAR) Lieut-Col.
Commanding, P.P.C.L.I.

27 Mar 41

Major

Summary of Evidence in the case of No.H17044 Pte. Rene Albert DELISLE, "D" Company, P.P.C.L.I.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st WITNESS for the PROSECUTION — K85205 a/L/Cpl Humeston G., P.P.C.L.I., having been duly sworn states:

"On 2 Mar 41, I was in charge of prisoners in the P.P.C.L.I. Guard Detention Room. At about 0630 hrs I took 5 or 6 of the prisoners, including H17044 Pte. Delisle R.A., to the ablution room, Clayton Arms Hotel. At about 0645 hrs I turned the prisoners over to K85384 Pte. English G.A. of the Regimental Police, P.P.C.L.I., and continued with my other duties. At about 0700 hrs I returned to the Guard Room, P.P.C.L.I. and received a report from Pte. English that Pte. Delisle R.A. had escaped. I reported this to P22250 Sgt. Straiton A.K., P.P.C.L.I."

Q.1. At what time were the prisoners aroused in the Guard Detention Rm?
A.1. At about 0600 hrs.

G Humeston a/L/Cpl

2nd WITNESS for the PROSECUTION — K85384 Pte. English G.A., P.P.C.L.I. having been duly sworn states:

"On 2 Mar 41, I was on duty in the Guard Detention Room, P.P.C.L.I. At about 0645 hrs, K85205 L/Cpl. Humeston G., P.P.C.L.I., turned over the prisoners to me and proceeded about his other duties. At about 0700 hrs I discovered that H17044 Pte. Delisle R.A., one of the prisoners had escaped. I searched the immediate vicinity unsuccessfully. At about 0700 hrs, when L/Cpl. Humeston returned, I reported to him that Pte. Delisle had escaped."

Geo A English Pte.

The accused declines to cross-examine this witness.

3rd WITNESS for the PROSECUTION — P22250 Sgt. Straiton A.K., P.P.C.L.I. having been duly sworn states:

"On 2 Mar 41 at about 0710 hrs, L/Cpl. Humeston G., K85205, P.P.C.L.I., reported to me that one of the prisoners confined in the Guard Detention Room, P.P.C.L.I., H17044 Pte. Delisle R.A., had escaped. I proceeded to the Guard Room, and forwarded a description of Pte. Delisle to the R.C.M.P. and to the civilian authorities. On 24 Mar 41, Pte. Delisle was returned by the military police to the Guard Room, P.P.C.L.I., having been apprehended by an N.C.O. of the Cdn Provost Corps at 1415 hrs 22 Mar 41."

Sgt.

The accused declines to cross-examine this witness.
Evidence in case of L/Cpl. T.D. Vermilyea, C.P.C., att'd as App."A"
The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 24th day of March, 1941, at Battalion Orderly Room, P.P.C.L.I., Godstone, Surrey.

(R.S.L. WATERMAN) Capt.
Adjutant, P.P.C.L.I.

H

APPENDIX "A"

Statement of [redacted] in the case of

H-17044 Pte. Delisle, R.
Princess Patricias Canadian Light Infantry

Sir,

At London at about 1415 hrs. on the 22nd. March 1941, while on duty in Piccadilly Circus in company with L/Cpl. McHardy I saw the a/m soldier. I asked him for his pass. He could not produce one. He was A.W.L. I placed him under arrest and conducted him to the C.P.C. H.Q. where he was handed over to the N.C.O. i/c of the cells to be detained.

T. Robinson .....L/Cpl.
Canadian Provost Corps.

Sir,

I have read over and cerroborate the above statement.

London
22-3-41.

W. McHardy .....L/Cpl.
Canadian Provost Corps.

REMARKS

CHARGE

Army Form B 252
(See King's Regulations)

Princess Patricias Canadian Light Infantry.

Battery
Squadron
Troop or
Company

CHARGE against No. H-17044 Rank Pte.

Name Delisle, R.

Place London Date of Offence 22-3-41.

OFFENCE W.O.A.S. was absent without leave from [illegible] ...until Apprehended at about 1415 hrs. on the 22nd. March 1941 in Piccadilly Circus, by L/Cpls. Vermilyea & McHardy.

Sec. 15 A.A.

[signature] D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA.

Names of Witnesses :—

L/Cpl. Vermilyea, Canadian Provost Corps.

L/Cpl. McHardy, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

Wt.W28440/806. 1,000,000. 10/40. K. & B., Ltd. G657/47

P.T.O.

6 9

5.

I, No. H17044 Pte. Rene Albert DELISLE, P.P.C.L.I., desire that an officer be assigned by the convening officer to represent me at my trial.

R A Delisle Pte.
H17044 P.P.C.L.I.

Godstone, Surrey.
27 Mar 41

7 4

This is to certify that H17044 Pte. Delisle R.A. is medically fit to undergo trial by Field General Court Martial.

(C.E. CORRIGAN) Capt.
R.C.A.M.C.

Godstone, Surrey.
5 Apr 41.

8

ARMY FORM B 116.

Princess Patricia's Canadian Light Infantry REGIMENT.

STATION Godstone, Surrey Date 27 Mar 10 41

Application for a Field General *Court-Martial.*

SIR,

I have the honour to submit One charge against No. H17044 Private Rene Albert DELISLE of the Unit under my command, and request you will obtain the sanction of Brigadier, 2 Cdn Inf Bde that a Field General Court-Martial may be assembled for his trial at

The Case was investigated by (a) (i) Lt.Col.J.N. Edgar, MC. OC. PPCLI (ii) Maj. C.B. Ware, (iii) Capt. R.S.E. Waterman

~~XXXX

5B Pte. DELISLE, R A

See 5B

O. H. M. S.

Correspondence to be PINNED here.

Army Form A.3.

ORDERLY ROOM 25 APR 1941 EDMONTON REGT. 4195

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 22nd day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of 2 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

*(3. Three Officers having more than one year's service.)

for the following reasons, namely:—]

HEADQUARTERS ... CORPS

President.

Rank.	Name.	Regiment.
Major	D.A. Petrie	Edmn R

Members.

Rank.	Name.	Regiment.
Captain	D.W. Davidson	Seaforth of C
Lieut.	C.C. Tarbuck	Seaforth of C

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled.

*Signed Arthur E Roth Brigadier,

Commanding Form 2 Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H.17044 Pte. DELISLE, Rene Albert P.P.C.L.I.	1. Sec 22 A.A. W.O.A.S. When in confinement, escaping.	Guilty	Guilty	Confirmed but sentence remitted to one year detention A.S.P.
	2. Sec 15(1) A.A. W.O.A.S. Absenting himself without leave.	Guilty	Guilty	
	3. Sec 18(4) A.A. W.O.A.S. Stealing public property. Valued at £2:8:6 D.A.P.	Guilty	Guilty	
	4. Sec 24(2) A.A. Losing by neglect his equipment, clothing and regimental necessaries. Amounting to £4:19:2. D.A.P.	Guilty	Guilty	
			Awarded Stoppages of £7:7:8	Under the authority vested in me by A.A. 57(a) I mitigate the sentence of the Court, as confirmed, to six months' detention and stoppages of £7-7-8. G.L. Peaches Mgr. 1 Cdn. Div.

2 years Imprisonment D.A.P.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) Arthur E. Potts Brigadier, Comdg. 2 Cdn. Inf. Bde. (Signed) D.A. Petrie Maj. President.

Convening Officer (a)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Twenty eight day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court D.A.P.
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this Twenty eighth day of April 1941.

D.A. Petrie Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (8) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 29 day of April 1941.

Arthur E. Potts Brigadier, Comdg. 2 Cdn. Inf. Bde.
Confirming Officer.

Promulgated and extracts taken in the case of H17044 Pte. Delisle, D.A.

(a) (Dated) 1 May 41 (Signed) J.M. Edgar (J.M. EDGAR) Lieut-Col. Commanding, P.P.C.L.I.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

26 May 41

MEMO

"I confirm the finding [redacted] art. of the court but commute the sentence to one year detention and award stoppages of £7.7.8"

Arthur E Potts

(Arthur E. Potts) Brig
Comd 2 Cdn Inf Bde



RHH

NOTICE OF MITIGATION OF SENTENCE.

Whereas No.H 17044 Pte. Delisle, R.A., a soldier of the P.P.C.L.I., Canadian Army (Overseas) was by a Field General Court Martial held in the field convicted of the offence(s) of:

1. A.A. Sec 22 Escaping confinement.
2. A.A. Sec 15(1) Being absent without leave.
3. A.A. Sec 18(4) Stealing public property.
4. A.A. Sec 24(2) Losing by neglect his equipment.

and by a sentence signed on the 28th day of April 1941 sentenced to one year detention with stoppage of £7-7-8 commencing on the aforesaid day and such sentence was on the 29th day of April 1941 confirmed by the Brigadier, 2 Cdn Inf Bde.

I DO HEREBY NOTIFY you that I the undersigned, the competent military authority under the provisions of Section 57(2) of the Army Act, did on the 27th day of September, 1941 order that the said sentence be mitigated to six months detention, with stoppage of £7-7-8

Dated this 13th day of October 1941.

G.R. Pearkes

(G.R Pearkes) Major-General
G.O.C. 1 Cdn Div.

To: Commandant Detention Barracks, Aldershot.
Officer i/c Records, C.M.H.Q.
D.A.G., Cdn Section, 2nd Echelon.
2 Cdn Inf Bde.

A DWP.

CHARGE SHEET

The accused, No.H17044 Pte. Rene Albert DELISLE, P.P.C.L.I., a soldier of the Canadian Army is charged with

First Charge
Sec.22 A.A.

Whilst on Active Service:

When in confinement, escaping,

DWP.

In that he

At Godstone, Surrey, on 5 Apr 41, when in P.P.C.L.I. detention barrack at Godstone, Surrey, escaped.

Second Charge
Sec.15(1) A.A.

Whilst on Active Service:

Absenting himself without leave

In that he

DWP.

At Godstone, Surrey, absented himself without leave from approximately 2030 hrs 5 Apr 41 until he was apprehended in London by C.M.P. at 1400 hrs 10 Apr 41. (Absent 4 days 18 hours).

Third Charge
Sec.18(4) A.A.

Whilst on Active Service:

Stealing public property

In that he

DWP.

At Godstone, Surrey, on 5 Apr 41, stole one greatcoat, drab, dismounted, the said greatcoat being public clothing. (Value £2:8:6).

Fourth Charge
Sec.24(2) A.A.

Whilst on Active Service:

Losing by neglect his equipments, clothing and regimental necessaries

In that he

At Godstone, Surrey, on 6 Apr 41, was deficient of:-

DWP.

One Respirator haversack Mk.VI	value	£ : 4: 7
One Helmets, steel Mk II	value	7: 0
One Shirt angola drab	value	10: 0
Two pairs socks worsted	value	2:10
One towels hand	value	1: 4
One razors, safety	value	: 5½
One brushes, shaving	value	1: 2
One brushes, boot, polishing	value	2: 1
One tins, mess	value	2: 3
One web equipment, complete pattern 1937.	value	3: 7: 5½
Total value of deficiencies		£4:19:2

Dakton Maj
Edmund R.
President

(J.N. EDGAR) Lieut-Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
16 Apr 41.

To be tried by Field General Court-Martial;

Dft. Proceedings in the trial by Court Martial of No. H17044 Pte. Delisle, R.A., P.P.C.L.I., taken at the Officers' Mess, P.P.C.L.I., this twenty-eighth day of April, 1941.

The Court assembled pursuant to the Order of the Officer Commanding 2 Cdn. Inf. Bde. at the Officers' Mess, P.P.C.L.I., Godstone, Surrey.

The Order convening the Court was read in the presence of the accused and Rules of Procedure 22 (a),i - v, complied with.

Rules of Procedure 23 (a), i and ii, were discussed and agreed upon by the Court.

The accused declined to make any objections to the President or the Members of the Court in reply to questioning in accordance with R.P. 25 (a).

The proper oath was administered to the President and Members of the Court in the presence of the accused.

The accused was arraigned of the charges laid against him. Each charge read to him, and the accused pleaded guilty to each charge separately, in accordance with R.P. 31 (a) and (b). Charge sheet was marked Exhibit 'A' by the President.

The accused identified himself and was identified by the Prosecutor and Defence Counsel as No. H17044 Pte. Delisle, R.A., of the P.P.C.L.I., as the person charged.

The prosecutor read the Summary of Evidence to the accused who agreed that the facts were materially correct. Summary of Evidence was marked by President Exhibit "C".

The accused was warned that he did not require to plead guilty to any of the charges and that at any time he might change his plea to that of "Not Guilty". The accused admitted that he understood the import of all the charges in accordance with R.P. 37 and 38.

After the reading of the Summary of Evidence and the admission of the accused the Prosecutor closed his case.

In accordance with R.P. 40 the accused was asked if he wished to give evidence as witness and that he would be subject to cross-examination if he did so, and if he wished to call any witnesses.

The accused stated that he did not wish to do so.

The Prosecutor declined to make a final address.

Counsel for the Defence made a closing address to the Court in which he requested that in mitigation of the sentence the accused be sent to a Psychiatrist. Prosecuting Counsel concurred in this respect.

Certificate of Character at this stage was submitted.

The Court was adjourned and deliberated on the findings in accordance with R.P. 43.

The finding of each charge was recorded as in accordance with R.P. 44.

The accused has no decorations or recognitions of gallantry or distinguished conduct.

D.A. Petrie Maj.
PRESIDENT
Major D.A. Petrie,
49th Edmonton Regt.

The Summary of Evidence in the case of No.H17044 rte. Rene Albert DELISLE, "D" Company, P.P.C.L.I.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st WITNESS for the PROSECUTION

P22250 Sgt. Straiton A.K., P.P.C.L.I. having been duly sworn states:

"I am Provost Sgt., P.P.C.L.I. On 24 Mar 41, Pte. R.A. Delisle, H17044, was arrested and confined in the Guard Detention Room, P.P.C.L.I., on charges of escaping from custody and being A.W.L. At this time his clothing and equipment were checked and found to be correct. On 5 Apr 41 at 2300 hrs it was reported to me by a/Cpl. Strom C.A., K85230, P.P.C.L.I. that Pte. Delisle had again escaped from custody at approximately 2030 hrs. I then proceeded to the Guard Detention Room and verified this report. On 11 Apr 41 Pte. Delisle was returned to the Guard Detention Room, P.P.C.L.I. from 1st Cdn Reception Camp when his clothing and equipment were again checked and found to be deficient the following articles, which were in his possession when he escaped:

1 Respirator haversack	4: 7
1 Steel helmet	7:
1 Shirt	10:
2 pr. Socks	2:10
1 Towel	1: 4
1 Razor	: 5½
1 Shaving Brush	1: 2
1 Shoe Polish Brush	2: 1
1 Mess Tin	2: 3
1 Web equipment, complete	£3:7: 5½
	£4:19:2

_____ Sgt.
P.P.C.L.I.

The accused declines to cross-examine this witness.

2nd WITNESS for the PROSECUTION

K85230 Pte. (a/Cpl) Strom C.A., P.P.C.L.I., having been duly sworn states:

"On 5 Apr 41 I was R.P. on duty in the Guard Detention Room, P.P.C.L.I. At approximately 2015 hrs, one of the prisoners, Pte. Delisle R.A., H17044, took a greatcoat from the first section of the guard room and returned to his bed. I did not query the action thinking the greatcoat was one which he was entitled to. I then switched off lights in the prisoners sections. At approximately 2030 hrs I switched the lights on again, inspected the Guard Room and discovered that Pte. Delisle had escaped. A few minutes later Pte. Sloan, another prisoner, reported to me that his greatcoat was missing, and on enquiry I learned that it had been hanging in the place from which I had seen Pte. Delisle take a greatcoat just prior to "Lights Out". I had the immediate area of the Guard Detention Room searched and finding no trace of Pte. Delisle I reported the escape to P22250 Sgt. Straiton A. K., P.P.C.L.I. at 2300 hrs."

_____ Pte(a/Cpl)
P.P.C.L.I.

The accused declines to cross-examine this witness.

3rd WITNESS for the PROSECUTION

H16207 Pte. Sloan D., "A" Coy, P.P.C.L.I., having been duly sworn states:

"On 5 Apr 41 I was confined in the Guard Detention Room, P.P.C.L.I., together with a number of other prisoners, amongst whom was H17044 Pte. Delisle R.A. I last saw Pte. Delisle at about 2015 hrs, 5 Apr 41, just before "Lights Out". Shortly after this time K85230 Pte(a/Cpl) Strom C.A., the R.P. on duty, switched on the lights and inspected the Guard Room, when it was discovered that Pte. Delisle had escaped from custody. At this time I reached for my greatcoat which had been hanging over my bed and discovered that it was no longer there. I reported the loss to a/Cpl. Strom immediately."

_____ P.P.C.L.I.

The accused declines to cross-examine this witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (C) (D) (E) (F) have been complied with.

Taken down by me in the presence and hearing of the accused this 15th day of April, 1941, at Battalion Orderly Room, P.P.C.L.I., Godstone, Surrey.

(R.S.E. WATERMAN) Capt.
Adjutant, P.P.C.L.I.

CHARGE

Army Form B 252
(See K[illegible] Regulations)

P.P.C.L.I. "D". Coy. Regiment

Battery / Squadron / Troop or / Company

CHARGE against No H-17044 Rank Pte.

Name Delisle R.

Place London. Date of Offence 10-4-41.

OFFENCE W.O.A.S. (1) Absent without leave from.....until apprehended by the Cdn. Provost Corps, in Hyde Park Corner London at about 14.00 hrs. on the 10-4-41. (2) Improperly dressed i/e not carrying his respirator, anti-gas,

Names of Witnesses D.A.P.M. CANADIAN MILITARY POLICE

L/Cpl. Gillette, Canadian Provost Corps.

L/Cpl. Hayden, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of EVIDENCE in the case of

H-17044 Pte. Delisle, R.
P.P.C.L.I. "D" Coy.

Sir,

At London on the 10-4-41 at about 14.00 hrs. I was on patrol duty at Hyde Park Corner in company with L/Cpl. Hayden when I saw the a/m soldier. He was not carrying his respirator anti-gas. I approached him and asked him for his pass. He could not produce one. He was A.W.L. I placed him under arrest and turned him over to Cpl. Randall who was there. H escorted him to C.P.C.H.Q. where he was turned over to the N.C.O. i/c cells to be detained.

London
10-4-41

S Gillett .....L/Cpl.
Canadian Provost Corps.

Sir,

I have read over and corroborate the above statement.

London
10-4-41.

W C Hayden .....L/Cpl.
Canadian Provost Corps.

REMARKS

LIST OF DEFICIENCIES Pte. Delisle.

1	Respirator overstk.	4:7d
1	Steel helmet	7:-
1	shirt	10:-
2	pr.socks	2:10d
1	towel	1: 4d
1	razor.	5½d
1	shaving brush	1: 2d
1	shoe polish brush	2: 1d
1	mess tin.	2: 3d.
1	web equipmnt complete	£ 3: 7:5½d.
		£ 4:19:2d.

D Def.

Short Statement as to particulars of service of the accused.

(a) The accused will have been in confinement awaiting trial on the present charges for eighteen days at 1400 hrs today, 28 Apr 41.

(b) The present age of the accused according to his Attestation Paper is 21 years.

(c) The date of his attestation specified in his Attestation Paper is 13 Mar 40.

(d) The accused is in possession of, or entitled to, no military decoration or military reward.

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

(J.H. EDGAR) Lt.Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
28 April, 1941.

D Staff

Short Statement as to particulars of service of the accused.

(a) The accused will have been in confinement awaiting trial on the present charges for eighteen days at 1400 hrs today, 28 Apr 41.

(b) The present age of the accused according to his Attestation Paper is 21 years.

(c) The date of his attestation specified in his Attestation Paper is 13 Mar 40.

(d) The accused is in possession of, or entitled to, no military decoration or military reward.

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

J.M. Edgar

(J.M. EDGAR) Lt.Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
28 April, 1941.

Major Petrie GR 92

To: A Coy Org No P-488

From adjt PPCLI Date 26

Re- delish your message noted
Defence council Lieut R.M. Gordon
PPCLI ① Charge sheet and summary
handed accused prosecutor and defence

SIGNATURE T. Crosby TOR 1825

THL 1905

I, No. H17044 Pte. Rene Albert DELISLE, P.P.C.L.I., desire that an officer be assigned by the convening officer to represent me at my trial.

Delisle. R. A Pte.
H.17044 P.P.C.L.I.

Godstone, Surrey.
18 Apr 41.

Lieut K.M Gordon. P.P.C.L.I.

LIST OF WITNESSES FOR

PROSECUTION

P22250 Sgt. Straiton A.K.
P.P.C.L.I.
2 Cdn Inf Bde.

K85230 a/Cpl. Strom C.A.
P.P.C.L.I.
2 Cdn Inf Bde.

H16207 Pte. Sloan D.
P.P.C.L.I.
2 Cdn Inf Bde.

DEFENCE

N I L

(J.N. EDGAR) Lieut-Col.
Commanding, P.P.C.L.I.

Godstone, Surrey.
18 Apr 41.

#8 Def.

MEDICAL OFFICER'S CERTIFICATE

K.R.(Can) Para. 557

I certify that I have this morning examined No. H17044, Pte. DeLisle, R.A. of PRINCESS PATRICIA'S CANADIAN LIGHT INFANTRY, and, in my opinion, he is fit to undergo Trial by Court-Martial.

Godstone, Surrey
28 April, 1941.

.....Capt.
R.C.A.M.C.

Lakeman Maj.
Edwin R.
President

No. H17044 Name DELISLE, R. Sqn., Battery or Company D COY Corps P.P.C.L.I. Date of enlistment 13.3.40 G.C. Badges Service or Proficiency Pay F Dep.

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Capt. Malone Character

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order depending with trial	By whom awarded	Remarks
F.O.B.	27/6 40	Pte	Nil	Absent from parade at 0800 hrs 27/6/40 returned 1430 hrs. 27/6/40 (absent 6 hrs.30 min)	L/C.Moore H.E.	5 days C.B.	28/6/40	Lt.F.J.R Moore.	Forfeits 1 days pay F.R.& I.
F.O.B.	29/6 40	"		Absent from Garage picquet duty from 0430 hrs.29/6/40 until 0750 hrs. 29/6/40 causing another man,Pte.Butcher N.S to take his place. 2. Absent whilst a defalter from 1800 hrs 28/6/40 until 0750 hrs 29/6/40 3. Being in the canteen whilst a defalter.	L/C.Moore H.E. Pte.Butcher N.S.	7 days C.B.	29/6/40	Lt.F.J.R Moore.	Forfeits 1 days pay F.R.& I.

Deletive Maj
Edm R
President

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Number of Witnesses	Punishment awarded	Date of award or of order suspending sentence	By whom awarded	Remarks
F.O.B.	18/7 40	Pte.	-	1.Absent from extra drill parade 1730 hrs. 18/7/40. 2. Absent from Adjutants parade 0745 hrs.19/7/40.	L/C. Walters J.	7 days C.B.	19/7/40	Lt.F.J.R Moore.	
F.O.B.	23/7 40	Pte.	-	Absent from parade at 1500 hrs. 23/7/40	Cpl.Moore H.E	7 days C.B	24/7/40	Lt.F.J.R Moore.	
Guadeloupe Barracks	23/9 40.	Pte	-	w.o.a.s.Conduct to the Prej.of good order and military discipline while on guard duty between 1745 hrs.1810 hrs.near married quarters did behave in a disorderly and unsoldierly like fashion. A.A.Sec.40.	Cpl.A.E. Hatton.	7 days C.B.	25/9/40	Major J.E Sinclair.	
" "	29/10 40	Pte	-	w.o.a.s.A.W.L. 1930 hrs 27/10/40 to 1630 hrs.29/10/40. absent 1 day 21 hrs. A.A.Sec.15 (1)	Documentary	Forfeits 2 days pay.(hasspent 4 days in close arrest in Det.	4/11/40	Major J.E Sinclair	

1 Pte.

No. H17044 Name DELISLE R. Sqn. Battery or Company D. Coy Corps P.P.C.L.I. Date of enlistment 13/3/40 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc. Capt Malone — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
O.A.S.	16/11 40	Pte	Nil.	W.O.A.S. (A.A. 10 (4) failure to book out.(2)A.A.15(1) A.W.L. from 19m00hrs.to 2030 hrs.14/11 40.(absent 1 hrs.30 min.) (3)A.A.11.failing to book in. (4)A.A.40. Improperly dressed. (5)A.A.11.not complying with an order.	L/C.Crabtree J.C.	3 days C.B	15/11/40	Lt.R.G.M. Gammell.	
Field.	18/12 40.	Pte	-	W.O.A.S. absent from paradem at 1720 hrs.18/12/40.	Cpl.Vigurs.	7 days C.B.	19/12/40	Capt. OEilvie.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	23/12 40.	Pte	Nil.	W.O.A.S. 1.absent from his billets whilst a defalter from 0600 hrs. until 1330 hrs.23/12/40 2.absent from duty at 1730 hrs. 3.Remaining absent from 1730 hrs to 0600 hrs.24/12/40 (absent 12 hrs.30min.)Total absence 20 hrs.	L/C.Pelly	1 days forfeiture of pay. 7 days c.b.	27/12/40	Capt. Ogilvie.	
Field.	29/12 40	Pte	-	W.O.A.S.1.absent from Church parade at 0855 hrs.29/12/40 2.failing to report sick when ordered to do so.	L/C.Pelly	3 days C.B.	30/12/40	Lt.Eakins.	
Field.	30/12 40.	Pte	-	W.O.A.S.1.leaving his duty without being properly releived. 2.breaking out of billets whilst h defalter.3.Remaining absent from 1000hrs.30/12/40 until reporting to his billets at 1445hrs.12/1/41 (absent 13 days 4 hrs.45 min.)	L/C.Pelly L/C.Bain.	14 days forfeiture of pay 28 days Det.	13/1/41		

FXP

No. H17044 Name DELISLE R. Sqn. Battery or Company D Coy Corps P.P.C.L.I. Date of enlistment 13/3/40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Nil. Period not reckoning towards freedom from extra fine Sheet No. 3 Signature O.C. Company, etc. Capt. Malone Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	16/2 41	Pte	Nil.	W.O.A.S. A.W.L. from 1800 hrs 16/2/41 until 1930 hrs.17/2/41 absent 1 day 1hr.30 min.	L/C.Hastings	28 days Det. & days pay	19/2/41	Major Lindsay	
Field.	13/1 41	Pte.	-	W.O.A.S. "osing by neglect 1 steel helmet and 1 respirator.				Major Mitchell.	To pay cost of same. £1/3/10
Field	2/3 41	Pte	-	W.O.A.S. 1 charge.A.A.Sec.22 2 charge A.A.Sec 15(1)	Sgt.Straiton A/L/C.Humeston Pte.English.	180 days Det.	3/4/41	F.G.C.M.	Guilty on both charges.

(over)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY					
						[illegible]			
						(J.N. [illegible]) Lieut-Col. Commanding, P.P.C.L.I.			

RRR-145
Spr. Dell, C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 74764 Tpr. DELL, C. 3 CAGRU.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present ~~under sentence for~~ beginning on (date) (*)

(*. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

10 undergo Detention for a period of forty-five (45) days

(Sgd) 17 Jul/44 (Sgd)
Judge-Advocate, if any. Date awarded. President. (RP 45, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(*)
(*. AA 57A. Delete if not used.)

Date 19 July 44 (Sgd)
Commanding E Gp GRO
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K74764 Tpr. DELL, C	19 Jul 44	CAPT, ADJUTANT 3 C.A.C.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED IN AB 160 RRR-145

RECEIVED 26 JUL 1944 HQ 1 Aust Tk Bde CRW

FIELD GENERAL COURT-MARTIAL (CFA86 (In lieu of AFA32) 43/P & R 10/86 (2864))

Convened by Order of Brig T.J.Rutherford Comd "E" GPCRU dated 15 Jul 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-74764	Tpr	Charles	DELL	3 CAGRU

PROCEEDINGS REVIEWED
J. Rutherford, Capt.
27 July 1944.
REVIEWING OFFICER, JAG BRANCH, GHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on hearing, record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 561. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to be interpreted by as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) A5. To you object to Sgt Sinclair A.C. as shorthand writer? Ans NO. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR.

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	O.L. REDMAN	HQ. CRU
Member	CAPT	H.D. McKENZIE	2 CRCRU
Member	LT.	I.M. ROBERTS	3 CRCRU
~~Judge-Advocate~~			
Prosecutor	CAPT	C.B. WOODBRIDGE	3 CRCRU
Defending Offr	LT	P.E. JARRETT	3 CRC RU

~~Questions by President~~: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans. NO.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused before arraignment make(s) (no) ~~no~~ plea.(*)

(*. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~respectively~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re-opens and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M.M.L. p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of J.A see RP 103; duty of Prosecutor see RP 60(A)* (*B*); *duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of J.A or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or J.A. if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO, SIR. (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty (as) charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) (to)~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith. and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO - SIR. ~~Yes. Sir~~ (NOTE ATT)

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement~~s~~ as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier~~s~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)

(1. *MFE 355 or MFE 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ~~YES SIR ALSO~~ BY DEF OFFR NOTE ATT (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also J.A. if any~~.(2)

(1. *When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments (if more than one) awarded to each accused, is to be awarded to cover all charges in all charge sheets on which accused found guilty, and drawn in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty,

CHARGE SHEET

The accused, No. K74764 Trooper Charles DELL, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. SEC. 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Bagshot Camp absented himself without leave from 2230 hrs 11 Jul 44 until he reported to the guard room of No. 3 CACRU at 0030 hrs 12 Jul 44. (Total time absent 2 hours).

G.W. Little

"G.W. LITTLE" Colonel
Commanding
No. 3 C.A.C.R.U.

In the Field
13 Jul 44

To be tried by Field General Court Martial.

J.H. Rutherford Brig
Comd "B" GH C RU

In the Field
15 Jul 44.

CFA95 (In lieu of AFA3)
40/FAS/1697 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K74764	Tpr		Charles	DELL	3 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and one (date) 15 Jul 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial". 3/4

2. ~~And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ 3/4
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. 3/4

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ 3/4
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~ 3/4
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col (Rank.)	D.L.Redman, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Capt	H.D.McKenzie	2 CACRU
Lt (Rank.)	to be detailed by OC 3 CACRU (Named or detailed. RP 106.)	3 CACRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Field (Country.)

Date 15 Jul 44.

T J Rutherford
(Signed personally. RP 105 (n.))
(T J Rutherford)
Commanding HQ "E" GP CRU
Convening Officer.

Brig (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 98(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 507.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 758.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Medical Officers' Certificate
KR(Can) para 557.

I certify that I have this morning examined:-

Regt'l No. K74764 Rank Tpr Name Dell C

of H.J.C.A.S.R.U (unit) and in my opinion he is

~~Unfit~~ Fit to undergo trial by Court Martial.

#(cross out one N/A and initial)

Station: Field

Date (of Court Martial) July 17/44

Sgd. [illegible] (Rank)
Unit
Medical Officer, RCAMC.

CASE OF

K.74764 Tpr DELL C 3 CACRU

STATEMENT BY ACCUSED E-3

Before coming to CACRU I was with the BC Regt. I came to CACRU near the end of January 44. I was in detention and released 7 Jul 44. While there I was given some basic training and a battle course which lasted 6 weeks. I am not married, am 23 years old and in civil life I was a labourer. I got to Grade VI in school and was 14 when I quit.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH R 86(2).

PLEA IN MITIGATION E-3

With regard to this soldier I would just like to say that I think in considering sentence the matter of circumstances in CACRU should be considered. This soldier has been with the regiment until recently and in CACRU the only one who can attend to his wants is his sqn leader who has possibly 150 men to look after and cannot give the necessary close attention to one soldier. In addition, having completed various courses while in detention, which included basic training and a battle course he was sent out to BAGSHOT to undergo an identical course to that which he had just completed while in detention.

SUMMARY OF EVIDENCE in the case of K74764 Tpr. Dell, C. on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

F29554 SSM Fougere, J.L., on the strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:-

K74764 Tpr. Dell, C., whom I now recognise, reported into Bagshot camp on the afternoon of 11 Jul 44. He was given a job that night. He did not fully complete his job when Sgt. Reid of 3 C.A.C.R.U. reported him absent at approximately 2215 hrs. I went around on Tattoo Roll Call, 2230 hrs, checking to see if I could find Tpr. Dell. I could not find him. I reported him as being AWL in the morning 12 Jul 44 to Lt. St. Germain. I reported him absent from 2230 hrs, 11 Jul 44.

The accused declines to cross-examine this witness.

F29554 SSM. Fougere, J.L.

SECOND WITNESS FOR THE PROSECUTION

B62045 Cpl. Clements, W.E. on the strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:-

I am Provost Cpl. No. 3 C.A.C.R.U.. I was on duty in the unit guard room at about 0030 hrs 12 Jul 44 when K74764 Tpr. Dell, C., whom I now recognise, reported that he was AWL from Basic Trg at Bagshot. His name was not on our guard book so I released him under open arrest. He slept in the guard room all night.

The accused declines to cross-examine this witness.

B62045 Cpl. Clements, W.E.

The accused is cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused does not wish to make any statement or give evidence on oath.

The accused does not wish to call any witnesses for the defence.

(2)

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

C G Woodbridge

(C.G. Woodbridge) Capt.
Officer detailed to take
The Summary of Evidence

In the Field
12 Jul 44

Army Form B.296(War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Courts-Martial only).

Number	Rank	Name	Regiment(or as the case may be)
K.74764	Tpr.	DELL, Charles	3 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For...A.A. 15 (1)..... ...Eight.....times.

For...A.A. 40..... ...Five.....times.

For...A.A. 10 (4)..... ...Two.....times.

For..... .....times.

Date of first entry in Field Conduct Sheet...15 May 41.....

Date of last entry in Field Conduct Sheet...16 Feb 44.....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~xxxx

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.C.C.M.	20 Apr 44	A.A. Sec 1 5 (1) A.A. Sec 24 (2)	105 days detn	26 days remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~11~~ 17 day of July 1944.

A/ J. Davis CAPT.
ADJUTANT 3 C.A.G.R.U.

MFM 6
(AFB 122)
40/P&S/136 (3438)

No K74764 Name Dell, C. | Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 1 Feb 41 | Trade Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc W.?.Hope, Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert, BC	15 May 41	Pte		(1) AWL from 2400 hrs 15 May 41 to 0035 hrs 16 May 41. Absent 2 hrs 35 mins. (A.A.15(1) (2) Breaking Barracks while a defaulter. (AA 10 (4) (3) AWL from 2100 hrs 17 May 41 to 0230 hrs 18 May 41. Absent 5 hrs 30 mins (A.A. 15 (1)	Dpl.Crispin Cpl. Hickey Sgt Goffin Cpl Nickolson Cpl Robinson Cpl Esselmont	168 hrs Det'n forf 7 days pay FR&I 149 (1)(b)	19 May 41	Lt.Col. Wood	Auto Forf 2 days Pay FR&I 149 (1)(a)
Barrett Fort	9 Jul 41	Pte		(A.A.40) C. to the P. of G.O. & M.D. (Insubordination)	Cpl.Eagle	168 hrs Det'n Forf 7 days Pay FR&I 149 (1) (b)	9 July 41	Major Haldman	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert B.C.	15 Jul 41	Pte		(A.A.40) C. to the P. of G.O.& M.D.(Threw plate at the cook)	Lt Heskett L/Cpl.Cashate	28 days D"t'n	15 July 41	Maj. Holman	Forf 28 days pay FR&I 149 (1) (b)
Maple Ridge	16 Aug 41	Pte		(A.A.40/ C. to the P. of G.O. & M.D. (Using improper language to an N.C.O.	L/Cpl.Metcalfe	7 days C.B.	18 Aug 41	Major Blades	
Prince Rupert	30 Jul 41	Pte		(A.A.10(4) Breaking Barracks while camp was under C.B.	RSMSmith Lt Gramer Sgt Finn	Forf 20 days pay FR&I 149	31 Jul 41	Lt.Col. Wood	
New Westminster Camp	14 Oct 41	Pte		(A.A.15(1) AWL from 1200 hrs 14 Oct 41 to 1445 hrs 18 Oct 41. Absent 4 days 2 hrs 45 mins.	Documentary	4 days C.B.	21 Oct 41	Capt.Tarn	Auto Forf 5 days pay FR&I 149 (1) (b)

MFM 6
(AFB 122)
40/P&S/136 (3438)

No K74764 Name Dell, C. Sqn, Battery, or Company [illegible] Corps C.A.C. Date of enlistment 1 Feb 41 GC Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc W.? Hope, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert, N.S.	2 Jul 42	Tpr		(A.A.15(1) AWL from 0830 hrs 2 Jul 42 to 1630 hrs 3 Jul 42. Absent 1 day, 8 hrs.	SQMS Cann Cpl.Benzie & Skilnick	7 days C.B.	6 Jul 42	Capt. T.R. McPhillips	Auto Forf 2 days pay FR&I 149 (1) (a)
Debert, N.S.	21 Jul 42	Tpr		(A.A.15(1) AWL from 2200 hrs 21 Jul 42 to 2000 hrs 24 Jul 42. Absent 2 days, 22 hrs.	L/Sgt Meadow-croft	Forf 3 days pay FR&I 149 (2). 5 days C.B.	25 Jul 42	Maj. G.N. Letson	Auto Forf 3 days pay FR&I 149 (1) (a)
Field	9 Jul 43	Tpr		(A.A.40) C. to the P. of G.O. & M.D. in that he was absent on a P.T. Parade.	Sgt Shanks	7 days C.B.	9 Jul	Capt B. BArdon	

(PTO)

Certified true and correct copy of original held in my custody.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Aug 43	Tpr.		(A.A. 15(1) AWL from 1630 hrs 17 Aug 43 to 1000 hrs 19 Aug 43. Absent 1 day, 17 hrs, 30 mins.	Sgt. Grocutt	7 days F.P. Forf 7 days pay FR&I 149 (2)	20 Aug 43	Major T.S.Baron	Auto Forf 2 days pay FR&I 149 (1)(a).
Field	20 Aug 43	Tpr		(A.A.40/C. to the P of G.O. & M.D. in that he appeared on parade in an unsoldierly & dirty condition.	Capt. Toogood	7 days C.B.	21 Sep 43	Capt. J.W. Toogood.	
Field	2-1-44	Tpr.		A.W.L. from 2200 hrs 2-1-44 to 1745 hrs 3-1-44. Absent 19 hrs 45 mins. A.A. 15(1)	L/Sgt Kestar, F.	21 days F.P. Forf 21 days pay FR&I 149 (2)	4 Jun 44	Lt.Col.D.G. Worthington	Forf 1 days pay FR&I 149 (1) (a)
Field	10Feb 44	Tpr		A.A.14(1) AWL from 2200 hrs 10 Feb 44 to 1615 hrs 13 Feb 44. (Absent 2 days 18 hrs, 15 mins)	Documentary (L/Cpl Joseph. (2)	28 days F.P. Forf 28 days pay FR&I 149	15 Feb 44	H.W.Rick Lt-Col.	Forf 3 days pay for absence FR&I 149(1)(a)

No K74764 Name DELL, C. Sqn, Battery, or Company [illegible]. Corps C.A.C. Date of enlistment 1 Feb 41 GC Badges Service or Proficiency Pay N/A MFM 6 (AFB 122) 40/P&S/136 (3428)

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 3 Signature OC Company, etc W.Hope Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Feb 44	Tpr.		First Charge A.A.Sec.15 (1) WOAS AWL While undergoing Fd punishment absented himself without leave from 3 CACRU from 1800 hrs, 16 Feb 44 until apprehended by the C.M. Police at 1515 hrs 31 Mar 44 at Coventry. (Total Time absent 43 days, 21 hrs, 15 minutes) Cost of apprehension (1-9-10) Second Charge A.A.Sec 24 (2) WOAS losing by neglect his equipment, clothing and regimental necessaries, in that he in the fd on or about 11 Apr 44 was deficient his kit.	Documentary L/Cpl Forbes G.B. L/Cpl Deighan, E.C.	105 dys detn Released from the Detention Barrack Headly Down on 7 July 1944 Sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons 26 days. RQM for Commandants Initials. (Sgd) G.L. Marshall, Lt. A/Adjutant 3 CACRU	20 Apr	F.G.C.M.	Forf 44 days pay absence FRI 149(1)(a) Forf 20 dys pay FR&I 149 (1)(c)(i) Forf 105 dys pay FR&I 149 (1)(b).

(PTO)

LIST OF WITNESSES

In the case of K.74764 Tpr. DELL, Charles, on strength of 3 C.A.C.R.U., a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. F.29554 SSM Fougere, J.L., on strength - 3 C.A.C.R.U.
2. B.62045 Cpl.Clements,W.E., on strength - 3 C.A.C.R.U.

FOR THE DEFENCE

NIL

I, K.74764 Tpr. DELL, Charles, do desire ~~do not desire~~

to have an officer assigned to defend me at my trial

by Field General Court Martial

I desire the services of ..Lt Fenton (G.B.C.)

if this officer is available.

C Dell

(K.74764 Tpr. Dell, C)

JJJ·45

TPR. DELL C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-74764 Tpr Charles DELL, 3 CACRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 24(2)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one hundred and five (105) days.

(Sgd) ..... Judge-Advocate, if any.

23 Apr 44 Date awarded.

(Sgd) F D Inwright Lt Col. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed —

~~I direct that the accused be not committed to prison or detention barracks under sentence.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Brig

Date 21 Apr 44 Commanding E Group CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K 74764 Tpr Dell C	21 Apr 44	F L Marshall Lt for ADJUTANT 3 C.A.C.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 ... JJJ-45

FIELD GENERAL COURT-MARTIAL

CPA86 (in lieu of AFA3) 40/P & S/1698 (3864)

Convened by Order of Brig E. A. Gianelli Comd "E" Gp, CRU dated 18 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-74764	Tpr		Charles	DELL	3 CACRU

PROCEEDINGS REVIEWED 3 May 44
R. C. Drake Lieut.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 20 Apr 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

~~NOT.~~

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant final ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

~~NOT.~~

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

~~NOT.~~

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

~~NOT.~~

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans

The Interpreter is sworn.(1) Do you object to ~~NOT.~~ as shorthand writer? Ans

~~The shorthand writer is sworn.(2)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 16, MML p 742.)

~~NOT.~~

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	F. D. Inwright	100. CRU.
Member	Capt.	G. H. Pratt	2 CACRU
Member	Lieut	M. F. Coughlin	1 CACRU.
Judge-Advocate			
Prosecutor	Lieut	H.A.R. Dowling	3 CACRU
Defending Offr	Lieut	C.B.C. Fenton	3 CACRU.

Questions by President: Is the Prosecutor a lawyer? Ans. NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused before arraignment make(s) (no) ~~no~~ plea ~~NOT.~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in RB mark and name of the accused making the plea.)

~~NOT.~~

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

~~NOT.~~

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B or E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No. (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea.~~

(their) plea(s) of Guilty to Not Guilty on 707. charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) accordingly~~ charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

707. B4. On the charge(s) to which the plea(s) of Guilty ■ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)~~

(1. *RP 37(A) (E).*)

C2. The charge on which accused pleaded GUILTY are read to them (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) 707.

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

707.

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....

Do you intend to call witnesses on your behalf? Ans. .....

Are they witnesses as to character only? Ans. .....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E2 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(7) (8), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)

Ans. No.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

707. E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1). Ans. Yes.

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or call anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

707. E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 46-50, 69, 114, 119(A), KR Can 308, 330, 3a3-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. K74764 Trooper Charles DELL, No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A. SEC 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field on 16 Feb 44 while undergoing Field Punishment absented himself without leave from No. 3 C.A.C.R.U. from 1800 hours 16 Feb 44 until apprehended by the Corps of Military Police at 1515 hours 31 Mar 44 at Coventry. (Total time absent 43 days 21 hours 15 minutes). Cost of apprehension one pound, nine shillings, and ten pence (£1-9-10

SECOND CHARGE
A.A. SEC 24 (a)

LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES

in that he

in the Field on or about 11 Apr 44 was deficient the following articles of kit:-

Article	Qty.	Vocab Price	Depreciated Value
Boots Ankle prs	1	£1- 4- 5	£0-18- 3½
Caps Tank Bn	1	0- 4- 5½	0- 3- 4½
Drawers Woollen prs	2	0-10- 9	0- 8- 0½
Gloves Knitted Drab	1	0- 2- 1	0- 1- 7
Greatcoat Drab 1941	1	2-11- 8	1-18-10½
Vests Woollen	2	0-10- 9	0- 8- 0½
Brasses Cleaning	1	0- 0- 2	0- 0- 1½
Brushes shaving	1	0- 1- 8	0- 1- 3
Brushes shoepolishing	1	0- 1- 3	0- 0-11½
Brushes Tooth	1	0- 0- 6	0- 0- 4½
Combs Hair	1	0- 0- 2	0- 0- 1½
Holdall	1	0- 0-10	0- 0- 7½
Razor and Blades	1	0- 0- 3	0- 0- 2½
Shorts Gymnasium prs	1	0- 1-11	0- 1- 6
Attachment Braces	2	0- 1- 6	0- 1- 2
Braces W.E.	1	0- 1- 4	0- 1- 0
Haversack	1	0- 6- 0	0- 6- 0
Ointment A/Gas Tins	1	0- 0- 8	0- 0- 6
Detectors Individual prs	2	0- 1- 0	0- 0- 9

$97

Bottles Oil	1	£0- 0- 3	£0- 0- 2
Pullthrough Single	1	0- 0- 3	0- 0- 2
Mugs Drinking	1	0- 0- 7	0- 0- 5½
Magazines Sten	4	0-13- 0	0-13- 0
TOTAL		£6-17- 5	£5- 6- 7

H M Sharp Lt Col.

"H.M. SHARP" Lieut-Col.
A/Commanding Officer
No. 3 CACRU

In the Field
14 Apr 44

To be tried by Field General Court Martial.

(N. A. GIANELLI) Brig
Comd "Z" Gp, CRU

In the Field,
18 Apr 44

FDT

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/PAS/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-74764	Tpr		Charles	DELL	3 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 18 Apr 44 endorsed by me, (~~or by an Offr of my staff~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable so to try the said person or persons without injury to the interests of discipline~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am satisfied by reason of his/their notorious bad character, that the President, the Senior Officer, and the Junior Officer~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~The Officers so appointed are not the officers next in command to the accused.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.-col	F. D. Tweedie	H.Q. CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 CACRU	2 CACRU
Lt	to be detailed by OC 1 CACRU	1 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 18 Apr 44

(Signed personally. RP 71(C).)

(N. A. GIANELLI) Brigadier

Commanding "E" Gp, CRU

Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

707.

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Can 562, RP 26, 29, 111.)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 763, RP 82, 111.)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (RO (Can) 2693.)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (RP 95(C)), any objections (RP 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (or, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (RP 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (RP 86(C), 87(C), 92(C) (D).)
(ii) At option of accused, statement by accused (not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)), or evidence by accused, as to facts or his character or both. (See RP 41 fn 3, 46 fn 1, 80.)
(iii) Evidence of witnesses for accused as to facts or his character or both. (See RP 46 fn 1.)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (RP 86(B)), or to prove previous convictions when accused has called witnesses as to character. (RP 86(C).)
(v) Closing address (on matters other than in mitigation of punishment) by Defending Offr or accused. (See RP 40 fns 8-12, 87(C), 92(C) (D).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (When accused charged jointly see RP 91.)
(vi) Closing address by Prosecutor. (See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).)
(vii) Summing up by JA, if any. (RP 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (KR Can 567.)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (As to addressing on evidence a certified copy in lieu of original see KR Can 569. As to certified copies of regimental books see AA 162 (1) (g) (h).)
(v) Exhibits numbered Ex A, Ex B, etc. (As to admitting an exhibit.)
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (RP 95(D).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (AA 53(3), RP 118(C), MML p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

I, K74764 Tpr. Dell, C. do desire ~~do not desire~~ to have an officer assigned to defend me at my trial by Court Martial.

I desire the services of Lt. Fenton G.B. if this officer is available.

Tpr Dell C

(K74764 Tpr. Dell, C.)

MEDICAL OFFICER'S REPORT

I HERBY CERTIFY that No. K74764 Tpr. Dell C.

of #3 C.A.C.R.U has this day been

examined by me and that he is in a good state of health and

fit to undergo trial by Court Martial.

Station Field

Date 20-4-44

[illegible]

Geo Sacks Capt

Medical Officer

No.3 C.A.C.R.U.

Plea For Mitigation of Sentence
In The Case Of
K 747 64 Tpr Charles Dell

In presenting a plea for mitigation in the case of Tpr Dell The Defense would like to submit to the Court that Tpr Dell was, just before leaving, slated to go on a CBRD draft from which he was removed at short notice without having been told why. He also belonged to a regiment; the Royal Montreal, which has recently been disbanded.

These two circumstances were such that owing to the Accused's rather unstable mental make up he began to feel that he was being imposed on and he therefore took what he considered to be the only course – he left without leave.

This man is qualified as a Gunner Operator and Driver ½ Tank and it is felt by the Defense that owing to his usefulness he should be given as light a sentence as possible.

[illegible]
Offer for the Defense

[illegible]

Exhibit "A"

3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
PART II ORDERS
by
Colonel G.W. Little M.V.O. M.C.
Commanding Officer

Last Order No. 40 — This Order No. 41
Dated 17 Feb 44 — Dated 18 Feb 44

21. PUNISHMENTS

(1) K74764 Tpr. Bell, C. ("A" Sqn.)
Offence: A.A.Sec.15(1) AWL from 2200 hours 10 Feb 44 until 1615 hours 15 Feb 44. (Absent 2 dys 18 hrs. 15 mins.)
Awarded: 28 days F.P. and 28 days pay AA.46 (2)(d)
Forfeitures: 3 days pay F.R.AI. 149 (1)(a)
28 days pay F.R.AI. 149 (2)
Total Forfeitures: 31 days pay (Awarded 15 Feb 44.)

(H.C.Laxson) Capt.
Adjutant
No. 3 C.A.C.R.U.

Extract from No. 3 C.A.C.R.U. Regt'l D.O. Part II No. 41 d/18 Feb 44, and certified to be a true extract from the original document, held in my possession.

(H.C.Laxson) Capt.
Adjutant
No. 3 C.A.C.R.U.

Exhibit B

3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
PART II ORDERS
by
Colonel G.W. Little M.V.O. M.C.
Commanding Officer

Last Order No. 57
Dated 9 Mar 44

This Order No. 58
Dated 10 Mar 44

21. ABSENT WITHOUT LEAVE

(b) K74764 Tpr. Dell, C.D. is AWL from 1800 hours 16 Feb 44 and is still AWL at 1800 hours, 8 Mar 44 (21st day).

(H.C.Laxson) Capt.
Adjutant
No. 3 C.A.C.R.U.

Extract from No. 3 C.A.C.R.U. Regt'l D.O. Part II No. 58 d/10 Mar 44, and certified to be a true extract from the original document, held in my possession.

H Laxson
(H.C.Laxson) Capt.
Adjutant
No. 3 C.A.C.R.U.

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Certificate in Accordance with the Army Act Section 163. (1) (JJ). Exhibit "C" [illegible]

I certify that No. K/74764. Rank Tpr. Name Dell C. Unit A Coy.

The Canadian Armoured Corps R.C.A. was arrested at Coventry. at about 1515.

hours on 31st. March. 1944. Signature of Provost Marshall. A.P.M. or other Officer into whose custody the above named person was taken over on arrest. [illegible] Capt. I/C.

Station Warwick.

Date 31st March. 1944. JDT

C.M.Police. Warwick Detachment.

Officer Commanding,
(A) Coy.R.C.A.C. 3 C.A.C.R.U.

27/94

Re:- K-74764 Tpr.Dell C.

Forwarded for your information and necessary action, please, and disposal under C.A.C.R.O. No. 308 dated 29 Oct. 40.

London
2 April 44.

[signature]
(R.R.R.J. Holmes), Capt.,
D.A.P.M., London Area.

No complaints
JDT

6. Correspondence (q) [redacted]

CHARGE in accordance with Application for Court Martial

Army Form B 252 (See King's Regulations)

The Royal Canadian Armoured Corps. Regiment

A Coy. Battery / Squadron / Troop or Company

CHARGE against No. K/74764. Rank Tpr.

Name Dell C.

Place ?. Date of Offence ?.

OFFENCE W.O.A.S. Absent from ? until apprehended by the Military Police in the Quadrant (Y.M.C.A.) Warwick Road at about 1515 hours on the 31st. 1944.

(2) Stating falsehoods to an N,C,O. of the Military Police.

Names of Witnesses :—

L/Cpl. Unsworth A. C.M. Police.

L/Cpl. Fretwell A. C.M.Police.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

[signature]

Adjutant.

To be forwarded on completion to your Dis. or Div.H.Q.

[signature] A.P.M.

16th.H.Q. Provost Coy.

R4889 Wt.W21972/2580 2,000,000 7/41 K. & H., Ltd. G657/47.

P.T.O.

C/2m/16

Statement of **EVIDENCE** in the case of.

No. K/74764. Tpr Bell C.
A Coy.
No. 3 C.R.U.
The Royal Canadian Armoured Corps.
The Royal Canadian Army. Overseas.

Sir.

At Coventry on the 31st.March.1944 at about 1515 hours I was on duty in the Y.M.C.A. Quadrant (Warwick Road) accompanied by L/Cpl. Fretwell C.M.P. where I saw the above mentioned soldier. I asked him if he was on Leave and he replied " Yes." I then asked him to produce his Leave Pass, this he was unable to do and he replied " I must have lost it." I then asked him to produce his Militia Books Part. 1 & 2. this he did, and I observed that his last payment was on the 15 February. 1944. I again questioned him concerning this and his Ration Card and he replied " I draw money from home and I have given my ration card away." I conducted him to the Civil Police Station (Coventry) where I contacted the Canadian Provost (London) who informed me that the above mentioned soldier was an absentee.

I arrested him.

He was conveyed to the Main Guardroom Budbrooke Barracks where he was handed over to the N.C.O. I/C Guard. to be detained to await escort.

A. Unsworth L/Cpl.
C.M.Police.

Warwick.
31st.March.1944.

REMARKS

Sir.

I have read over and corroborate the above statement.

C. Fretwell L/Cpl.
C.M.Police.

Warwick.
31st.March.1944.

Handing over form.

No. K74764 ..... Rank. TPR

Name. Dell C.

Coy. A ..... Regt. C. R. U.

Offences. Absent

Witnessess. E. Withey Gnr

Note) This form must be signed by the C.M.P. N.C.O. who handed over the above named person.

Signature. R. W. Smith Rank. NCPL

Unit. C.M.P. ..... Date. 31/8/44

Receipt.

K74764 ..... Rank. TPR

Name. Dell C.

Coy. A ..... Regt. C. R. U. C.A.C.

I was Commander of the Corrigan Guard Guard on 31.8.44 ..... when at about 19.10 hrs ..... hours the above named Sol was handed over to me by the Military Police Charged with absent

He was Sol S. Smith Guard

Signature. [illegible] ..... Rank. Sgt

Station. [illegible] ..... Date. 31/8/44

To be attached to A.F.B.252.

Exhibit D

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. [illegible] Rank Lpr. Name Bell, C. Unit 3 C.A.C.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Warwick

Date	Particulars	Amount		
2 Apr. 44	Escorts return fare from LONDON To Warwick		13	10.
	Prisoners single fare to LONDON From Warwick		6	11
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		9	1
	Total £	1	9	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

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R. J. Stinson Lieut.

Officer Issuing Railway Warrant and Expense Voucher
No. 6 Provost Company, Canadian Provost Corps, London

R. J. STINSON
LIEUT. - D.P.M.'s BR.
C.M.H.Q.

C.M.H.Q. 1000-55
45/F & S/483

Exhibit "E"
4 of

LIST OF KIT DEFICIENCIES IN THE CASE OF

K74764 Tpr. Dell, C.

Article	Qty.	Vocab Price	Depreciated Value
Boots Ankle prs	1	£1- 4- 5	£0-18- 3½
Caps Tank Bn	1	0- 4- 5½	0- 3- 4½
Drawers Woollen prs	2	0-10- 9	0- 8- 0½
Gloves Knitted Drab	1	0- 2- 1	0- 1- 7
Greatcoat Drab 1941	1	2-11- 8	1-18-10½
Vests Woollen	2	0-10- 9	0- 8- 0½
Brasses Cleaning	1	0- 0- 2	0- 0- 1½
Brushes shaving	1	0- 1- 8	0- 1- 3
Brushes Shoepolishing	1	0- 1- 3	0- 0-11½
Brushes Tooth	1	0- 0- 6	0- 0- 4½
Combs Hair	1	0- 0- 2	0- 0- 1½
Holdall	1	0- 0-10	0- 0- 7½
Razor and Blades	1	0- 0- 3	0- 0- 2½
Shorts Gymnasium prs	1	0- 1-11	0- 1- 6
Attachment Braces	2	0- 1- 6	0- 1- 2
Braces W.E.	1	0- 1- 4	0- 1- 0
Haversack	1	0- 8- 9	0- 6- 0
Ointment A/Gas Tins	1	0- 0- 8	0- 0- 6
Detectors Individual prs	2	0- 1- 0	0- 0- 9
Bottles Oil	1	0- 0- 3	0- 0- 2
Pullthrough Single	1	0- 0- 3	0- 0- 2
Mugs Drinking	1	0- 0- 7	0- 0- 5½
Magazines Sten	4	0-13- 0	0-13- 0
TOTAL		£6-17- 5	£5- 6- 7

I certify that the above is a list of kit deficiencies found when I kit inspected Tpr. Dell, C. on 11 Apr 44.

J.H.J. Whitteker Lieut.

(J.H.J. Whitteker) Lieut.
Detailed to carry out kit inspection
on K74764 Tpr. Dell, C.

I certify that the prices as listed for the articles on above list are correct.

F.C. Hunt Capt.

(F.C. Hunt) Capt.
Quartermaster
No. 3 C.A.C.R.U.

LIST OF EXHIBITS IN THE CASE OF

K74764 Tpr. Dell, C.

For the Prosecution

1.	Exhibit "A"	-	Extract from Part II D.O. No. 41 d/18 Feb 44.
2.	Exhibit "B"	-	Extract from Part II D.O. No. 58 d/10 Mar 44.
3.	Exhibit "C"	-	Certificate in accordance with AA 163 (1)(j) d/31 Mar 44
4.	Exhibit "D"	-	Certificate in accordance with K.R.&O (Can) 539.
5.	Exhibit "E"	-	List of Kit Deficiencies.
6.	Exhibit "F"	-	Certified true copy of M.B.M. I Part III.

For the Defence

Nil

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LIST OF WITNESSES IN THE CASE OF

K74764 Tpr. Dell. G.

For the Prosecution

1. Documentary: Extract from Part II D.O. No. 41 d/18 Feb 44.

2. A3329 L/Cpl. Forbes, G.B. - No. 3 CACRU

3. F29960 L/Cpl. Deighan, E.C. - No. 3 CACRU

4. Documentary: Extract from Part II D.O. No. 58 d/10 Mar 44.

5. Documentary: Certificate in accordance with AA 163(1)(j). d/31 Mar 44

6. Documentary: Certificate in accordance with K.R.&O (Can) 539.

7. Lieut. J.H.J. Whitteker - No. 3 CACRU

For the Defence

Nil

Summary of Evidence in the case of No. K74764 Tpr. Dell, C., No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that evidence be taken on oath.

First Witness for The Prosecution

Documentary: Extract from Part II D.O. No. 41 d/18 Feb 44. This has been shown to the accused, marked by me as exhibit "A" fro the prosecution and attached to the Summary of Evidence.

H.V. Pritchard Lt

(H.V. Pritchard) Lieut.
Officer Detailed to take The Summary of Evidence

Second Witness for The Prosecution

A3329 L/Cpl. Forbes, G.B. on strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:-

I am L/Cpl. provost of No. 3 CACRU. At 1800 hours 16 Feb 44 I called the roll for defaulters, Tpr. Dell, C., whom I now recognise, failed to answer his name. I marked him absent and filled a chit in to that effect. This chit was taken to "A" Sqn. Office in the morning of 17 Feb 44.

The accused declines to cross-examine the witness.

G B Forbes

(A3329 L/Cpl. Forbes, G.B.)

Third Witness for The Prosecution

F29960 L/Cpl. Deighan, E.C. on strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:-

I am L/Cpl. provost of No. 3 C.A.C.R.U.. on 17 Feb 44 I was duty N.C.O. of the Guard Room at No. 3 C.A.C.R.U.. At 0630 hours I called the roll of defaulters and Tpr. Dell, whom I now recognise, was absent.

The accused declines to cross-examine the witness.

E C Deighan

(F29960 L/Cpl. Deighan, E.C.

2 A

Fourth Witness for The Prosecution

Documentary: Extract from Part II D.O. No. 58 d/10 Mar 44. This has been shown to the accused, marked by me as exhibit "B" for the prosecution and attached to the Summary of Evidence.

H.V. Pritchard Lt

(H.V.Pritchard) Lieut.
Officer Detailed to take
The Summary of Evidence

Fifth Witness for The Prosecution

Documentary: Certificate in accordance with Army Act Section 163 (1)(j) dated 31 Mar 44 purporting to be signed by Capt. D. Wood IC C.M. Police, Warwick Detachment. This certificate has been shown to the accused, marked by me as Exhibit "C" for the prosecution and attached to the Summary of Evidence.

H.V. Pritchard Lt

(H.V.Pritchard) Lieut.
Officer Detailed to take
The Summary of Evidence

Sixth Witness for The Prosecution

Documentary: Certificate in accordance with K.R. & O. (Can) 539 purporting to be signed by Lieut. R.J. Stinson, Adm Officer D.P.M's Branch C.M.H.Q.. This certificate has been shown to the accused, marked by me as Exhibit "D" for the prosecution and attached to the Summary of Evidence.

H.V. Pritchard Lt

(H.V.Pritchard) Lieut.
Officer Detailed to take
The Summary of Evidence

Seventh Witness for The Prosecution

Lieut. J.H.J. Whitteker on strength of No. 3 C.A.C.R.U., an officer of the Canadian Army Overseas, having been duly sworn, states:-

I am Lieut. J.H.J. Whitteker of No. 3 C.A.C.R.U.. On 11 Apr 44 I checked the kit of Tpr. Dell, whom I now recognise, against his M.B.M. I Part III and found him deficient the articles listed on the list which I submit.

The accused declines to cross-examine the witness.

J.H.J. Whitteker

(Lieut. J.H.J. Whitteker)

This list has been shown to the accused, marked by me as Exhibit "E" for the prosecution and attached to the Summary of Evidence.

(H.V.Pritchard) Lieut.
Officer Detailed to take
The Summary of Evidence

A certified true copy of the M.B.M. I Part III of Tpr. Dell has been shown to the accused, marked by me as exhibit "F" for the prosecution and attached to the Summary of Evidence.

(H.V. Pritchard) Lieut.
Officer Detailed to take
The Summary of Evidence

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence on oath or to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E), (F) have been complied with.

(H.V.Pritchard) Lieut.
Officer Detailed to take
The Summary of Evidence

In the Field
13 Apr 44

FDT

MFM 6
(AFB 122)
60/P&S/136 (3428)

No K74764 Name Dell, C | Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment 1 Feb 41 GC Badges | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc W.?.Hope, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert, BC	15 May 41	Pte		(1) AWL from 2400 hrs 15 May 41 to 0035 hrs 16 May 41. Absent 2 hrs 35 mins. (A.A. 15 (1)) (2) Breaking Barracks while a defaulter. (AA 10 (4)) (3) AWL from 2100 hrs 17 May 41 to 0230 hrs 18 May 41. Absent 5 hrs 30 mins (A.A. 15 (1))	Cpl.Crispin Cpl.Hickey Sgt Goffin Cpl Nickolson Cpl Robinson Cpl Esselmont	168 hrs Det'n forf 7 days pay FR&I 149 (1) (b)	19 May 41	Lt.Col. Wood	Auto Forf 2 days Pay FR&I 149 (1) (a)
Barrett Fort	9 Jul 41	Pte		(A.A.40) C. to the P. of G.O. & M.D. (Insubordination)	Cpl.Eagle	168 hrs Det'n Forf 7 days Pay FR&I 149 (1) (b)	9 July 41	Major Holdman	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with trial	By whom awarded	Remarks
Prince Rupert B.C.	15 Jul 41	Pte		(A.A.40) C. to the P. of G.O.& M.D. (Threw plate at the cook)	Lt Heskett L/Cpl.Cashato	28 days Det'n	15 July 41	Maj. Holman	Forf 28 days pay FR&I 149 (1) (b)
Maple Ridge	16 Aug 41	Pte		(A.A.40/ C. to the P. of G.O.& M.D. (Using improper language to an N.C.O.)	L/Cpl.Metcalfe	7 days C.B.	18 Aug 41	Major Blades	
Prince Rupert	30 Jul 41	Pte		(A.A.10 (4) Breaking Barracks while camp was under C.B.	RSM Smith Lt Gramer Sgt Finn	Forf 20 days pay FR&I 149	31 Jul 41	Lt.Col. Wood	
New Westminster Camp	14 Oct 41	Pte		(A.A.15 (1) AWL from 1200 hrs 14 Oct 41 to 1445 hrs 18 Oct 41. Absent 4 days 2 hrs 45 mins.	Documentary	4 days C.B.	21 Oct 41	Capt.Tarn	Auto Forf 5 days pay FR&I 149 (1) (b)

MFM 6
(AFB 122)
40/P&S/136 (2428)

No K74764 Name Dell, C. Sqn, Battery, or Company Corps C.A.C. Date of enlistment 1 Feb 41 GC Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc W.? Hope, Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert, N.S.	2 Jul 42	Tpr		(A.A.15(1) AWL from 0830 hrs 2 Jul 42 to 1630 hrs 3 Jul 42. Absent 1 day, 8 hrs.	SQMS Cann Cpls. Benzie & Skilnick	7 days C.B.	6 Jul 42	Capt. T.R. McPhillips	Auto Forf 2 days pay FR&I 149 (1) (a)
Debert, N.S.	21 Jul 42	Tpr		(A.A.15(1) AWL from 2200 hrs 21 Jul 42 to 2000 hrs 24 Jul 42. Absent 2 days, 22 hrs	L/Sgt Meadowcroft	Forf 3 days pay FR&I 149 (2). 5 days C.B.	25 Jul 42	Maj. G.M. Letson	Auto Forf 3 days pay FR&I 149 (1) (a)
Field	9 Jul 43	Tpr.		(A.A.40) C. to the P. of G.O.& M.D. in that he was absent on a P.T. Parade.	Sgt Shanks	7 days C.B.	9 Jul	Capt. H. Bardon	

(PTO)

Certified [illegible]
Books held in my cus[illegible]
(G.L. Marshall)
Asst Adjt [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award, or of order dispensing with trial	By whom awarded	Remarks
Field	19 Aug 43	Tpr.		(A.A. 15(1) AWL from 1630 hrs 17 Aug 43 to 1000 hrs 19 Aug 43. Absent 1 day, 17 hrs, 30 mins.	Sgt.Grocutt	7 days F.P. Forf 7 days Pay FR&I 149 (2)	20 Aug 43	Major T.S.Baron	Auto Forf 2 days pay FR&I 149 (1) (a)
Field	20 Aug 43	Tpr		(A.A.40/ C. to the P of G.O. & M.D. in that he appeared on Parade in an unsoldierly & dirty condition	Capt.Toogood	7 days C.B.	21 Sep 43	Capt. J.W. Toogood	
Field	2-1-44	Tpr.		A.W.L. from 2200 hrs 2-1-44 to 1745 hrs 3-1-44. Absent 19 hrs 45 mins. A.A. 15 (1)	L/Sgt Kester, F.	21 days F.P. Forf 21 days pay FR&I 149 (2)	4 Jan 44	Lt.Col.D.G. Worthington	Forf 1 days pay FR&I 149 (1) (a)
Field	10Feb 44	Tpr.		A.A.15(1) AWL from 2200 hrs 10 Feb 44 to 1615 hrs 13 Feb 44 (Absent 2 days 18 hrs,15 mins)	Documentary (L/Cpl.Joseph.	28 days F.P. Forf 28 days pay FR&I 149 (2)	15 Feb 44	H.W.Rick LT.Col.	Forf 3 days pay for absence FR&I 149(1) (a)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K.74764	Tpr	DELL C	No. 3 C.A.C.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. 15 (1) 8 times.

For A.A. Sec. 10 (4) 2 times.

For A.A. Sec. 40 5 times.

For _____ times.

Date of first entry in Field Conduct Sheet 15 May 41

Date of last entry in Field Conduct Sheet 10 Feb 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. None

*Strike out if not applicable.

3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for ~~[illegible]~~ 20 days in military custody, *i.e.*, No days in open arrest, 20 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 23 years

6. The date of his attestation ~~calling up for military service~~ is 1 Feb 41

7. The service which the accused is allowed to reckon is 3 yrs 90 days

8. The accused is in possession of‡ Nil

‡State the military decorations (if any) held by accused.

9. ~~[illegible]~~

Date of Promotion.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] A.& E.W. Ltd. Gp.698 Forms/B.296(War)/2

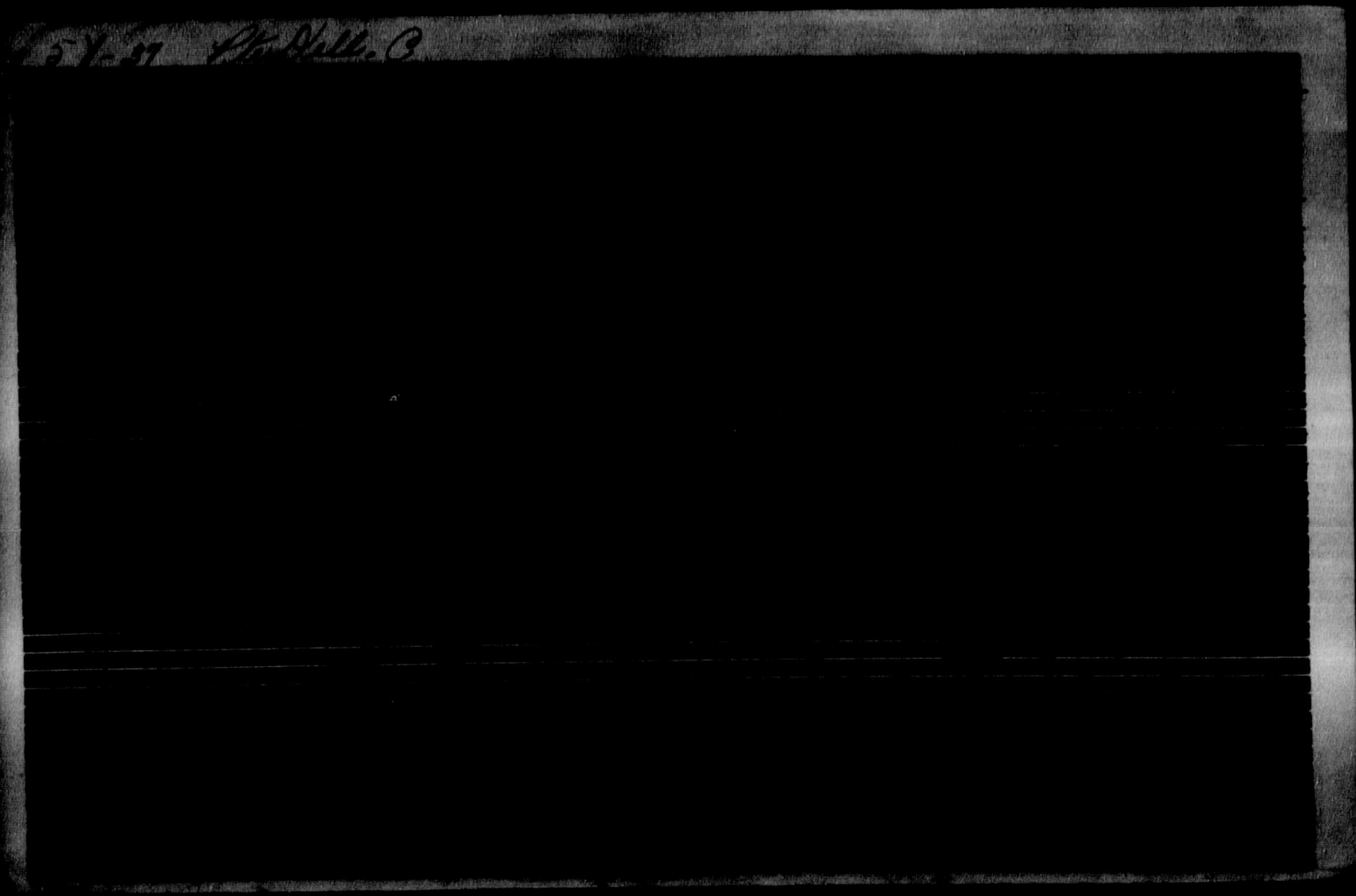
SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

escription of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
NIL	NIL	NIL	NIL	NIL

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of April 1944

(G.L. Marshall) Lt.
Asst Adjt 3 CACRU



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 74764 PTE DELL CHARLES 17 ABP GD DET

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of five (5) days

29 Jan 46 (Sgd) A Baillargeon Maj.

(Sgd) Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION ON CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further order~~.(1)

(1. AA 57A. Delete if not used.)

Date 1 Feb 46 (Sgd) L J Flynn Lt Col Commanding Comd 2 CBR Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K 74764 Pte Dell Charles	1 Feb 46	A Robertson Lt Col 1 CDR Gp 13 CBRA

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AE 160 54-87

RECEIVED 8 Feb 1946 A/G BRANCH

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA33) 40/P.A.W./1680 (H144) 4/38B

Order of Lt Col L J Flynn T/Comd 2 CBR Gp dated 28 Jan 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 74764	Pte	Charles	Dell	17 ABP GD DET

PROCEEDINGS REVIEWED 9 Feb 46 A J Brody Maj PRESIDING OFFICER JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 29 Jan 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ ~~as interpreter? Ans~~

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ~~as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major J A Baillargeon	GEN LIST HQ 2 CBR G
Member	Capt D L Macdonell	CIC PE 13 CBRBn
Member	Capt H N MacLeod MC	CIC PE 13 CBRBn
~~Judge-Advocate~~		
Prosecutor	Major W M Garnett	RCE PE 13 CBRBn
Defending Offr	Lieut D R Saunderson	CAC PE 13 CBRBn

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ p 2.)

A8. The accused K 74764 Pte Dell C before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A8s to record proceedings. 2. RP 32, RP 33. If otherwise, deletes and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ - 1 CDN GP Vol II Page 49

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)~~
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....

Do you intend to call witnesses on your behalf? Ans. .....

Are they witnesses as to character only? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if on his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Call witnesses as to character
(1. If evidence has already been given by accused or his character, delete this para. RP 37(C) fn 4, 44 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 253 or MFB 294. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes through my Defending Officer.(2)
(1. RP 37(C), 44(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also by JA, if any.~~(2)
(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas 40 309, 2323, MML p 96, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No. 74764 Name DELL C | Sqn, Battery, or Company | Corps CIC | Date of enlistment 1 Feb 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAM/136 (2418)

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Prince Rupert BC	15 May 41	Pte		(1) AWL from 2400 hrs 15 May 41 to 0035 hrs 16 May 41. Absent 2 hrs 35 mins (AA 15 (1) (2) Breaking barracks while a defaulter (AA 10 (14) (3) AWL from 2100 hrs 17 May 41 to 0230 hrs 18 May 41 Absent 5 hrs 30 mins (AA 15 (1)	Cpl Crispin Cpl Hickey Sgt Goffin Cpl Nicholson Cpl Robinson Cpl Essilmont	168 hrs Det'n Forfs 7 dys pay FR&I 149(1)(b)	19 May 41	Lt-Col Wood	Aut forf 2dys pay FR&I 149(1)(a
Barrett Fort Prince Rupert	9 Jul 41	Pte		AA 40 C to the P of GC & MO Insubordination	Cpl Dagle Lt Heskitt	168 hrs Det'n Forf 7 dys pay 28 dys Det'n	9 Jul 41 FR&I 149 (1)(b)	Major Holeman	
	15 Jul 41	Pte		AA 40 C to the P of GC and MO (Threw plate at the cook)	L/C Cashats L/C Metcalfe	7 dys CB	15 Jul 41	Maj Holman	Forf 28 dys pay FR&I 1 b
Maple Ridge	16 Aug 41	Pte		AA 40 C to the P of GC and MO Using improper language to an NCO			18 Aug 41	Maj Blades	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Prince Rupert	30 Jul 41	Pte		AA 10(4) Breaking barracks while camp was under C B	RSM Smith Lt Grawer	Forf 20 days pay FR&I 149	31 Jul 41	Lt-Col Wood	Aut forf 5 days pay FR&I 149(1)(a)
New Westminister	14 Oct 41	Pte		AA 15(1) AWL from 1200 hrs 14 Oct 41 to 1445 hrs 18 Oct 41 (absent 4 dys 2 hrs 45 mins)	Documentary	4 days C B	21 Oct 41	Capt Tene	
Debert NS	3 Jul 42	Tpr		AA 15(1) AWL from 0830 hrs 2 Jul 42 to 1630 hrs 3 Jul 42 (Absent 1 dy 8 hrs)	QMS Cann Cpl Benzie Cpl Shilnick	7 days C B	6 Jul 42	Capt J R McPhillips	Aut forf 2 dys pay FR&I 149(1)(a)
Debert NS	21 Jul 42	Tpr		AA 15(1) AWL from 2300 hrs 21 Jul 42 to 2000 hrs 24 Jul 42 (Absent 2 dys, 22 hrs)	L/Sgt Meadowcroft	Forfs 3 dys pay FR&I 149(2) 5 days C B	25 Jul 42	Maj G M Letson	Aut forf 3 dys pay FR&I 149(1)(a)
Field	9 Jul 43	Tpr		AA 40 C to the P of GO and MD was absent from P T parade	Sgt Shanks	7 days C B	9 Jul 43	Capt H Bardon	
Field	19 Aug 43	Tpr		AA 15(1) AWL from 1630 hrs 17 Aug 43 to 1000 hrs 19 Aug 43 (Absent 1 day 17 hrs 30 mins)	Sgt Grocutt	7 days FP Forfs 7 dys pay FR&I 149(2)	20 Aug 43	Major T S Baron	Aut forf 2 dys pay FR&I 149(1)(a)
Field	20 Aug 43	Tpr		AA 40 C to the P of GO and MO appeared on parade in an unsoldierly and dirty condition	Capt Foogood	7 days C B	21 Aug 43	Capt J W Foogood	

No K74764 Name DELL C | Sqn, Battery, or Company | Corps C A C | Date of enlistment 1 Feb 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/106 (5413)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2-1-44	Tpr		AWL from 2200 hrs 2-1-44 to 1745 hrs 3-1-44 Absent 19 hrs 45 mins AA Sec 15 (1)	L/Sgt Kestie	21 dys FP Forfs 21 dys pay FR&I 149 (2)	4 Jan 44	Lt-Col D G Worthington	Forf 1 dys pay FR&I 149 (1)(a)
Field	10Feb 44	Tpr		AA 15(1) AWL from 2200 hrs 10 Feb 44 to 1615 hrs 13 Feb 44 (Absent 2 days 18 hrs 15 mins)	Documentary L/C Joseph	28 dys F P Forf 28 dys pay FR&I 149(2)	15 Feb 44	HQ Rick Lt-Col	Forf 3 dys pa FR&I 149(1)(a
Field	16Feb 44	Tpr		WOAS AWL from 1800 hrs 16 Feb 44 to 1510 hrs 31 Mar 44 Absent 43 dys 21hrs 15mins Sec 15(1)AA					
Field	16 Feb 44	Tpr		First Charge AA Sec 15(1) WOAS AWL while undergoing Fd punishment absented himself without leave from 3CACRU from 1800hrs 16 Fen 44 until apprehended by the CM Police at 1515		105 dys detn Released from the Detention Barracks "Headley Downs" on 7 Jul 44 sentence having expired Remission earned under "Rules	20 Apr	FGCM	Forf 44 dys pay absence FR&I 149(1)(a) Forf 20 dys

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				hrs 31 Mar 44 at Coventry. (Total Time absent 43 days, 21 hrs, 15 minutes) Cost of apprehension (1-9-10)	Documentary L/C Forbes GE L/C Deighan EE	for Detention Barracks and Military Prisons" 26 days..... Commandants initials			pay FR&I 149 (1) (c) (i) Forf 105 days pay FR&I 149
				Second Charge AA Sec 24(2) WOAS losing by neglect his equipment, clothing and regimental necessities, in that he in the fd on or about 11 Apr 44 was deficient his kit.					
Field	11 Jul 44	Tpr		WOAS AWL from 2230 hrs 11 Jul 44 until 0030 hrs 12 Jul 44 Absent 2 hours Sec 15(1) AA	SSM Fougere J.L. Cpl Clements	45 days detn	17 Jul44	FGCM	Forfs 45 days pay FR&I 149(1)(b)
				Released from the Detention Barrack Canadian on 15 Aug 1944 sentence having expired Remission earned under "Rules for Detention Barracks and Military Prisons" 15 days Commandants Initials R.C.M.					

No. K74764 Name DELL C | Sqn, Battery, or Company | Corps CAC | Date of enlistment 1Feb 41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/150(0413)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	10 Jun 45	Pte		AWL in that he when warned for gurad duty at 1730 hrs 10 Jun 45 by his Coy Sgt Major failed to report AA Sec 15(2)	L/Sgt Leroux	Awd 5 dys Forf of pay	19 Jun	Lt-Col H C Arrell	Forf under FR&I 149(1) 5 dys pay
Field	2-10-44	Pte		AWL from 2230 hrs 7-10-44 until 1510 hrs 10-10-44 Absent 2 days 16 hrs 40 mins Sec 15(1) AA	Documentary	Admonished	10-10-44	BR Sanger Capt	2 days aut forf FR&I 149(1)
Field	14Jul 45	Pte	n	AWL from 1400 hrs 12 Jul 45 until 0800 hrs 14 Jul 45 Absent 1 day 16 hrs AA Sec 15	Sgt King DR	15 days pay	16-7-45	H C ARREL Lt-Col	Forf 2 dys Forf 15 dys Total 17 dys
Field	29Jul 45	Pte		(1)WOAS absenting himself without leave from 2300 hrs 28 Jul 45 until 2345 hrs 29 Jul 45 (1 day 45 mins)AA 15 1 (2)WOAS failed to produce Part 1 when Docemtnary called upon to do so contrary to	CQMS DYKE	15 days Forf of pay	2 Aug 45	Lt-Col HC ARRELL	Forf 2 dys FR&I 1491 a Forf 15 dys pay FR&I 149 (PTO) (b) Total of

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									17 days pay
				instruction as contained in page X					
Field	25 Aug 45	Pte		1 MBM 1 AA 11 WOAB Absenting himself without leave from 1330 hrs 25 Aug 45 until 0700 hrs 27 Aug 45 Total time absent 1 day 18 hrs	Sgt Hart Cpl King	15 days FP	27 Aug 45	Major WH Burton	Forf 15 dys pay FR&I 149(1)(a) Forf 2 dys pay FR&I 149(1)(b)
Bussum	28 Sep 45	Pte		AA 15 (1) 2 days 8 hrs	Sgt Mooney Cpl Crowley	14 days F P	30 Oct 45	Maj Henderson	17 days pay
Field	16 Dec 45	Pte		AA15(1) WOAB absenting himself WL from 0900 hrs 16 Dec 45 until 1800 hrs 23 Dec 45 (Absent 7 dys 9 hrs)	Cpl Leseki	14 days CB Forfs 28 dys	24 Dec45	Maj EC COX	Aut Forf of 8 days pay FR&I 149(1)a

CERTIFIED TRUE COPY

(E G BRAMALL) Lieut

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ Cl 173)

I certify that I have this day examined K-74764 (No.)

Pte (Rank) DELL C (Name) and in my opinion he is

fit ~~unfit~~ to under go trial by Court-Martial.

Station Field

Date 29 Jan 46

Royston Smith (Sgd),
Medical Officer

(Unit) 13 CBR Bn

CHARGE SHEET

The accused No K-74764 Pte Dell, C., of 17 ABP Guard Detachment, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE

Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 0900 hours 13 Jan 46 until 1700 hours 15 Jan 46. Absent 2 days 8 hours.

In the Field
19 Jan 46

(E.C. Cox) Major
O.C. ABP Guard Detachment

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field
28 JAN 46

(L J FLYNN) Lt-Col
T/Comd - 2 Can Base Bft Cp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(5).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 74764	Pte		C	DELL	17 ABP GD DET

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 28 JAN 46 endorsed by me, (~~A/A/A/A/A/A/A/A/A/A~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable for reasons that cannot be stated in this order~~) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I also order that a Fd Gen Court-Martial be convened for the trial of a Fd Offr as previously ordered in the case of~~ (AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate for the Court-Martial hereunder~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	F A BAILLARGERON	Gen List HQ 2 CBRG

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D L MACDONELL	CIC PE 13 CBR Bn
Capt	H N MACLEOD MC	CIC PE 13 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	J H WATSON	CIC PE 13 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In HOLLAND (Country.)

Dat 28 JAN 46

L J Flynn Lt-Col
(Signed personally. RP 105 fn 2.) (Rank.)

(L J FLYNN)
Commanding T/Comd - 2 Cdn Base Brt Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 90 (In Lieu of AFA 2) 40/F du B/1007 (6143)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27. 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will *apply* so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn* 2, *46 fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than on mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns* 8-12, *87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, *87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 709.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

The Court is satisfied that the christian name of accused is "Charles". The charge sheet is amended accordingly and initialled by the President

A. Bailargeon
Pres.

E1 I AB

H 103707 L/Cpl Wood W B. 17 ABP Det. having been duly sworn states.

I have known the accused for a month prior to this. He served under me. I never had any fault to find with his work. His work was satisfactory — never any trouble. I considered him trustworthy

Prosecution

Sent as a Demob depot for vehicles. It is important to have a guard. To guard replaced him.

Defending Officer

They are recovered vehicles written off as total loss. We did not put someone in accused's place — I reported to S/Sgt Taylor.

By Court

There are 8 men on a shift. We had a roving picket and he took Dell's place. I did not warn Dell for guard duty on 13 Jan 46. Dell was not present when guard was mounted.

RP 83(a) complied with.

#H67187 Cpl Ball HA. 17ABP. Sd Det. having been duly sworn states.

I know the accused slightly I was his guard Cpl for about one month. He was a good soldier under me — work satisfactory. I considered him trustworthy. He never caused me any trouble.

RP 83(8) complied with.

1.

E3. Plea of Mitigation K 74764 PTE. DELL, C

PTE DELL joined the army on 1 Feb 41 and came overseas in Aug 42. Then he landed on continent in Oct 44 and went right up to RHLI and joined them at the Scheldt. He stayed with the regt. all through Holland & Germany and was wounded with them on 19 Feb 45 down on Calcar - Kleef road. He stayed with the regt right up until the time it went home and although he had enough points to go back to Canada with them, he elected to continue serving in Holland since he wished to marry a girl from Amsterdam. In the latter part of Sept he was posted to the Algonquin Regt and then went up to 17 ABP on 1 Dec.

Up until an announcement made on parade at 1330 hrs Sat 12 Jan 46 17 ABP was supposed to fold up around 16 Jan. But PTE DELL was not on that parade at which the men were told they would not be leaving until 31 Jan because he had just come off guard that morning and had 24 hours off.

So when PTE Dell went AWL he thought the unit was still going to leave on or about the 16 Jan. He had been unable to get a pass and he had to go to see his wife in Amsterdam to get some business papers cleared up. PTE Dell had married without getting permission from the army & he was worried about her, because he thought he'd be leaving at once for Canada and no arrangements had been made that his wife might be brought out. So he took him up to the Cdn. Wives' Bureau in Hague and got things all fixed up. Then he immediately went back to camp since he had done all he could. He got back Tuesday morning.

PTE Dell did not want to go on the loose but in his opinion he had to in order to ensure that his wife would get to Canada, and he thought that was his last chance to fix things up. He is now 22. He has had a few crimes in his army career but since he got married he resolved to keep out of trouble and be a good soldier and he has even stopped drinking altogether. PTE Dell realizes that he has committed a crime and he is quite prepared to accept your punishment for it but surely there are very extenuating circumstances attendant on his absence. After all he only did what he thought he had to do, and once he had done that he immediately returned to camp to

take whatever punishment should be meted out to him. I think that shows that he has a real determination to reform and be a good soldier since he got married.

So, gentlemen, because of his long service both in and out of action, because of the fact that I believe he is really earnest in a determination to be a good soldier since he married, and finally because of the extenuating circumstances surrounding his absence I beg you to be as lenient with PTE DELL as you can see fit.

He was away only 2 days 8 hours and he has already spent 13 days in close custody.

D R Saunderson Lieut

Summary of evidence in the case of K74964 Pte Dell C. of 17 ABP Guard Detachment charged with being absent without leave AA 15(1).

By direction of the Officer Commanding evidence is taken on oath

First Witness C 79257 S/Sgt Taylor F of 17 ABP Guard Detachment after being sworn states:—

"I am platoon Sgt of #1 Platoon, 17 ABP Guard Detachment. On 13 Jan 46 at 0900 hrs #1 platoon was paraded and mounted as guard for the next 24 hours. The roll was called and Pte Dell was absent. He had been warned and knew on the 12 Jan 46 that he was on guard on the 13 Jan 46

The witness was questioned by the investigating officer

Q. At what time was Pte Dell next due for duty after 13 Jan 46

A. at 0900 hrs 15 Jan 46.

Q Did he report for duty then

A. No.

Q When did you next see Pte Dell.

A. 1700 hrs on the 15 Jan 46.

The accused declines to question this witness

F. Taylor.

Second Witness H-103707 L/Cpl Woods D.A. of 17 ABP Guard Detachment being sworn states:—

"I am guard Cpl of No 1 platoon. On the 12 Jan at 0900 hrs when the guard was dismissed, Pte Dell was warned that he was on a guard again at 0900 hrs 13 Jan. At that time the guard was mounted and Pte Dell was missing from the parade.

The accused has no questions for this witness

D.A Woods.

Third witness H-67187 Cpl Ball H.A. having been sworn states:—

" I am guard Cpl of No 1 platoon 3 17 ABP Guard Det. At approx 1700 hrs 15 Jan 46 Pte Dell reported to me that he had returned from being absent without leave. As I had just returned from leave myself & had no previous knowledge of this mans absence I immediately reported Pte Dells return to S/Sgt Taylor.

The accused had no questions for this witness. H. A. Ball.

The accused was cautioned.

Q. Do you wish to make a statement or give evidence? you are not obliged to do so but anything you say will be taken down in writing and may be used against you.

A. No, no statement

Q. Do you wish to call any witnesses

A. No.

The foregoing ~~statement~~ Summary of evidence, of 2 pages was taken down by me in the presence of the accused and I certify that RP A (c)(D)(E)(F) and (G)(13) have been complied with

[illegible]
ABP Guard Detachment

In the field
18 Jan 46

SUMMARY OF EVIDENCE

in the case of

K-74764 Pte DELL, C of 17 AEP Guard Detachment, charged with being absent without leave (AA 15(1).

By direction of the Officer Commanding evidence is taken on oath.

FIRST WITNESS

C-79257 S/Sgt Taylor, F. of 17 AEP Guard Detachment, after being sworn states:-

"I am platoon Sgt of No 1 Platoon, 17 AEP Guard Detachment. On 13 Jan 46 at 0900 hrs No 1 Platoon was paraded and mounted as guard for the next 24 hours. The roll was called and Pte Dell was absent. He had been warned and knew on the 12 Jan 46 that he was on guard on the 13 Jan 46."

The witness was questioned by the Investigating Officer

Q. At what time was Pte Dell next due for duty after 13 Jan 46?

A. At 0900 hrs, 15 Jan 46.

Q. Did he report for duty then?

A. No.

Q. When did you next see Pte Dell?

A. 1700 hrs on the 15 Jan 46.

The accused declines to question this witness.

Signed (F. Taylor)

SECOND WITNESS

H-103707 L/Cpl Woods, W.A. of 17 AEP Guard Detachment, being sworn states:-

"I am Guard Cpl of No 1 Platoon. On the 12 Jan at 0900 hrs when the guard was dismissed, Pte Dell was warned that he was on a guard again at 0900 hrs 13 Jan. At that time the guard was mounted and Pte Dell was missing from the parade."

The accused has no questions for this witness.

Signed (W.A. Woods)

to page 2.

THIRD WITNESS

H-67187 Cpl Ball, H.A. having been sworn states:-

"I am Guard Cpl of No 1 Platoon of 17 ABP Guard Detachment. At approximately 1700 hours 15 Jan 46 Pte Dell reported to me that he had returned from being absent without leave. As I had just returned from leave myself and had no previous knowledge of this Man's absence I immediately reported Pte Dell's return to S/Sgt Taylor."

The accused had no questions for this witness.

Signed (H.A. Ball)

The accused was cautioned.

Q. Do you wish to make a statement or give evidence? You are not obliged to do so but anything you say will be taken down in writing and may be used against you.

A. No, no statement.

Q. Do you wish to call any witnesses?

A. No.

The foregoing summary of evidence, of 2 pages, was taken down by me in the presence of the accused and I certify that RP 4 (c),(d),(e), (f) and (g)(13) have been complied with.

In the Field
19 Jan 46

Signed (E.C. Cox)Major
ABP Guard Detachment

I hereby certify that the above ~~three~~ two pages are a true and exact copy of a summary of evidence taken ~~by~~ by me on 19 Jan 46.

(E.C. Cox)Major

BB

S T A T E M E N T

I, K-74764 Pte Dell, C., charged with being absent without leave do/~~do not~~ desire to have an officer assigned by the Convening Officer to represent me at my trial.

C. Dell

EXHIBIT "B"

In lieu of MFB 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

K-74764 PTE DELL C 17 ABP Guard Detachment

1. The following is a fair and true summary of the entries in the Conduct Sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 Months	Since Enlistment
For Absence without leave	7 times	15 times
For Conduct to the prejudice of Good Order	- times	5 times
For Breaking Barracks	- times	2 times
For Neglect to obey Standing Orders	1 time	1 times

Number of instances of gallantry or distinguished conduct NIL

2. Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under AA 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charge for 0 days in civil custody, and 43 days in military custody, making a total of 43 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 yrs.

6. The date of his attestation specified in his attestation paper 1 Feb 41

7. The service of which the accused is allowed to reckon towards discharge is 4 yrs 11 mos.

8. The accused is entitled to reckon 4 yrs 11 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward.

10. ~~The accused before he was made a Warrant Officer last held the regimental rank of~~ Pte.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, K-74764 Pte Dell, C. of 17 ABP Guard Detachment.

Description of Court by which tried	Date & Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field, 20 Apr 44	AA Sec 15(1) WCAS AWL while undergoing Fd punishment absented himself without leave from 3CACRU from 1800 hrs, 16 Feb 44 until apprehended by the CM police at 1515 hrs 31 Mar 44 at Coventry(Total time absent 43 days 21 hrs 15 mins. Cost of apprehension (1-9-10)	105 days Detention	26 days

Description of Court by which tried	Date & Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 11 Jul 1944	WOAS AWL from 2230 hrs 11 July 44 until 0030 hrs 12 July 44. Absent 2 hours. Sec 15(1) AA	45 days Detention	15 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of [illegible] Major

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

BBB-35
GAR DELL G.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H 54953 Guy Edward Dell 13th Fd Regt RCA

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 18(c)	Not Guilty	Guilty	
2nd AA 40(alternative)	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for Det Awgs FP beginning on (date) 22 Dec 43. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention per eight months

(Sgd) [signature] 30 Dec 43
Judge-Advocate, if any. Date awarded.

(Sgd) [signature]
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 758-764, KR Con 562-577. Requisites require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court.

I direct that the accused be ~~confined in~~ [illegible] detention barracks until further ordered.(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 3 Jan 44. (P.A.G. Todd) Brigadier,
Commanding CRA 3 Cdn Inf Div.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

H54953 Guy Edward Dell - 4 January, 1944. [signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

BBB-35

FIELD GENERAL COURT-MARTIAL

CF A96 (In lieu of AFA3) (C.F.O. B-1656 (2004))

Convened by Order of T.A.G. Todd dated ..... Comd CRA 3 Cdn Inf Div dated 29 Dec 43.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
H/54953	Gnr	Guy Edward	DELL	13 Cdn Fd Regt, RCA

PROCEEDINGS REVIEWED
12 Jan 44.
R. Beaudille Capt.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 30 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1480 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) present

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to NA as interpreter? Ans NA

~~The Interpreter is sworn.~~(1) Do you object to NA as shorthand writer? Ans NA

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.M. Wilson	12th Regt RCA.
Member	Capt.	H.J. Sterling	14th Regt 3rd RCA.
Member	Lieut.	R.F. Gibson	11th Regt RCA.
Judge-Advocate	Capt.	A.C. Hall	HQ 3 Cdn Div
Prosecutor	Lieut.	W.M. Ramsbery	13 Fd Regt RCA.
Defending Offr	Major	T.O. Baird	13th Regt RCA.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused H 54953 Cnr Guy Edward Dell before arraignment makes(s) (no) ~~his~~ plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 4 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is sworn and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PROCEEDINGS REVIEWED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(D), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules as to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(no)~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 13-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I wish to give evidence. Do you intend to call witnesses on your behalf? Ans No. Are they witnesses as to character only? Ans No.
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s) ~~(and sentence)~~ of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st charge(s), being subject to confirmation, will be promulgated later.(1) ~~(or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith), and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(2), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex F respectively.(3)
(1. MFB 355 or MFB 296. 2. Delete 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes - in Mitigation of punishment.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. When several accused tried separately see RP 24(D). Sentence only, comprised of the punishment or punishments (and down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas 80 309, 2323. MML p 60, 757-759. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. H54953 Gunner Guy Edward Dell, 22 Field Battery, 13 Canadian Field Regiment, R.C.A. a soldier ~~of~~ on Active Service with the Canadian Army (Overseas) is charged with:-

1st Charge
Section
16 (4) A.A.

STEALING PUBLIC PROPERTY

in that he,

In the field, on or about 11 Dec 43, did steal 2 (two) leather jerkins, Public Property, in the billets of the 22 Field Battery, 13 Canadian Field Regiment, R.C.A.

Alternate
Charge
Section
40 A.A.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

In the field, on or about 11 Dec 43 was improperly in possession of two leather jerkins, public property.

(F. leP. T. Gifford) Lt. Col.
Comd 13 Cdn Fd Regt R.C.A.

In the field.
28 Dec 43.

TO BE TRIED BY F.G.C.M.

In the Field
29 Dec 43

(P.A.S. Todd) Brigadier
C.R.A. 3 Cdn Inf Div

Approved on behalf of the JAG Cdn Army Overseas pursuant to Overseas R O 2223 and K R (Can) 540.

In the field
30 Dec 43

(A C Hall) Capt
ADJA 3 Cdn Div

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H54953	Gunner	-	Guy Edward	DELL	13 Fd Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Dec 43 endorsed by me, [illegible] " To be tried by Field General Court-Martial ". 8½

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).) 8½

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. 8½

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) 8½

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D.M. WILSON (Must be named. RP 106.)	12 Fd Regt RCA (Unit.)

MEMBERS.

Capt.	H.J. STIRLING	19 Fd Regt SP RCA
Lieut. (Rank.)	R.F. GIBSON (Named or detailed. RP 106.)	13 Fd Regt RCA (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	J.A. WARBURTON (Named or detailed, if any. RP 106.)	14 Fd Regt RCA (Unit.)

JUDGE-ADVOCATE.

CAPT. (Rank.)	A.C. HALL (Must be named, if any. RP 106.)	HQ III Cdn Div (Unit.)

On Active Service in the Fd

in England (Country.) — [signature] Todd (Signed personally. RP 105 fn 2.) (P.A.S. TODD) — Brigadier (Rank.)

Date 29 Dec 43 — Commanding C.R.A. 3 Cdn Inf Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RD (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 96(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accused in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in *CF A 96*, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply *so far as practicable*, having due regard to the public service. (*RP 122.*) If the Court considers such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 3*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 91.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of *CF A 96* in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of *CF A 96* and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 769.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICERS CERTIFICATE
K.R. (Can) para 557.

I certify that I have this day examined

54953 Gnr DELL, Guy Edward. and in my opinion
Number Rank Name
is fit to undergo trial by court martial.

G S Griffith Capt
Medical Officers (Unit) #13 Cdn. Fld Reg
R C A.

Date Dec 30/43.

[illegible] Major

1.

1st Witness

M3419 Gnr Perkins, R.B. 22Bty 13 Cdn Fld Regt Identified accused. On Sat. Dec 11 /43 I was in Mayy's Cafe in Bournemouth and saw 2 leather jerkins one with pip marks, lying in the scullery.(Identified Exhibits A and B). One of the gunners of the 22 Bty. had lost a jerkin and I afterwards heard that Lieut Walls had lost a jerkin.,and I reported to L/Bdr Riddock that the jerkins were in Mayss Cafe.

How do you identify the jerkins? By pip marks and cuts in one jerkin The second only by it being lighter in color.
Are you a frequenter of May's Cafe? I go oneeor twice a week.
Have you seen accused in the Cafe? On Sat Dec.11.
DO you know Mr Kyle? Yes sir.
Was he there on Dec.11? No sir.
Do friendly customers go home with the proprieteres? Yes sir.
Did Mr Kyle live at this address? Yes sir.
Have you ever been asked to secure a leather jerkin? No sir.

Cross Exam

Did you see Gnr Dell in the cafe with the jerkins in his possession? No sir.
Have you seen Gnr Dell talk with Mr. Kyle? No sir.

R.E.83(6)complied with.

2nd Witness

M43939 L/Bdr Riddock, 22Bty 13 Cdn Fld Regt. R.C.A.
Do you recall on or about Decll Gnr Perkins reporting to you? Yes sir.
Did you check Gnr. Dell's Kit? Yes sir.
Do you see him in this room? Yes sir.
Did you find anything in the kit that should not have been there? No sir.
Can you identify exhibits A and B? No sir.

You found kit of accused in prefect order? Yes sir.

R.E.83(6)complied with.

3rd Witness

L 34011 L/Cpl Mattison N.B. 4 Cdn. Provost Coy. On or about Dec 10 at 0815 hrs you had a visitor by the name of Kyle bring you something to your quarters? Yes sir.
What did he bring? Two leather jerkins.
Are you able to identify these jerkins. ? Yes sir by my initials in green D.M. in the jerkins which I marked there.

Cross Exam

A re you a cook? Ido the cooking for our section.
When Mr. Kyle came to see you were you properly dressed? No sir.
Did you identify yourself to Mr. Kyle? Only by the receipt that I gave him for the jerkins.
Did he know you were a Provost? Apparently sir.
Where did this take place? At our section headquarters.

R.E.83(6)complied with.

witness

Mrs May Muriel Inkpen, 2 the Triangle, Bournemouth.

Do you operate a cafe in Bournemouth? Yes in the Triangle.

Do you recognize the accused? Yes sir that is Geo. Dell.

Q Did you see Geo. Dell on Dec 11? A He came to the kitchen with 2 leather jerkins which I did not examine as I was busy at the time. He hung the leather jerkins near the door and said, "These are for Pat"

Q Did you know whom he meant by Pat? A Yes, a man who roomed at my house Pat Kyle.

Did you have anything further to do with these jerkins? Not till Pat came in when I told him that Dell had brought them and told him not to touch them as they were army jerkins. He said he wanted a windbreaker made of them.

I told Perkins one of the boys had left them and asked what I should do with them. Sgt-Major Ray told me to tell Kyle to take them back to the Provost. I told Kyle to take them to the Provost and gave him the key of the Cafe to obtain them at 0300 hrs. They had removed in the morning.

I do not know if Dell and Kyle were friends as I have never seen them together,

Kyle is a civilian and w as not employed by me.

Cross Exam

Geo Dell brought in 2 leather jerkins on a Sat and left them in the scullery. Several days later I ordered Pat Kyle to take them to the Provost. Kyle told me that he wanted a windbreaker and was going to use one jekin for sleeves. He told me that he had paid £5 for a coat marked Timothy Eaton. The jerkins were never in my house that I know of.

You have a daughter Mrs Joan May Mitcell; if Itold you that she has made a ststement that she had taken 2 leather jerkins to the house would you deny this? Yes, they were never in the house as far as I kno

It took you several days to have them returned to Military authority Yes, but I spoke to military authority and a Cpl Provost about 3 days later. I had already told Kyle to take them back. Ray Hebert told me to leave them hang and let some military personel take them away.

I spoke to Sgt-Major Ray on Wed. About the jerkins and he told me t that they should be sent to the provost immediately.

Where you annoyed when you saw the jerkins in your house? Yes I was annoyed when I saw the jerkins in my house.

Is Sgt-Major Ray an artillerman? Yes 13 Fld.

Dell had brought a parcel for Pat. I did not discover that they were jerkins till later.

Did DEll tell you that he had brought the jerkins in? No, but I knew he had.

On reading examination to witness she objected to the word house saying that to her the house and cafe were the same.

R.S.83 complied with.

5th witness

Lieut. S. C. Walls 22Bty 13 Cdn Fld Regt. R.C.A .
I was in Basingstoke the latter part of Nov. and when I came back my leather jerkin was missing. My name was in the inside of the leather hook. (Witness identified Exhibit A as his.) On discovering the loss the batmen searched the room and bldg. and it was also reporte to the Bty, CApt. On Dec. 19 a Sgt Provost came to the mess with 2 jerkins one of which I identified as mine.

Cross exam

Do you know the accused? Yes sir.
Have you ever seen him in the bldg.? No sir.
Is this man a batman? NOsir.
Later on a Jacket did appear in the room? Yes sir; the batmen foun one while searching for mine that htey thought was it but it was not.

RP 53 Complied with

6th witness

H32052 Sgt. Giles T.S. 4 Cdn Provost Coy. On the evening of Dec 16/ 43 at about 2200 hrs I received a report re 2 leather jerkins that had been handed to L/Cpl Mattison. Imade enquires and found that the jerkins had been taken to May's Cafe on Dec.11 . Mrs Inkpen would not make a statement in writing. I saw her daughter Mrs Joan May Mitchell she made a statement and signed it. I tried to contact the man Kyle. He called at the Section Headquarters and on being questione re the jerkins he also made a statement which I took done in writing and he signed it. I went to the 22Bty 13 Fld and saw Gnr Dell and informed him I was making enquiries about 2 leather jerkins which had been left at May's Cafe some time previous. I left and came back about 1700 hrs the same evening and again saw Gnr Dell. He inform ed me that he wished to make a statement re the jerkins. I cautioned him in the prescence of Sgt. Powell. He made a statement which was turned over to the 13Cdn Fld Regt. (Witness was shown Dell's statement which was given to the Court as Exhibit D.)

Dell was under close arrest at the time and I told him that the information I had would be turned over to the unit. I took a leather jerkin and showed it to Mr. Walls which he identified as his. I made no more enquiries at the Cafe. RP 53(b) Complied with

7th witness

118388 Gnr Grneracher J. Did you lose a leather jerkin? Yes on I think Dec 11.
Would you recognize your jerkin? Yes sir by the name and number on the manufacturer's label on the lower right hand corner and the back of the lining was rather worn and the jerkin faded in color. (Witness thought exhibit B might be his but could not be sure as manufacturers label had been torn off.)

I last saw my jerkin on Sat. morning around breakfast time, it was gone when I came off guard in the evening. I reported the loss to BQMS Morton.

R.P. 53 Complied with.

8th witness

Mr. H.G.Kyle 50 St Michael's Rd. Bournemouth.
Do you know a Gnr Geo Dell? I know a man by the name of Geo, I didn't

know his name was Dell.
Do you recognize him in this room? Yes he his sitting over there.
Were you friendly with Dell? Not any more so than with other Canadians.
You had a conversation with Geo. about a windbreaker? I did. I asked Geo if he could manage to get me acivilian windbreaker much like the R.A.F. wear in the summertime. He said he would try to get a windbreaker. Did Geo bring you anything? Geo gave me a jekin which he carried under his greatcoat in Mrs Inkpen's house. There was another jerkin left intthe cafe? how long had it been there? I do not know.
They were unnoticed because some Canadian troops helped out in the cafe and hung their jerkins up. Mrs Inkpen asked me to see that they were returned to the Provost. I took one from the kitchen and got the key to the Cafe,picked up the other one and returned them to the cook at the Provost Coy. There was no question of money envloved.
I handled the jerkins when I was returning them to the Provost.
(Exhibit A looked like the one he wore under his coat, Exhibit B like the one left in the Cafe.)
He left the one he brought to the house on the table without making a statement.

Cross Exam

No money was discussed withGGnr Dell? No sir.
What led you to suppose that Gnr Dell could abtain you a civilian wi windbreaker like the R.A.F. wear? Because some Canadians have civilian clothes.

Can you remember any dates when you spoke to Gnr Dell? Nosir but I am hazy about dates I think about Nov. Before Armistace Day.
Would it interest you to know that Gnr Dell was not in Bournemouth at that time. If you took the coats to the Provost on Dec 16. the following day, you must have had some conversation about the jekins on the 15. Imust have had.
The Provost say the jerkins were turned in on Dec 16. The day before one was in the house just over night and the other in the cafe
On Dec 14 I had a conversation with Dell, On Dec15 Geo. brought you a leather jerkin and left it in the house and the next morning you took it to the Provost? Yes.
Did you have any conversation with Mrs Inkpen re the jerkins? She seemed to be upset by the provost investiagation. She insisted that I take them to the provost.
There was only one left in the cafe on the morning I returned them.
I dont know when Exhibit B was left in the Cafe.
You helped out at May's Cafe? Yes.
You met Canadians there ? Yes.
You say you lived in Canada? Yes sir in Vancouver.
Did you live in the States? Yes for 10 yrs.
What work did you do? Hard rock mining.
When did you leave? 1931
What did you do in 1930, Ido not wish to answer that question.
Were you deported from the U.S.A . Yes sir.
What for? Robbery
Did you serve a sentence ? Yes sir.
Did you serve a sentence in this country? for robbery with violence?
Yes sir in 1940.

Re Exam

You are looked upon as a respectable citizen of Bournemouth?
At present Yes sir.

RP83 (e) complied with [illegible]

Witness 5.

H54953 Gnr Dell G.E.

You heard the statement read ou that you made? Yes sir.

Is this the statement you made? Yes sir.

Why should you take 2 leather jerkins to May's Cafe? Mr Kyle asked metto bring him 2 leather jerkins tha t would be left in the 22 Bty are

Have you ever been in this building before? No sir not before today.

Can you recognize these jrkins? No sir.

Your instructions were that there would be 2 leather jerkins laid out for you to take to Mr Kyle? Yes sir.

What were you to receive for this? There was no question of money.

Cross Exam

You were appointed to carry 2 jerkins down to the Cafe? Yes.

Kyle told you there would be 2 jerkins ready for you but didn't tell yo you were to find them? No.

How did you find them then? He told me that I would find them in the billets.

I first talked to Kyle a week previous to the 11th.

Kyle laid it on with you that they would be laid out ready to pick up?

Yes when I last saw him 2 days previous.

What did he want them for? For a windbreaker.

Did he mention anything about windbreakers like the R.A.F. wear? No

Did you realize that you shouldn8t have taken the jerkins from the billets? Yes.

Did you intend to leave the jerkins down ther, never to return them to the reg't? Yes.

Did Kyle say he would pay you? Yes, but he didn't say how much .

Re Exam

Did Kyle know you were a member of BHQ 22Bty 13 Cdn,Fld Regt.? Yes he did.

Have you ever seen clothes scattered about the recreation room? No.

When you went into the recreation room and saw 2 jerkins on the chair you thought they were the jerkins you were to deliver? Yes.

RP 88 (b) complied with [signature] [signature]

CERTIFICATE

I hereby certify that I have handed over to the Adjutant 13th Cdn Fd Regt., R.C.A., on the 30-Dec-43 the two leather jerkins mentioned in the proceedings as Exhibit A and Exhibit B.

.....Major
President

Statement in mitigation of Punishment

Case of - H54953 Gnr. Dell G.E.
13 Cdn Fd Regt RCA

Mr. President:

One cannot condone theft but I would ask you to consider a few facts in relation to the accused and the witnesses for the prosecution.

The accused is not a strong character nor a particularily bright one. The evidence clearly shows a weak foolish man associated with bad characters. The prosecution witnesses from Mays' Cafe are to say the least slippery individuals and certainly are liars. The accused was told he would find the jerkins laid out for him. The witness Lieut. Walls reports his leather jerkin missing from the officers' mess. The accused has never been in the officers' mess. There is evidence here to support that a third party is involved. There is certainly evidence to support the assumption that there is a gang working to secure Army goods from soldiers like the accused. I commend to the Provost Corps Mays' Cafe in particular for observation.

In conclusion I ask you to take in to consideration the co-operation throughout of the accused to assist investigation. I ask you to take into consideration his general weakness of character as too well evidenced by his MFM G. He is a man easily influenced and in this case, those influences were people of to say the least of shady character.

I ask above all that this soldier be not made the example of punishment for this offence, that of stealing public property.

J.D. Baird

J.D. Baird(Major RCA

Exhibit "D"

[illegible] 19-12-43

[illegible] been cautioned and [illegible]retand that I do not have [illegible] make a statement unless I wish. But anything I say will be taken down and may be given in evidence.

G.E. Dell [illegible]

Statement of HS4753 Guy Edward Dell. Gnr. 22nd Bty 13th Field Regt R.C.A.

Statement begins.

About a week previous to the 11th Dec. 43 I was in Mays Cafe. The Tringale. Bournemouth. When I met a man whom I know as Paddy. At times he works in Mays. He asked me to get him two leather jerkins. He told me he would pay for them, but did not state how much. I told him I would bring him down some. On the morning of the 14th Dec. 1943. I went into the recreation room where I saw two leather jerkins on a chair.

[illegible]

[illegible] as no one in the room [illegible] time. So I took the [illegible] and proceed to Mays [illegible] with them. I hung them [illegible] the [illegible] when to the cafe. [illegible] time I told May the jerkins [illegible] for Paddy. I am not sure if there was anyone else in the kitchen at the time [illegible] but there was no one in the cafe. I have not seen Paddy since. When Paddy asked me to get him the jerkins he told me he wanted to get a windbreaker made out of them, and would need one for sleeves.

I have read the above statement and it is ~~[illegible]~~ true.

G.E. Dell.

[illegible]

SUMMARY OF EVIDENCE

Summary of evidence in the case of:- H54953 Gunner Guy Edward Dell, 22 Field Battery, 13 Canadian Field Regiment, R.C.A., a soldier of the Canadian Army Overseas.

The Accused is informed of his rights.

Lieut. Col. F. leP. T. Clifford, Officer Commanding, 13 Canadian Field Regiment, R.C.A. directs that all evidence be taken on oath.

1st Witness

M3419 Gnr Perkins, R.B., 22 Field Battery, 13 Canadian Field Regiment, R.C.A. having been duly sworn states:-

On Saturday 11 Dec 43 at 2130 hours I went into May's Cafe, in Bournemouth by the Triangle. I saw two leather Jerkins in the scullery of May's Cafe. I examined them and noticed one had pip marks where pips had been removed. I knew when I saw these jerkins that Gnr Gernacher had lost a jerkin, but when I returned to Barracks and made further inquires I was told that Lieut. Walls had lost a jerkin also. I recognize this leather jerkin as the one I saw in May's Cafe as there are the two pip marks on each shoulder. (This jerkin identified by Gnr Perkins is marked as Exhibit "A".)

Question: Do you know anything about Paddy Kyle asking me for the jerkins.

Answer : I did not hear Kyle ask for the jerkins from Gnr Dell.

Question: Have you heard Kyle say anything about having a deal on for a Coat.

Answer : No.

Signature of witness R B Perkins
(R.B. Perkins)

2nd Witness

L34011 ~~Gnr~~ L/Cpl Mattison, N.B., 4 Canadian Provost Coy. having been duly sworn states:-

On 16 Dec 43 at 0815 hrs Mr. Kyle of No. 2 The Triangle, Bournemouth turned in two leather jerkins to me. I was in our billets at 19 Tregonwell Road. I didn't question him as to where he got the jerkins, but gave him a receipt for them. I would recognize these jerkins as I initialed "D.M." in green pencil on them. These two jerkins now markedwith exhibit "A" and exhibit "B" in the case of Gnr Dell are the same two jerkins that Mr. Kyle gave me. As far as the accused is concerned I know nothing further.

The accused declined to cross examine the witness.

Signature of ~~xxx~~ Witness D Mattison
(N.E. Mattison)

.....2/

3rd Witness

H43939 L/Bdr Riddock, 22 Field Battery, 13 Canadian Field Regiment, R.C.A. having been duly sworn states:-

On Dec 16 - 43 I checked the kit of Gnr Dell in the guard room of the 22 Field Battery and found the regular issue of equipment and small personal effects that would accumulate in his kit over a period of time. I found nothing that I could identify as not belonging to him.

The accused declined to cross examine this witness.

Signature of witness C.K. Riddock
(C.K. Riddock)

4th Witness

Mrs. Muriel May Inkpen, 2 The Triangle, Bournemouth, having been duly sworn states:-

On Saturday 11 Dec 43 at 1430 hrs this soldier, Gnr Dell, came in and let two leather jerkins for "Pat". When "Pat" came in later that day I told him that these were Army property and he had to take them back. Pat said he wanted them for a windbreak, but I told him not to touch them. I asked a Sgt friend e what to do with them and he told me to make "Paddy" take them to the Provost. On 17 Dec 43 I gave him the keys to the Cafe in order to get the two jerkins and I haven't seen them since.

Question: Did he tell you what he wanted the jerkins for?

Answer : He said he wanted them for a windbreak.

Question: Did he mention he had a deal on for a coat.

Answer : Yes, he said he had given five pounds for it.

Signature of Witness M M Inkpen
(M.M. Inkpen)

5th Witness

Mrs. Joan May Mitchell of 2 The Triangle, Bournemouth.

A written statement of this witness evidence purporting to be signed by her, has been read to the accused and is included in this summary. A true copy of which is attached hereto as exhibit "C".

The witness in my opinion is not readily available and will not be available until the 27 Dec 43.

The accused does not demand the attendance of this witness for her examination.

Sgd (C.E. Morris) Capt.
Officer detailed to take this summary.

Witness

H32052 Sgt Giles, T.S., 4 Canadian Provost Coy. having been duly sworn states:-

On the evening of 16 Dec 43 at about 2200 hrs I returned to my Section H.Q.'s when I was informed that two leather jerkins had been handed over to L/Cpl Mattison by Mr. H.J. Kyle, 2 The Triangle, Bournemouth. I received the two leather jerkins from L/Cpl Mattison about 2200 hrs 16 Dec 43 and identify them as the leather jerkins shown as exhibit "A" & "B". L/Cpl Mattison mentioned that they had been left at May's Cafe by a soldier. On 18 Dec 43 I interviewed Mrs. Inkpen and she informed me, a soldier by the name of Dell who ~~seen~~ belonged to 22 Field Battery 13 Canadian Field Regiment, R.C.A. had brought them to her Cafe at about 3 p.m. on 11 Dec 43. When he brought them he said that they are for Pat and the soldier left them on the door between Cafe and the kitchen. She did not give me a written statement but her daughter, a Mrs. Joan May Mitchell who works in the Cafe made a statement which is appended as exhibit "C". I found out that Pat was a Mr. H.G. Kyle and I interviewed him and he told me that the soldier who he knew as George and who belonged to the 13 Canadian Field Regiment, R.C.A was to obtain for him a windbreaker which he had asked for previously. He said that the same soldier had left two leather jerkins, but as it was not what he wanted he turned them over to the Provost. On Sunday 19 Dec 43 I saw H54953 Gnr Dell, G.E., of 22 Field Battery, 13 Canadian Field Regiment, R.C.A. I told him I was making an inquiry re two leather jerkins which had been left in May's Cafe and asked him if he knew anything about them. At the time he denied any knowledge of them. Later the same day at approx 1700 hrs I again saw Gnr Dell when he told me he wished to make a statement as he was the one who had taken the jerkins to May's Cafe. I cautioned him after which he produced the following evidence. (attached hereto as exhibit "D") After he made the statement I placed him under close arrest and stated that he would be charged with the theft of the jerkins.

The accused declined to cross examine the witness.

Signature of witness T. S. Giles
(T.S. Giles)

7th Witness

Mr. H.G. Kyle, 50 St. Michaels Road, Bournemouth, having been duly sworn states:-

I asked a chap who I know as George, and now identify as H54953 Gnr Dell, G.E., if it would be possible for him to get me a windbreaker like the ones worn in the summer by some troops. That is a civilian windbreaker. He said he might be able to find me one. During the course of his visists to 2 Triangle, he left one and another one was brought over by one of the staff of May's Cafe. The next morning when I saw the two jerkins at 2 Triangle I took them to the Provost.

Question ; Did you ask Gnr Dell for a leather Army jerkin.

Answer : No.

.....4/

Question : Did you give Gnr Dell any money for a windbreaker.

Answer : No.

Cross examined by the accused:-

Question : Why did you ask for two jackets for a windbreaker.

Answer : I did not ~~as~~ ask for two.

Question : Why did you turn them into the Provost.

Answer : They were not the thing that I wanted.

Question : Did Mrs. Inkpen hear about ~~as~~ our arrangements.

Answer : I do not think that she heard of the arrangements.

Question : Did Mrs. Inkpen ask you to return them.

Answer : Yes, she mentioned it would be better if they went back.

Question : Where were the jerkins when you took them to the Provost.

Answer : I got them from the kitchen at 2 The Triangle.

Question : Did Mrs. Inkpen give you the key to go and get them.

Answer : She gave me the key to go and get one of them.

Question : Who did you turn the jackets into.

Answer : The cook at the Provost Station.

Question : What rank was he.

Answer : I do not know, as he had no chevrons on.

Signature of witness _____ (H.C. Kyle)

Certified true copy
(F.J. Davis) Lieut.
18 Can Fd Regt R.C.A.

8th Witness

Lieut. S.C. Wells, 22 Field Battery, 13 Canadian Field Regiment, R.C.A. having been duly sworn states:-

In the later part of Nov 43 I was at Basingstoke and while away my leather jacket disappeared from my room in the officers mess. On the 18 Dec 43 a Sgt of the Provost Coy brought a jacket to the officers mess and I identified this jacket as mine, as it bears my name on the inside collar. I identify this jerkin marked as exhibit "A" as mine.

The accused declined to cross examine this witness.

Signature of witness S.C. Wells (S.C. Wells)

.....5/

The accused having been duly cautioned in accordance with RP4 (e) wishes his statement ~~read~~ made to H32052 Sgt Giles, E.S., 4 Canadian Provost Coy, dated 19 Dec 43 to be his statement with no futher additions or alterations:- which statement was read to the accused and is attached hereto as exhibit "D".

I hereby certify that Rule of Proceedure 4 has been complied with.

Taken before me in the presence of the accused in the field this 23 day of December 1943.

(C.E. Morris) Capt.
Officer detailed to take this summary

Certified True Copy 27 Dec 43.

No. H54953 Name Dell G.E. Sqn., Battery, or Company Corps RCA. Date of enlistment 6 Jun 40 R.C. Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12 May 41	Gnr.		A.A. Sec. 15 (1) Absenting himself without leave from 2200 hrs. 10 May 41 until 0700 hrs. 41 (Absent: 1 day 9 hrs.)	A/L/Sgt. Ede A.R. Bdr. Robertson	14 days C.B.	12 May 41	W.C. Thackray Lt-Col R.C.A.	Forfs. 2 days pay for absence.
Field	16 May 41	Gnr.		A.A. Sec. 15 (1)	L/sgt Ross M. L/Bdr. Fowler R.C.	3 days C.B.	17 May 41	H.E. Brown Capt. R.C.A.	
Field	30 June 41	Gnr.		A.A. Sec. 15 (1) Absenting himself without leave from parade.	Sgt. Ross L.A. BSM McFarlane K.	3 days C.B.	1 July 41	E.J. Chaloner, Capt. R.C.A.	
Field	18 July 41	Gnr.		A.A. Sec. 15 (1) Absenting himself without leave from 2230 hrs 18 July 41 until Rev 19-7- 41 (Absent; 7 hrs. 30 mins)	L/Bdr. Asquith Bdr. Beaton	7 days C.B.	21 July 41	H.E. Brown Major RCA.	Forfeits 1 days pay for absence.

(P.T.O.)

Where	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Aug 41	Gnr.		A.A. Sec. 15 (1) Absenting himself without leave from 0600 hrs 25 Aug 41 until 1740 hrs 25 Aug 41.	L/Bdr. Lidstone F.C. Bdr. Glass J.	7 days C.B.	26 Aug 41	H.E. Brown Major RCA.	Forfeits 1 days pay for absence.
Field	3 Nov 41	Gnr		A.A. Sec. 15 (1) Absenting himself without leave from 0800 hrs 3 Nov 41 until 1730 hrs 3 Nov 41	BSM McFarlane K. Gnr. Brynko C.	7 days C.B.	4 Nov 41	H.E. Brown Major RCA.	Forfeits 1 days pay for absence.
Field	20 Mar. 42	Gnr.		A.A. Sec. 40 Conduct to the prejudice., etc. (Failed to get up at Rev.)	L/Sgt. Ross A. E. L/Sgt. Ward	7 days C.B.	20 Mar. 42	H.E. Brown Major RCA.	
Field	22 July 42	Gnr.		A.A. Sec. 15 (1) Absenting himself without leave from 2230 hrs. 22 July 42 until 0700 hrs. 23 July 42. (Absent: 8 hrs. 30 mins)	Bdr. Nesbitt H.J. L/Sgt. Grant G.C.	7 days C.B.	23 Mar. 42	J.T. Lambert Capt. RCA.	Forfeits 1 days pay for Absence.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 May 43	Gnr.		A.A. Sec. 15 (1) WOAS, ABSENT without leave at 1630 hrs, 7 May 43, during parade hours.	Sgt. Nielson Capt Simpson	7 days C.B.	12 May 43	W.R. Gilchrist Major RCA.	
Field	5-8-43	Gnr.		A.A. Sec. 15 (1) A.W.L. (Absent: 1 hr. 10 mins.)	Sgt. Johnson Bdr. Thurston	14 days C.B Forfeiture of 5 days pay FR&I 149-2	6-8-43	J.F. Wolfe Capt RCA	
Field	6 Oct 43	Gnr		A.A. Sec. 11 WOAS neglecting to obey Bty Orders	Sgt. Brown A.J.	7 days C.B.	7 Oct 43	A.C. Lennon Capt.	
Field	19 Nov 43	Gnr.		Sec 11 A.A. Not wearing a steel helmet while driving a veh.	BSM Matheson Bdr. Waldren	14 days C.B. & 3 days penal Forf. of pay	20 Nov. 43	Major G.F. Rainnie	3 days penal Forf of pay.

ed True Copy 27 Dec 43.

M.F.M. 6a

N[illegible]4953 Name Dell G.E. | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 6 Jun 40 | G.C. Badges | Service or Proficiency Pay N/A

(A.F. B.122) 40/P.A./2136 (2965)

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Sept 42	Gnr.		1.A.A. Sec. 15 (1) Absenting himself without leave from 2300 hrs 5 Sept 42 until 2345 hrs 5 Sept 42 (Absent: 45 mnts.) 2. A.A. SEC. 10 (4) Breaking out of Camp while under Ope n Arrest 3. A.A. Sec. 15 (1) absenting himself without leave from 1145 hrs 6 Sept 42 until 1540 hrs 6 Sept 42 (Absent: 3 hrs 55 mins) 4. A.A. Sec. 40 Neglect to the Prejudice., Etc..(Failedto report to Regt'l Gd Rm when reporting in late.)	Bdr. WEST G. Sgt. Mylrea D. Bdr. Scott E.	21 days Unit Detn.	7 Sept. 42	H.E. Brown Major RCA.	Forfeits 21 days pay for time in Detn. Forfeits 1 days pay for time in arrest.

(P.T.O.)

No H54953 Name Dell G.E. | Sqn., Battery, or Company R.C.A. Corps | Date of enlistment 6 Jun 43 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13 Dec 43	Gnr.		Sec 6 (2) A.A. did leave the guard room without permission of the Guard Commander. Sec. 15 (1) A.A. AWL from 1400 hrs 13 Dec 43 until 1730 hrs 13 Dec 43 Absent 3 hrs 30 mins.	BQMS Morton L/Bdr. Riddock	forfs 7 days pay	16 Dec 43	Major G.F. Rainnie	Forf 7 days pay
Field	21 Dec 43	Gnr		Sec 40 A.A. An Act to the Prejudice of good order and Mil Disc. Having a Pay Book not showing his correct Marital status.	Documentary	14 days F.P. & 14 days pay	22 Dec 43	Lt-Col Clifford	Forf 14 days pay.

Certified True Copy
(J.C. Dale) Capt.
Adjt 13 Cdn Fd Regt R.C.A.

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H54953	Gunner	Guy Edward Dell	13 Cdn Fd Regt R.C.A.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Section 15(1) - 3	times	Section 15 (1)-12	times
For	Section 40 - 1	times	Section 40 - 3	times
For	Section 11 - 2	times	Section 11 - 2	times
For	Section 6(2) - 1	times	Section 6(2) - 1	times
For		times	Section 10 (4)- 1	times

Number of instances of gallantry or distinguished conduct Nil

or,

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

3. F.P.

The accused at the present time is under sentence for 21 days beginning on the 22nd day of Dec 43

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 8 days days in military custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 27 yrs 4 mons.

6. The date of his attestation specified in his attestation paper 6 Aug 40.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 4 mons

8. The accused is entitled to reckon 3 yrs 4 mons service for the purpose of determining his pension, etc.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank ..... Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank .....
Unit
Name ..... of ..... Regiment

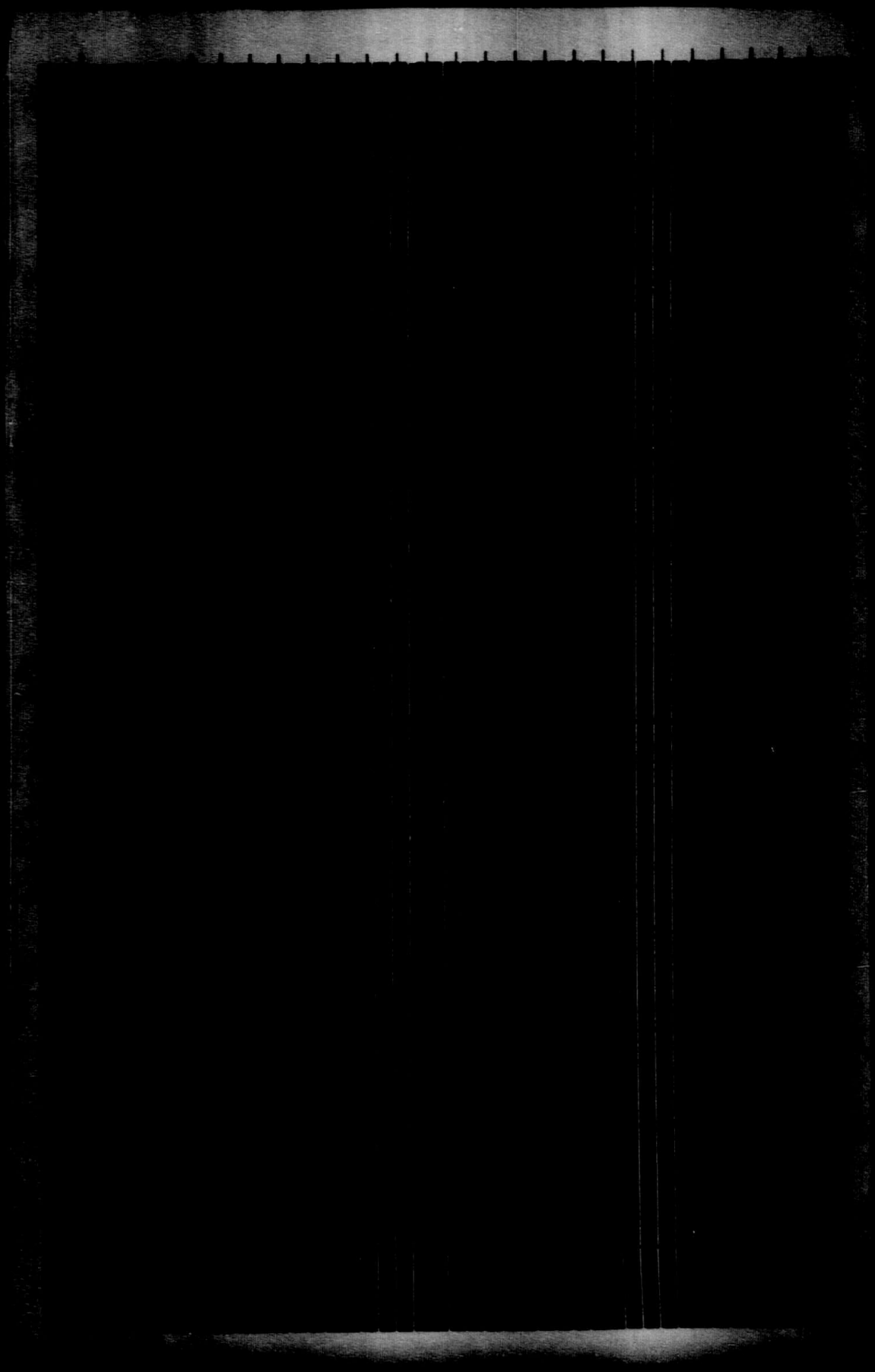
NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 day of December 1943 J. Dale Capt. R.A.F.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.



4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C 40208 Pte Leo Auguste DALLAIRE 1 Wing #1 Cdn Repat Depot

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

18 Months detention.

(Sgd) —
Judge-Advocate, if any.

9 Dec 46
Date awarded.

(Sgd) Vincent W McKenna
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 746.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.(1)~~
(1. AA 57A. Delete if not used.)

(Sgd) W BK Gordon Col.

Date 9 Dec 46

Commanding 1 Cdn Repat Depot
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-40208 Pte Dallaire, LA.	10 Dec 46	W BK Gordon Lt Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AS 169

CAO-2-118

RECEIVED 14 DEC 1946 JAG Division C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFAB) 40/P & R/1698 (A1141) 4/38B

Convened by (Order of) Col MBK Gordon DSO ED Comd 1 Cdn Repat Depot dated 2 Dec 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 40208	Pte - -	Lee, Auguste	DALLAIRE	1 Wing #1 Cdn Repat Depot

J Lafleur Ldgr
19 Dec 46

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 4 DEC 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1045 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.

A5. President to accused : Do ~~you object to~~ ~~as interpreter ?~~ Ans —
The ~~Interpreter is sworn.(1)~~ ~~To you object to~~ ~~a shorthand writer ?~~ Ans —
The ~~shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt col	V McKenna (MC)	1 Cdn Repat Depot
Member	Capt	C B Harris	1 Cdn Repat Depot
Member	Lt	R J Ferguson	1 Cdn Repat Depot
~~Judge-Advocate~~			
Prosecutor	Lieut	J J Freedman	1 Cdn Repat Dep
Defending Offr	Lieut	G H Roberts	1 Cdn Repat Dep

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Convr Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment unless RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposal, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea(s) in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. N/K.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by applying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. .....
Do you intend to call witnesses on your behalf? Ans. .....
Are they witnesses as to character only? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn L, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 113(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. N/K
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport so refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. N/K
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and then J.A., if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(K), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, C40208 Pte. DALLAIRE, Leo, Auguste, RCOC, on strength No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE

SECTION 15 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 1700 hrs., 11 April 1946 until surrendering himself to P55691 Sgt. Pearo, M., at Guard Room, No 1 Wing, No 1 Canadian Repatriation Depot at 1500 hrs., 26 November, 1946.

ABSENT: 228 days, 22 hours.

(B M MACINTYRE) Lt-Col.,
Officer Commanding,
No 1 Wing,
No 1 Cdn Repat Depot,
Canadian Army Overseas.

Field

28 Nov, 46.

To be tried by Field General Court Martial

(M B K Gordon) Col
Commanding Officer
#1 Cdn Repat Depot

Field

2 Dec 46

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 40208	Pte	- - -	Leo, Auguste	DALLAIRE	1 Wing #1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [illegible] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Dec 46 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt col	V McKENNA (MC)	1 Cdn Repat Dep
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Capt	To be detailed b y Commanding Officer	1 Cdn Repat Dep
Lt	To be detailed by Commanding Officer	1 Cdn Repat Dep
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) — M B K Gordon (Signed personally. RP 105 fn 2.) — Col (Rank.)

Date 2 Dec 46 — Commanding (M B K Gordon) #1 Cdn Repat Depot Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 86 (In lieu of AFA 2) 40/P & S/1697 (2143) — *(See overleaf for oaths and notes for use on trial.)*

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:
First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 65 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (or, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following *order* of procedure (whether all items are used or not) is suggested as being fair to the accused:
(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)
(vii) Summing up by *JA, if any.* (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or *JA, if any.* RECORD FORMS S, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or *JA, if any*, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (On top.)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 557.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to submitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of registered books see AA 163 (1) (g) (h).*)
(vi) Summary of Evidence, if not already an exhibit.
(vii) Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of *CF A 96* and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 6 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 759.*)

3. The President or *JA, if any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER's REPORT

(MR (Can) 557)

This is to certify that I have this morning medically examined

No C 70208 Pte. DALLAIRE, L.A.

and that in my opinion he is (fit) (unfit) ~~M.P.~~

to undergo trial by Court-Martial.

Station TWEEDSMUIR CAMP.

Date Dec 4 - 46.

W MacDonald Capt

RCAMC

Medical Officer

"1" Wing #1 Cdn Repat Depot

Note:

(All deletions and alterations will be initialled by the M.O.)

SUMMARY OF EVIDENCE

in the case of,

C40208 Pte. Leo Auguste DALLAIRE, RCAC, on strength No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order 5352 which have been read over and shown to the Accused and are attached hereto as Exhibits."

(1) Certified True Copy of the Declaration of a Court of Inquiry held on 15 May, 1946 which declares that C40208 Tpr. DALLAIRE, L.A., absented himself without leave from 1700 hrs., 11 April 1946.
(Marked Exhibit "A")

(2) Certificate under Army Act, Section 163 (1) (j) signed on the 27 November 1946 by Lt-Col., B.M. MacIntyre, O.C., No 1 Wing, No 1 Canadian Repatriation Depot, which declares that C40208 Tpr. DALLAIRE, L.A., surrendered himself at 1500 hrs., 26 November, 1946.
(Marked Exhibit "B")

.....
(F G RIVERS) Lieut. RCAC.
Officer detailed to take the Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the Above Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the Accused, and that Rules of Proceedure 4 (c) (d) (e) and (f) have been complied with."

.....
(F G RIVERS) Lieut. RCAC.
Officer detailed to take the Summary of Evidence.

Signed in the Field

This 29 day of Nov 46.

THE CASE OF C40208 Pte. Leo Auguste DALLAIRE

LIST OF WITNESSES FOR THE PROSECUTION

Nil

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS FOR THE PROSECUTION

(1) Cert True Copy of Dec of Ct of Inquiry concerning the absence without leave of C40208 Tpr. Dallaire, L.A. (Marked Exhibit "A")

(2) Cert under Army Act Sec 163 (1) (j) signed by Lt-Col., EM MacIntyre, OC., No 1 Wing, No 1 Cdn Repat Depot, concerning the surrender of C40208 Tpr. DALLAIRE, L.A. (Marked Exhibit "B")

LIST OF EXHIBITS FOR THE DEFENCE

Nil

RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

.....
(C40208 Pte. DALLAIRE, L.A.)

APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

.....
(C40208 Pte. DALLAIRE, L.A.)

Signed in the Field

This 21 day of Mar 46.

EXHIBIT 'A'

(2)

RECORD of the Declaration of a Court of Inquiry assembled at 0900 hrs on the 15th day of May 1946, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C 40208 Tpr DALLAIRE, L.A.

DECLARATION

The Court declare that No. C 40208 Tpr DALLAIRE, L.A. No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot illegally absented himself without leave from: No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot at 1700 hrs on the 11th day of April 1946, that he is still so absent, and that on the 15th May 1946 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
SEE EXHIBIT "A"			

Torn in error after being filed with court
Present Likewise
Lt. Col.

Capt R.C.O. O'Hagan, CIC — President

Lt A.J. Macdonald, CIC — Member

Member

Signed at No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot

this 16th day of May 1946

Signature of Commanding Officer C.W. Barclay, Major A/OC

Certified true copy A J Macdonald Lieut
Signature of Officer having custody original record

3/60B MFB 275—AFB 115
40/P&S/392 (8703)

EXHIBIT 8

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (1)

I, Lt. Col. D. MacLaren, certify that C40208 Tpr. DALLAIRE, L.A., of No 1 Canadian Repatriation Depot surrendered himself to F55891 Sgt. Pearo, M., at Guard Room, 1 Wing, No 1 Canadian Repatriation Depot, at 1500 hrs., on the 26th day of November 1946, and at the time of his surrender he was wearing Military Clothes.

D. MacLaren

.....Lt-Col.,
Officer Commanding,
No 1 Wing,
No 1 Cdn Repat Depot,
Canadian Army Overseas.

Date: 27 Nov 46

PLEA OF MITIGATION IN THE CASE OF C.40208 PTE. PALLAIRE, L.A.

Gentlemen of the Court:

Pte. Pallaire joined the Army in 1940. He fought in Africa and Italy. He served a setence of one year detention. (Four months remission being given him for good conduct). After he was out of detention [redacted] he applied for 14 days leave. He was granted 3 days. He returned from 3 days leave and was in Camp for over a month doing absolutly nothing, just laying around. He asked to be put on draft but was told he would have to wait. He asked for leave again and was refused. He got so fed up with laying around camp doing nothing at all that he decided that he would have to either get away or loose his sences. He decided to go away.

(G.H. Roberts) lieut.

Ex B

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
C40208	Pte.	DALLAIRE, L.A.	No 1 Cdn Repatriation Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	AA Sec 15(1) times	7 times
For	AA Sec 22 times	1 times
For	AA Sec 11 times	2 times
For	AA Sec 40 times	1 times
~~F.L.R.~~	~~times~~	~~F.L.R. times~~

~~Number of instances of gallantry or distinguished conduct~~ F.L.R.

~~There are no entries in the conduct sheets of the accused~~ F.L.R.

2. ~~The accused has not been previously convicted, or~~ F.L.R.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or The accused is the present time is under sentence for beginning on the day of~~ F.L.R.

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 3 days in military custody, making a total of 3 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~F.L.R.~~ attestation paper is 25 yrs. 8 mos.

6. The date of his ~~F.L.R.~~ attestation specified in his ~~F.L.R.~~ attestation paper is 17 Jun 40

7. ~~The service which the accused is allowed to reckon for the purpose of determining his pension, or~~ F.L.R.

8. ~~The accused is entitled to deferred pay~~ F.L.R. ~~in respect of service~~

9. ~~The accused is entitled to reckon~~ F.L.R. ~~service for the purpose of determining his pension, or~~

10. The accused is in possession of, or ~~entitled to, no military~~ F.L.R. ~~or military award (or is in possession of or entitled to (state any military decoration or reward)~~ 39-45 Star, Italy Star, Defence Medal, War Medal, CVSM & Clasp.

11. ~~(If the accused is a warrant officer.) The accused~~ F.L.R. ~~made a warrant officer has held the regimental rank~~

12. ~~(In the case of an officer.) The accused held~~ F.L.R. ~~the rank of dated in his regiment (or corps or department) the rank of~~ F.L.R. ~~dated~~

[illegible] Ltd. [illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C40208 *Rank* Pte. Name DALLAIRE, L.A. of 1 Repat Depot Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	2-11-42	AA Sec 15(1) AWL. 2 Charges.	9 mos. Detention.	89 days.
F.G.C.M.	12-6-45	AA Sec 15(1) AWL.	11 mos. Detention.	96 days.

F.G.R.

F.G.R.

F.G.R.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 2 6 day of Dec 46

F.G. Pierce L. RCAC
1 Cdn Repat Depot.

~~13. The accused has served as a rank and F.G.R. Pte. continuously, without reduction, to the present date.~~

In the rank of ~~F.G.R.~~ years, Date of Promotion.

In the rank of ~~F.G.R.~~ years,

~~In the rank of~~ ~~F.G.R.~~ years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No. C40208 Name DALLAIRE, L.A. Sqn, Battery, or Company | Corps RCOC | Date of enlistment | GC Badges | Service or Proficiency Pay | Ct "C" | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte.		AA Sec 15(1) AWL.		14 dys. Detn.	3-11-41		
"		"		AA Sec 15(1) AWL.		28 dys. Detn.	21-7-42		4 dys Remis.
"		"		AA Sec 15(1) AWL. 2 charges.		9 mos. Detn.	2-11-42	F.G.C.M.	89 dys Remis.
"		"		AA Sec 15(1) AWL.		3 dys. pay.	16-6-43		
"		"		AA Sec 15(1), 22, 11, 40, 15(1)		22 dys. F.P.	21-9-43		
"		"		AA Sec 15(1) AWL.		14 dys. F.P.	25-10-43		
"		"		AA Sec 15(1) AWL. AA Sec 11.		14 dys. F.P.	3-5-44		
"		"		AA Sec 15(1) AWL.		11 mos. Detn.	12-6-45	F.G.C.M.	96 dys Remis.

CERTIFIED TRUE EXTRACT FROM ORIGINAL MFM 4 HELD IN MY POSSESSION.

F. G. Rivers Lt.

(F G RIVERS) Lieut. RCAC.,
4 Dec 46 Legal Officer, No 1 Wing,
No 1 Cdn Repat Depot. C.A.O.

OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT.

(PTO)

000 104
GNR DELMAGE J.T.

RECORDED AT CMHQ IN AB 160 000-104

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 40/P & R 16/08 (2864)

Convened by Order of Colonel B.R. Ker ED Comd "C" Group, CRU dated 11 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

RECEIVED 20 JUN 1944 JUDGE ADVOCATE BRANCH C.M.H.Q.

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
A-32151	Gnr	Joseph Thomas	DELMAGE	2 CARU

PROCEEDINGS REVIEWED 22 Jun 44

REVIEWING OFFICER, JAG BRANCH, Ottawa

PROCEEDINGS OF TRIAL.

Held at the Edmonton Area on (date(s)) 12 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~voting Member, JA, if any,~~ and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 11.15 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans: ...~~
~~The Interpreter is sworn (1). Do you object to ... as shorthand writer? Ans: ...~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans: No, sir

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L.	REDMAN	HQCAM.
Member	CAPT	J.C.	WARREN	1CSAM
Member	LT	K.H.	HAND	1CGAM.
~~Judge Advocate~~				
Prosecutor	LT	K.B.	ATKINSON	2CAAM
Defending Offr	LT	R.R.	DUBREUIL	2CAAM.

Questions by President: Is the Prosecutor a lawyer? Ans: No Is the Defending Offr a lawyer? Ans: No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings (for information of Conv Offr.) 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) ~~(severally)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does Nothing not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 5. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-32151 Gnr DELMAGE, J.T. 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 24(2)	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of seven (7) Months and to be put under stoppages of pay until he has made good $2-12-0\frac{1}{2}$ the value of the kit lost by neglect 12 June 44

(Sgd) ... Judge-Advocate, if any. Date awarded. (Sgd) ... President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 3, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not required to undergo detention hereafter until further ordered.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) ... Commanding "C" Group, Commanding Gun Reinforcement Unit. Col.

Date 13 Jun 44

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
A 32151 Gnr Delmage J.T.	~~13 January~~	

Promulgated in DO. 128 d 16 Jun 44 R.H. Duff Capt 2 CARU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*II*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. No. (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B2. The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence will be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by consideration of evidence with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Do you intend to call witnesses on your behalf ? Ans. Are they witnesses as to character only ? Ans.

(1. *RP* ~~155~~ 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under FP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (6), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)

Ans. ND – 21 A

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements (as) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex respectively.(3)

(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans. By Def Offr – Not Ans.

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7/1/54

(1. *When several accused tried separately see RP* 99(*b*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its powers, so to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 136, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1b), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A 32151 Gunner Joseph Thomas DELMAGE "P" Training Wing, No 2 C.A.R.U., a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 0645 hours 25 Feb 44 until surrendering himself to the Cdn Provost Corps, London at 0930 hours 30 May 44. Total absence 92 days, 2 hours and 45 minutes.

2nd Charge
Section 24(2)
Army Act

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT
CLOTHING AND REGIMENTAL NECESSARIES

In that he,

at Huron Camp, Bramshott, Hants., on the 1st day of June 1944 was deficient of equipment, clothing and regimental necessaries to the value of Two Pounds, Twelve Shillings and one-half Pence, (£2:12:0½) which sum is 75% of the vocabulary price of such articles which amounted to Three Pounds, Nine Shillings and Four Pence (£3:9:4) in accordance with C.A.(C) A.C.1398 as hereunder listed.

ARTICLES		100% Value £	s	d	75% Value £	s	d
Badges, Cap Arty	1	0	0	4½	0	0	3½
Bnge, Kit universal	1	0	4	7	0	3	5
Boots, ankle prs	1	1	4	5	0	18	4
Brushes, Cloth	1	0	2	2	0	1	7½
Cap, Comforter	1	0	1	6	0	1	1
Caps, Field Service	1	0	2	6	0	1	10½
Combs, Hair	1	0	0	2	0	0	1½
Drawers, Woollen prs	2	0	10	9	0	8	1
Dressings, First Field	1	0	1	1	0	0	10½
Housewife	1	0	0	9	0	0	7
Jersey, Pullover	1	0	8	0	0	6	0
Knife, Clasp	1	0	3	10	0	2	10½
Drawers, C.S.	1	0	1	11	0	1	5¼
Vests, Woollen	1	0	5	0½	0	4	0
Shorts, Gym	1	0	1	11	0	1	5
TOTAL		£3	9	4	£2	12	6½

Huron Camp,
Bramshott, Hants.,
1 Jun 44

(Mackenzie Waters) Colonel
Commanding Officer
No 2 Cdn Arty Rft Unit

To be tried by Field General Court Martial,

A/Commander, "C" Group, Cdn Rft Units. Colonel,
(Convening Officer)

Bordon, Hants,
11 June 1944

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAE) 40/Fms/1497 (2nd/43)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-32151		CHR	Joseph Thomas	DELMAGE	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(~~s~~) attached and on (date) 11 Jun 44 endorsed by me, (~~I~~ ~~have caused him to be~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that the exigencies of the service do not permit of my obtaining the assistance of a Judge-Advocate for the trial of the said person(s)~~). (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[Any officer who is a member of the Court, the Judge-Advocate, the Prosecutor, the Defending Officer, the Assistant Judge-Advocate, the Officer-in-Charge of the Records, the Interpreter, the Shorthand Writer, the Medical Officer, the Provost Officer, the Escort, the Witnesses]~~ (AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. ~~[Any officer who is a member of the Court, the Judge-Advocate, the Prosecutor, the Defending Officer, the Assistant Judge-Advocate, the Officer-in-Charge of the Records, the Interpreter, the Shorthand Writer, the Medical Officer, the Provost Officer, the Escort, the Witnesses]~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. REDMAN		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	detailed by CO		1 CSRU
Lieutenant	detailed by CO		1 CGRU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 11 Jun 44

(Signed personally. RP 105 fn 2.)

Colonel (Rank.)

Commanding "C" Group, Cdn Rft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Can 562, RP 26, 29, 111.*)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 763, RP 82, 111.*)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*80 (Can) 2693.*)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :
First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states :
I am a sgt of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 62 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam : He did not say he was sick. (or, None.)
Re-exam : None.
Exam by Court : He said—" I've had enough parades ".
RP 83(E) complied with.
2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(E) should be complied with. If taken verbatim, RP 83(C) will be complied with.
3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.
4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :
(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*) (*See RP 46 fn 1.*)
(iii) Evidence of witnesses for accused as to facts or his character or both.
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINK AND INITIALLED.
2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 587.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)
(vi) Summary of Evidence, if not already an exhibit.
3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 139, RP 118(C), MML p 739.*)
4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

Medical Officers Certificate
K.R.(Can) para 557

I certify that I have this morning examined No A 32151 Gnr DELMAGE J.T.
of 2 C.A.R.U. and in my opinion he is ~~unfit~~ fit to undergo
trial by Court Martial.

Station - 2 C.A.R.U.

Date - 12 Jun 44.

Sgd.....
(Medical Officer)

medication plea —

GNR DELMAGE U.T. A 32151. E-3

MY

The accused, gnr. DELMAGE, joined the Canadian Army Active service on SEPT 11, 1939 VOLONTARY On his own accord, without being forced. WHY then did he go away on Feb 28th 1944 until 30th of May 1944?

The reason is this: Gnr Delmage is as you can see, the agressive type. The type of man that cannot stay inactive, the type of soldier we need in battles.

Since November, when he missed the draft for Italy with is regiment The 1st L.A.A. he as been in a reinforcement unit. Is there anything more discouraging for a soldier that joined the army to fight to find himself, after nearly 5 years of service, on a parade square learning how many rounds ~~of~~ go in a rifle magazine?

This soldier is guilty of leaving the army. But, will a long stage in a detention barrack make a good soldier out of him? (which is undoubtedly ~~[illegible]~~ is the object of this court) Make a good soldier out of a man that took the law into his own hands

No, a man that goes in detention and is pushed around by his brother soldiers does not become a good soldier, he develops a hate for his own men and he becomes to believe that he is not wanted. That he is no good and as soon as he is free he seeks to go again.

Why not then try to be different, why not send this man to fight although he is guilty. Why not give him a chance to prove that he is a soldier not a civilian renegate disguised in uniform who lives at the government expenses.

I hope the

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Huron Camp, Bramshott, Hants on the 25th day of March 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.A 32151 Gnr. DELMAGE, J.T.

DECLARATION.

The Court declare that A 32151 Gnr. DELMAGE, J.T. illegally absented himself without leave from Huron Camp, Bramshott, Hants at 0645 hours on the 26th day of February 1944, is still so absent, and that on the 16 Mar 44 he was deficient, and that he is still deficient the following articles:-

ARTICLES		100% Value £	s	d	75% Value £	s	d
Badges, cap Arty	1	0	0	4½	0	0	3½
Bags, Kit	1	0	4	7	0	3	5¼
Boots, Ankle	1	1	4	5	0	18	3¾
Brushes, cloth	1	0	2	2	0	1	7½
Caps, comforter	1	0	1	6	0	1	1¾
Caps, Field-service	1	0	2	6	0	1	10½
Combs, Hair	1	0	0	2	0	0	1½
Drawers, woollen pr	2	0	10	9	0	8	0¼
Dressing first-field	1	0	1	1	0	0	9¾
Housewife	1	0	0	9	0	0	6¾
Jersey pullover	1	0	8	0	0	6	0
Knife, clasp	1	0	3	10	0	2	10½
Vest woollen	1	0	5	4½	0	4	0¾
Drawers, cellular	1	0	1	11	0	1	5¼
Shorts, gym	1	0	1	11	0	1	5¼
TOTAL		£3	9	4	£2	11	11¼

Names of President and Members

PRESIDENT: Capt. H.G. Johnston, R.C.A.

MEMBERS: Lieut. G.F. Freeze, R.C.A.
Lieut. C. Guay, R.C.A.

Exhibit "A"

Signature of Commanding Officer (Mackenzie Waters)

CERTIFIED TRUE COPY

(H.C. Edworthy) Major, R.C.A.

Signature of Officer having custody of the Original Record.

Form B115/50

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (J)

I, . . . Capt. R.J.Stinson .D.A.P.M. .C.M.H.Q. . .certify that

Regt. no.A-32151 . .Rank.Gnr. . . .Name. Delmage J.T. . . . . .

Regiment. . No. 2 C.A.R.U. . . . . .

Unit . . . . . .

Stationed at. . . . . .

Surrendered himself to No.A-32005 . .Rank L/Cpl.Name. Saunders J.R.

of the . . . . No. 6 Cdn. Area) Provost Coy. . . . . .

on the 30 . . . .day of. May . . . .194 4 , at 09.30 . . . .hours. . . .

. . . . . .AS AN ABSENTEE WITHOUT LEAVE. . . . . .

At the time of surrendering he was wearing (Military uniform) or (Civilian clothes).

Signature of Provost-Marshall, Assistant Provost-Marshall, or other officer or the Commanding Officer of the portion of His Majesty's forces or the officer, warrant-officer, or the non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering.

(Strike out part inapplicable).

London
30 May 44.

Exhibit "B"

R.J. Stinson
(R.J. Stinson), Capt.,
D.A.P.M. C.M.H.Q.

No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

1 Jun 44.

A-32151 Gnr. Delmage, J.K.

List of Deficiencies.

ARTICLE	QUANTITY	100% £.S.D.	75% £.S.D.	100% CDN PRICE	75% CDN PRICE
Badges, Cap Arty	1	0-0-4½	0-0-3½	.09	.07
Bags, Kit Universal	1	0-4-7	0-3-5	1.02	.76
Boots, Ankle Prs	1	1-4-5	0-18-4	5.46	4.10
Brushes, Cloth	1	0-2-2	0-1-7½	.48	.36
Cap, Comforter	1	0-1-6	0-1-1	.34	.26
Caps, Field Service	1	0-2-6	0-1-10½	.56	.42
Combs, Hair	1	0-0-2	0-0-1½	.04	.03
Drawers, Woollen Prs	2	0-10-9	0-8-1	2.40	1.80
Dressings First Field	1	0-1-1	0-0-10½	.24	.18
Housewife	1	0-0-9	0-0-7	.17	.13
Jersey, Pullover	1	0-8-0	0-6-0	1.79	1.34
Knife, Clasp	1	0-3-10	0-2-10½	.86	.64
Drawers, C.S.	1	0-1-11	0-1-5½	.43	.32
Vests, Woollen	1	0-5-4½	0-4-0	1.20	.90
Shorts, Gym	1	0-1-11	0-1-5	.43	.32
TOTALS		£ 3-9-4	£ 2-12-0½	$15.51	$ 11.63

I certify that I have examined the kit of A-32151 Gnr. Delmage, J.K. and I find the above list of deficiencies.

Dated 1st day of June 1944.

Signed: Bdr. [signature]
N.C.O. I/C Kit Stores

I certifty that the above prices listed are in accordance with the Priced Scale of Issue as per O.RO. 3959.

Signed: [signature] Capt & QM.
No 2 Cdn Arty Rft Unit.
Cdn Army (Overseas)

Exhibit "C"

My

LIST OF WITNESSES

FOR THE PROSECUTION

Lieut G.W. Currie, Admin Officer "P" Training Wing, No 2 C.A.R.U.

C 10377 Bdr Raymond V.J., NCO i/c Kit Stores, No 2 C.A.R.U.

FOR THE DEFENCE

---------- N I L ----------

LIST OF EXHIBITS

"A" CERTIFIED TRUE COPY OF COURT OF INQUIRY

"B" CERTIFICATE UNDER THE ARMY ACT 163 (1)(j)

"C" LIST OF DEFICIENCIES

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
6 Jun 44

Commanding Officer,
No 2 C.A.R.U.

F.G.C.M.- A 32151 Gnr. DELMAGE, J.T.

1. It is respectfully requested that an Officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

J.T. Delmage
A 32151 Gnr Delmage, J.T.

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
6 Jun 44

Commanding Officer,
No 2 C.A.R.U.

F.G.C.M.- A 32151 Gnr. DELMAGE, JT.

1. I acknowledge having duly received this date a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

J T Delmage
32151 Gnr Delmage, J.T.

SUMMARY OF EVIDENCE IN THE CASE OF A 32151 Gunner Joseph Thomas DELMAGE, "P" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS for the prosecution

Lieut. G.W. Currie, Administrative Officer, "P" Training Wing, No 2 C.A.R.U., an officer of the Canadian Army Overseas, having been duly sworn states:-

"I Produce:-

(a) CERTIFIED TRUE COPY OF THE RECORD OF THE DECLARATION OF A COURT OF INQUIRY, purporting to be signed by Major H.C. Edworthy, Administrative Officer, No 2 C.A.R.U., relating to the accused whom I now recognize. This certified true copy of the Record of the Declaration of a Court of Inquiry is marked Appendix "A" and annexed to the Summary.

(b) CERTIFICATE UNDER THE ARMY ACT, SECTION 163(1)(j) purporting to be signed by Captain R.J. Stinson, D.A.P.M., C.M.H.Q., London, relating to the accused whom I now recognize. This Certificate under the Army Act is marked Appendix "B" and annexed to the Summary.

Geo Currie Lt

The accused declines to cross-examine this witness.

SECOND WITNESS for the prosecution

C 10377 Bdr. Raymond, V.J., NCO i/c Kit Stores, No 2 C.A.R.U., a soldier of the Canadian Army Overseas, having been duly sworn states:-

On the 1st day of June 1944, I examined the kit of A 32151 Gnr. Delmage, J.T., whom I now recognize and found him to be deficient of equipment, clothing and regimental necessaries in the amount of Two Pounds, Twelve Shillings and one-half Pence (£2:12:0½), which sum is 75% of the vocabulary price of such articles, which amounted to Three Pounds, Nine Shillings and Four Pence (£3:9:4) in accordance with Overseas R.O. 1398 as per list I am now presenting.

This list is marked Appendix "C" and annexed to the Summary.

Bdr V J Raymond

The accused declines to cross-examine this witness.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down before me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

H.C. McWilliam

(H.C. McWilliam) Lieut., RCA.
Assistant Admin Officer
"P" Training Wing,
No 2 Cdn Arty Rft Unit
Officer detailed to take the Summary of Evidence.

EXAMINED

Huron Camp
Bramshott Hants
6 Jun 44

No 32151 Name DELMAGE, J.T. Sqn, Battery, or Company — Corps R.C.A. — Date of enlistment 11 Sep 39 — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/PAS/130 (3436)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Mar 42	Gnr		A.A.Sec.15(1)AWL 1 Mar 42		7 days C.B.	2 Mar 42		
Field	18 Feb 42	Gnr		Out of bounds without a pass		7 days C.B.	18 Feb 42		
Field	5 Mar 42	Gnr		A.A.Sec.40 Conduct to the Prejudice etc.		10 days forf of pay	5 Mar 42		
Field	12 Sep 42	Gnr		A.A.Sec.15(1) AWL from 0900 hrs 12 Sep 42 until 1700 hrs 12 Sep 42		5 days C.B.	15 Sep 42		Forf 1 days pay
Field		Gnr		A.A.Sec.40 An Offence		10 days F.P. Forf 10 days pay	15 Jul 43		
Field	11 Nov 43	Gnr		A.A.Sec.15(1) WOAB, AWL from 1100 hrs 11 Nov 43 until 1125 hrs 11 Nov 43, Absent 25 minutes.	L/S Weir R.	5 days CB	12 Nov 43	J.A.Cook Major	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Dec 43	Gnr		AA Sec.15(1)WOAS,AWL from 2359 hrs 5 Dec 43 until 1720 hrs 8 Dec 43. Absent 2 days,17 hrs and 21 minutes.	Documentary	14 days C.B. and to forfeit 10 days pay FRI 149(2)	10 Dec 43	Lt-Col. JF Plow	Forf 3 days pay FRI 149(1)(a) Total forf 13 days pay
Field	22Dec 43	Gnr		FIRST CHARGE: A.A.Sec.15(1)WOAS, AWL from 0900 hrs 22 Dec 43 until 1730 hrs 9 Jan 44. Absent 16 days 8 hours and 30 minutes.	Sgt Stoinaff Bdr Shotton Sgt Coulter				

MFM 6
(AFB 122)
40/P&S/156 (3438)

No A 32151 Name DELMAGE, J.T. Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 11 Sep 39 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Jan 44	Gnr		SECOND CHARGE A.A. Sec. 24(2) WOAS Losing by neglect, clothing & equipment to the amt of £1:7:4	Documentary	28 days F.P. plus stoppages of pay in amt of £1:7:4 (Combined Charges)	18 Jan 44	Colonel B.R. Ker	Forf 19 days pay FRI 149 (1)(a) Total forf 47 days pay, plus stoppages of pay to the amt of £1:7:4
				CERTIFIED TRUE COPY OF ORIGINAL	MFM 6				
				G.W. Currie (G.W. Currie) Lieut., R.C.A., Administrative Officer, "P" Training Wing, No 2 C.A.R.U.					

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 32151	Gunner	DELMAGE, J.T.	No 2 C.A.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :— since

For	within last 12 mos	completion of 6 mos service	times.
For	AA Sec.15(1)	3	5 times.
For	AA Sec.15(3)	NIL	1 times.
For	AA Sec.40	NIL	2 times.
For	AA Sec.24(2)	1	1 times.

~~Date of first entry in Field Conduct Sheet~~

~~Date of last entry in Field Conduct Sheet~~

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule hereto.

*Strike out if not applicable.

~~3. The accused is in the present case under arrest or confined.~~

~~He was taken into~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 5 / 8 days in military custody, *i.e.*, NIL days in open arrest, 5 / 8 days in close arrest; of which 5 / 8 days were spent in hospital.

5. The present age of the accused is 26 years 49 days

6. The date of his attestation is 11 Sep 39

~~calling up for full time service~~

7. The service which the accused is allowed to reckon is 6 years 249 days

[illegible]

State the military decorations (if any) held by accused.

9. ~~If the accused is a warrant officer or N.C.O.~~ The accused has served continuously without reduction, to the present date

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~And in the substantive rank of~~

E1 B
MY

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(81114) W1.8670/600 100,000 8/41 A. & E.W.Ltd. Gp.698
(75455) W1.20008/1879 60,000 9/41 " " Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/a		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of Jun 1944

G.W. Currie Lt
(G.W. Currie) Lieut., RCA,
Admin Offider, "P" Trg Wing
No 2 C.A.R.U.

5J-131

Sgmn Delmonica A.

RECORDED AT CMHQ IN AB 160 SJ-131

CPA86 (In lieu of AFA81) 40/P & B/1698 (6144) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Brig A.B. Connelly Comd "B" Gp, CRU dated 2 Jun 45

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-100079 Sigmn DELMONICA A. - 1 CGRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under ~~sentence~~ for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court:

To undergo Detention for a period of Eighteen (18) Months

(Sgd) Judge-Advocate, if any. 4 June 45 Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding of the court but mitigate the sentence so that it shall read:-

To undergo detention for a period of one year,

and I confirm the sentence as mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.) No

(Sgd) A.B. Connelly

Date 6 Jun 45 Commanding (A.B. Connelly) Brig "B" Gp, Cdn Rft Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
H-100079 Sigmn Delmonica, A.	7 Jun 45	W.T. Conway, Capt.

Adjutant No. 1 Cdn. Gen. Rein. Unit. C.A.(o.s.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 13 JUN 1945 Judge-Advocate-General's Office

PROCEEDINGS REVIEWED

J.P. Douglas Lt 14 Jun 45.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/B or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-100079	Sigmn	Alphonso	DELMONICA	1 CGRU

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 4 Jun 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for auths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted,(2) accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter? Ans

~~The interpreter is sworn.~~(1) Do you object to ~~Sgt Bureau~~ the shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and ~~Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	D.L. REDMAN, VD	HQ CRU
Member	Captain	J. BUREAU	1 CGRU
Member	Lieutenant	A.M. BAXTER	1 CASCRU
~~Judge-Advocate~~			
Prosecutor	CAPT	D.F. BAKER	1 CGRU
Defending Offr	CAPT	E.D. HERSEY	1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 65B), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, decision tried make appropriate record per Notes.)

A10. The Court (is closed) and) considers the Instrs on Procedure after Arraignment at top of p 8. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if same~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the charge(s), sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO, SIR. (5)
(1. *RP* 27(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....
Do you intend to call witnesses on your behalf ? Ans.....
Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 84(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO - SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 253 *or MFB* 256. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Defence Address NOTE ATT (2)
(1. *RP* 27(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 27(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(5), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Con* 308, 330, 543-544. *Overseas RO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 98(7), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 547. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H 100079 Sigmn DELMONICA A, Royal Canadian Corps of Signals on the strength of No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with,

SECTION 15(1) ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, did absent himself without leave from 1800 hours 21 NOV 44 until apprehended by the Civil Police at London at 1700 hrs 24 MAY 45.

Absent 185 days and 23 hours.

(L.M. ~~Watson~~) Lt. Col
A/Comd No 1 Cdn Gen Rft Unit
Canadian Army Overseas

In the Field

this 31 day of

MAY, 1945

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units

IN THE FIELD
2 JUN 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-100079	Sigmn		Alphonso	DELMONICA	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 JUN 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~a. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~b. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO		1 CGRU
Lieutenant	to be detailed by CO		1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat. 2 Jun 45

A.B. Connelly
(A.B. Connelly)
(Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding "B" Gp, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98. (In lieu of AFA 3) ac/F & S/1947 (6143)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 85(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 82(B) should be complied with. If taken verbatim, RP 85(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 118 provides that for procedure on defence RP 40-42 will apply so *far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 90(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see* RP 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(9).)

(vii) Summing up by JA, *if any*. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, *if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, *if any*, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (g) (k).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 96(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML* p 709.)

4. The President or JA, *if any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S REPORT

I certify that No. H 100079 Sigmn DELMONICA A

of No 1 CGRU is in a fair good state of health,

and fair fair to undergo Trial by Court martial.

[signature] Maj.
Medical Officer
No 1 Cdn Gen Rft Unit, CA(C)

Station Field

Date 4 June 45

M. F. B. 246

Plea of Mitigation. E-3

In the case of the accused, MM H100079 Sigmn. A. Delmonica, I wish to draw to the attention of the court certain facts in this man's career as a soldier in mitigation of his sentence.

The accused enlisted on 16 Mar 42 as a volunteer. He came overseas on 12 June 42 and was soon posted to the 1st Army Signals in Sep 42. Here he served for almost two years and despite the fact that he was single and no dependents his record was remarably clear, two charges of a minor nature for which ~~that~~ cost he received 7 days CB apiece. This clearly shows that he was interested in his work and given the chance he is a good soldier.

This absence for which he is charged and being court-martialed has a reason for

it. That reason of course was all in the mind of the accused and perhaps brought on by circumstances until it got beyond him and he found himself really in deep water.

While at 1st Army Signals he worked for a year and a half as a postal clerk with the idea in the back of his mind that he would eventually get the promotion to postal corporal. When this promotion was given to the brother of the administration officer Captain he naturally beefed about it. This didn't help him. When he was unfortunate enough to fall from a truck and tear the ligaments of his right arm he was hospitalized. On his return he was asked to help straighten out the unit post office which had got behind in its work. The postal corporal complained that he wasn't working which

was natural as his arm was still bothering him. After this complaint he was reported to the Pers. of Unit of Signals and from there was hospitalized again for the months of June and July. On return he assisted in the unit post office. But, when posted to, C.S.P.U without any reason he knew of, fed up, he went absent without leave. Once absent for two or three weeks and hearing the sentences being awarded for this crime he was afraid to come back until he was practically apprehended.

His actions, gentlemen, throughout his career show he is green as far as military crime is concerned. Working in a post office daily he wouldn't come into contact with it as much as normally. I submit to the court that his absence was more from ignorance than intention.

I beg the court to grant him as much leniency as possible in this his first court-martial and give him a chance to readjust himself later. One stupid mistake shouldn't be made to cost him everything he has earned in his previous record. I thank you, sir.

C D Hersey Capt.
C. G. R. U.
Defending Officer

4 June 45

SUMMARY OF EVIDENCE

in the case of

No H 100079 Sigmn DELMONICA, A, Royal Canadian Corps of Signals on the strength of No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

I produce the following documents pursuant to Overseas RO 5352 which have been read over and shown to the accused, and which are attached hereto as Exhibits:

1 Certified true copy of the Declaration of a Court of Inquiry on the Illegal Absence of a soldier, dated 16 Dec 44 (attached as Exhibit 'A')

2 Certificate of apprehension of the accused (Army Form C 1618) by Cyril Green, Detective Inspector, New Scotland Yard (attached as Exhibit 'B')

E L Zealand

(E L Zealand) Capt
Officer detailed to take
Summary of Evidence

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence".

The accused does not wish to make any statement or call any witnesses at this point.

I certify that the above Summary of Evidence, consisting of ONE page, was taken down by me in the hearing and presence of the accused, and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

E L Zealand

(E L Zealand) Capt
No 1 Cdn Gen Rft Unit
Officer detailed to take
Summary of Evidence

In the Field
This 30th day of May, 1945

EX A

"EXHIBIT "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at Field on the 16 day of December 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H 100079 Pte DELMANICA A.

DECLARATION.

The Court declare, that No H 100079 Pte DELMANICA A. of General Coy, No 1 Cdn Gen Rft Unit illegally absented himself without leave from No 1 CGRU Aldershot from 1800 hrs 21 Nov 44 until 16 Dec 44 (still absent) and that on the 24 Nov 44 he was deficient and is still deficient articles of kit and equipment shown, the value of said deficiencies being: Vocabulary Value £6.7.7½ and 75% of the Vocabulary Value £4.15.9

EXHIBIT "B"

PTE H.100079

DESCRIPTIVE RETURN OF § Alphonso Delmonico who was apprehended 5 pm (hour) on the 24th day of MAY 1945, and was committed to confinement ~~at~~ to Awaid Block on the 25th day of May 1945 as a Deserter ~~(or Absentee~~ without leave) from the Signals Bn. of the Royal Canadian Corps of Signals. Cove Fanborough

Regiment of

Age 28. Height 5 feet 9½ inches

Complexion fresh Hair dark Eyes brown

Marks Scar Right Knee In uniform or plain clothes Plain clothes

Probable date and place of attestation	16.3.42. Winnipeg. Canada.
Probable date of desertion or beginning of absence and from what place	21 30 November 1944.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	Cyril Green Detective Inspector New Scotland Yard.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	~~with Insp. Green~~ I approached Delmonico who was in civilian clothing, and on being questioned admitted being an ~~deserter~~ absentee from the above Unit.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† is a Deserter from the Corps mentioned Corps.

Signature
Residence
Post Town
of Committing Magistrate.

One of the Magistrates of the Courts of the Metropolis sitting at The Bow Street Police Court

25 May 1945

Date of Signature

Signature of Prisoner

A. Delmonico

Signature of Informant

Cyril Green. Det. Insp. CO. C.I.

[illegible] where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then [illegible]

[illegible] CERTIFY that the above-named [illegible] confessed to the circumstances [illegible], but that evidence of the truth [illegible] of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate.

Date of Signature

§ Care should be taken to insert Army No. and Rank.

‡ Insert "was apprehended" or "surrendered," as the case may be.

* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form O.1618

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

Signature of Committing Magistrate.

Date

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The refund of expenses incurred by the Police applies *only* in the case of the Police authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the .....

Police in connection with the apprehension of .....

..... and are

payable to .....

.....

.....

.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H 100079	Sigan	DELMONICA Alphonso	No 1 Cdn Gen Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec 40 AA 1 times.

For Sec 15(1) AA 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 27 APR 42

Date of last entry in Field Conduct Sheet 21 AUG 42

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 11 days in military custody, *i.e.*, NIL days in open arrest, 11 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 27

6. The date of his attestation is 16 MAR 42

~~[illegible]~~

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

EXB

MY

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*INSTR) [illegible] A.&E.W.Ltd. Gp.[illegible]

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

4 June 45

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ____ day of ____ 1945

(W Murray) Capt & Adjt
No 1 Cdn Gen Rft Unit CAO

H 100079 No. Name DELMONICO Alphonso | Sqn, Battery, or Company | No 10 D D (AF) Corps | Date of enlistment 16-3-42 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/136 (7019)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature OC Company, etc (Sgd) | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fort William	27-4-42	Pte		Sec 40 AA	Sgt How W G	7 days C B	27-4-42	E H Shepherd Lieut	
" "	25-5-42	Pte		Embarkation Leave #A72650 Transport Warrant					
Cove Hants	16-8-42	Sigmn		AA Sec 15(1) AWL from 2359 hrs 16 Aug 42 until 0600 hrs 19 Aug 42. Absent 2 days 6 hrs 1 min.	A/Cpl MacCOMB A B	7 days CB 7 days pay FR&I 149(2)	21 Aug 42	Lt-Col F B Conrad	Forfeits 3 dys pay FR&I 149 (1)(a) Total forf 10 days pa (Sgd) Major

CERTIFIED TRUE COPY OF CRIMINAL DOCUMENTS IN MY POSSESSION 1945

W Murray

(W Murray) Capt & Adjt
No 1 Cdn Gen Rft Unit CAO

(PTO)

CASE OF H 100079 Sigmn DELMONICA A.

(i) LIST OF WITNESSES FOR PROSECUTION

NIL

(ii) LIST OF WITNESSES FOR DEFENCE

NIL

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Copy of the Declaration of a Court of Inquiry.

(b) Certificate of apprehension

(iv) LIST OF EXHIBITS FOR DEFENCE

NIL

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

A. Delmonico
.....
(Delmonica A) Sigmn
H 100079

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut. Terry if he is available.

A. Delmonico
.....
(Delmonica A) Sigmn
H 100079

Signed at Field
this 21 day of
May . 1945

4E81

GNR DELORME A.

Thursday

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-55473 Gnr. DELORME, Amable - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
R 4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

N ~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention per a period of One Hundred and Twenty (120) Days and to be put under Stoppages of pay and Allowances as laid down in Para 1-10-6 Regs

Judge Advocate. Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567 577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) pc

(1. AA 57A. Delete if not used.)

(Sgd)

Date 18 Nov 44

pc

Commanding

J. C. STEWART, Brigadier, Commanding "C" Group, Con. R. ~~Continuing Officer~~

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr:

L 55473 Gnr Delorme A ~~Lt~~ 22 Nov 44 ~~Lt Col~~

Published in DO 756 dfd Nov 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 150 4E-81

RECEIVED 25 NOV 1944 JAG Br. C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA81) 40/P & R/1688 (H44) 4/388

Convened by Order of Brig. J.C.Stewart, CBE DSO Comd "C" Gp, CRU dated 12 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-55473	Gnr.		Amable	DELORME	2 CARU

PROCEEDINGS REVIEWED Capt Judge Advocate 27 Nov. 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) ENGLAND on (date(s)) 14 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

N A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

N A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
N The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

N A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
N ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

N A5. President to accused: ~~Do you object to~~ as interpreter? Ans

N The Interpreter is sworn.(1) Do you object to M.26691 Sgt BARNES, RASC as shorthand writer? Ans NO. S.C.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO. S.C.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

N A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT Col	DL REDMAN	VD 11Q CRU
Member	CAPT	JE WESTBROOK	3 CAC RCN
Member	LIEUT	CI COUTU	1 CASC RCN
N ~~Judge Advocate~~			
Prosecutor	CAPT.	JR McELROY	2 CARU
Defending Offr	CAPT.	WH TURNBULL	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

N A8. The accused before arraignment make(s) (no) (~~a~~) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

N A9. The accused is (are) arraigned ~~respectively~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 as record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

N A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~as JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO - SIR (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement (a) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) (charge(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (2).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(2)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-04 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Do you intend to call witnesses on your behalf ?
Ans Are they witnesses as to character only ? Ans
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statements, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charge, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans TO Have Evidence
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By Advocate NOTE - ATT (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(4), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Con XXII, 330, 543-546, Overseas RO 3/8. 2323. MML p 90, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused L-55473 Gunner Amable DELORME, of "P" Trg Wing, No 2 Cdn Arty Rft Unit, a soldier of the Cdn Army Overseas, is charged with:

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 2359 hrs 20 Aug 44 until apprehended by Civil Police at 1700 hrs 30 Oct 44, incurring costs of return to Unit in the amount of £1-10-6. (Total absence 70 days, 17 hours and 1 minute).

Huron Camp
Bramshott, Hants.
6 Nov 44

(Mackenzie Waters) Colonel
Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

To be tried by Field General Court Martial,

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
12 Nov 44.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-55473	Gnr		Amable	DELORME	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has [redacted] committed the offence(x) set forth in the Charge Sheet(x) attached and on (*date*) this date endorsed by me, ([redacted], "To be tried by Field General Court-Martial". fc

2. And whereas I am of opinion that it is not practicable that such offence(x) should be tried by an ordinary General Court-Martial; (a[redacted] fc

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(x), and to consist of the Offrs appointed or detailed hereunder.

4. I [redacted] fc

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted] fc

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Lt-Colonel	D.L. Redmand, VD	HQ CRU

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Captain	detailed by CO	3 CACRU
Lieutenant	detailed by CO	1 CACRU

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.

On Active Service in the Fd

in ENGLAND (Country.) — [signature] Signed personally. RP 105 (n 2.) — Brigadier (Rank.)

Date 12 Nov 44 — Commanding "C" Group, Cdn Rft Units, Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 16 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 86(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A.* (*RP 40 fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 45 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 45 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by *J.A. if any.* (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written *record* MUST BE INITIALLED by President or J.A. *if any.* RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. *if any*, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any *declarations* made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 537.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 586. As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 799.)

4. The President or J.A. *if any*, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Medical Officers Certificate
K.R. (Can) para 557

I certify that I have this morning examined No L-55473 Gnr DELORME, A. of No 2 C.A.R.U. and in my opinion he is ~~fit~~ unfit to undergo trial by Court Martial.

With MO 2 C.A.R.U.

No 2 C.A.R.U.

14 Nov 44

N. D. Lam Capt RCAMC
(Medical Officer)

F.G.C.M IN THE CASE OF

L-55473 Gnr. DELORME, A. 2 CARU

14 Nov.44

STATEMENT BY THE ACCUSED (ON OATH) NOTE E-1

Q. Will you tell the Court just what led up to you taking this long unauthorized leave?
A. Yes sir.

The reason I left to go AWL was because I never got any leave in two years. I asked to go on draft and I never heard anything of it. I am category "A". I asked to go in the Forestry Corps and I was turned down. I asked to go to the Commandos and I was turned down so I left Camp. I have been at L CARU better than a year and never got a leave although I have asked 4 or 5 times.

Q. Was there any reason given to you why your application for leave was turned down?
A. No sir.

Q. Where did you go from No.1 CARU?
A. To No.2 CARU in June 44.

Q. Did you asked for leave there?
A. Yes sir, but I did not receive any.

Q. Was there no reason for this?
A. No sir.

Q. Did you hear any news that all personnel would be moving to another Camp?
A. No sir.

Q. Did you figure that you were going to be kept in an Rft Unit longer than you expected?
A. Yes sir, I did not think I would ever get out.

Q. What effect did that have on your mind?
A. I felt very bad about, I figured the only thing to do was to go AWL and come back again.

Q. Will you tell the Court where you spent your unauthorized leave?
A. I travelled and worked here and there. I was on my way up to London when I got picked up at Welshpool, Wont. at the station.

Q. Did you have plenty of money while on this leave?
A. Yes, I have saved my money a long time waiting for an authorized leave.

Q. Have you made application for transfer to any other Unit?
A. Yes, I made application for transfer to Infantry or Commandos, so that I could get into action, but all to no result.

NO CROSS EXAMINATION
In the opinion of the Court it is unnecessary to comply with RF 83(B) NOTE E-3
PLEA IN MITIGATION (ATTACHED)

THE COURT WILL BE CLOSED TO CONSIDER THE SENTENCE

13 Nov 44

E-3

Mr President and Members of the Court

Plea in Mitigation of Sentence
L-55473 Gnr Delorme, A.

1. You have heard the accused give his story regarding this charge and his admission of guilt. You have also heard his explanation as to the factors when led-up to his unauthorised leave. I wish to review some of these mentioned circumstances and this soldier's record, for your consideration, in determining the sentence you deem necessary to satisfy the law of the Army.

2. I am sure that you will appreciate why I have not brought in character witnesses on his behalf. As he has served nearly all of his army life in other Units than 2 CARU and as his MFU 6 is before you- almost spotless from crime - I am sure you will agree that character witnesses are not necessary. Three and a half years in the army, two years and three months overseas and only one entry on his Conduct Sheet. That alone is a very fine record. I wish to draw your attention to this first entry on his MFU 6 - "being in illegal possession of a bicycle belonging to the officer he was batting for". Would any member of this court place his batman on such a charge for using his bicycle for a couple of hours during parade hours when you were supposed to be on duty? That, Sir, is what Gnr Delorme was charged with and penalized 14 days pay, otherwise his record would have been clean.

3. I have personally referred to this soldier's MFU 4, and assure you that this document substantiates his statement regarding privilege leaves - he has had only one privilege leave since coming overseas, that was granted two years ago, 20 Oct 42.

4. Gnr Delorme has been a batman - his only employment since coming Overseas. This duty has been quite remunerative and his Part III Pay Book shows that he has been saving his money. He has a splendid Deferred Pay balance. His free balance for the past year proves that he could well afford the Privilege Leaves which he requested yet didn't receive. Many batmen have money which is not disclosed by the Pay-Book. Gnr Delorme assures me that he had a very substantial sum in his pocket at the time he went AWL.

5. This charge of AWL is not the usual type - and I ask your consideration to these factors:

(a) The racial origin of the soldier - his father and mother both Cree Indians. Like his ancestors, he wanted some degree of freedom. He asked for leave many times, couldn't get it, so finally went AWL rather than become a browned-off, disinterested soldier, as so many have done under similar circumstances.

(b) The character and record of service of Gnr Delorme - Willing to do anything in any branch of the services, not a trouble maker, thrifty and cheerful. Good MFU 6.

(c) Lack of training for the Field - A strong able body soldier, 26 years of age, average intelligence, and not having had any other job than batman since coming to the RUs over two years ago.

p.t.o.

Continued

5. (d) Mental depression resulting from his inability to get leave - He had plenty of money, he was not on some special duty that required his continued attention year in and year out. He had not been a bad boy, and had his leave cancelled on that score. He had made several requests for leave during these twenty two months, he had received no success, so took the obvious course and left camp for what he thought was a well-earned vacation.

6. On behalf of Gnr Delorme and the good of the service, I respectfully ask that you award a sentence which will allow this young man an opportunity to realize his ambition to serve our contry in an active theatre of war. If you could make such a recommendation it would be appreciated.

W.L. Turnbull Capt

(W.L. Turnbull) Capt

Summary of Evidence in the case of L-55473 Gunner Amable DELORME, of "P" Trg Wing, No 2 Cdn Arty Rft Unit a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

1st Witness for the prosecution

Lt. G.W. Currie, Assistant Admin Offr, "P" Trg Wing, No 2 C.A.R.U., an officer of the Cdn Army Overseas, having been duly sworn states:

"I produce:

(a) A certified true copy of Record of Declaration of Court of Inquiry, purporting to be signed by Major R.D.Mulholland, Admin Offr, No 2 CARU, Offr having custody of original record, relating to the accused whom I now recognize. This document is marked appendix "A" and annexed to the Summary.

(b) Certificate in accordance with Section 163(1)(m) of the Army Act, purporting to be signed by J. George, Inspector in charge of Police Station at Welshpool, Mont., relating to the accused whom I now recognize. This document is marked appendix "B" and annexed to the Summary.

(c) Expense Voucher, purporting to be signed by Capt. R.E.Birch, D.P.M's Branch, CMHQ, relating to the accused whom I now recognize. This document is marked appendix "C" and annexed to the Summary.

G W Currie Lt

The accused declines to cross-examine this witness.

The accused was cautioned as follows. "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused volunteered the following statement:

"The reason that I absented myself without leave was that I did not get any leave for the past two years. I asked many times for leave and was given no reason why I could not go on leave. I changed my mind about leave and tried to go on draft. I am 25 years old and "A" category. I was not put on draft so I made up my mind that I would go absent without leave. I had no intentions of staying away permanently. I knew that when I came back from A.W.L. they would listen to me and my case might be investigated."

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

G W McCurdy Lt

(G.G. McCurdy) Lieut., RCA
No 2 Cdn Arty Rft Unit.

Huron Camp
Bramshott, Hants.
6 Nov 44

Officer detailed to take the Summary of Evidence.

EXA

Ex 'A'

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bramshott, Hants on the 28th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. L-55473 Gnr DELORME, A.

DECLARATION.

The Court declare L-55473 Gnr DELORME, A. absented himself without leave at 2359 hrs 20 Aug 44, is still so absent and that on the 28 Oct 44 he was deficient, and that he is still deficient of the following articles:-

Names of President and Members PRESIDENT: Lt N E.Malloch, RCA

MEMBERS: Lt W.J.Foot, RCA
Lt G.L.Waters, RCA

Signature of Commanding Officer

CERTIFIED TRUE COPY.

R.D. Mulholland Major

Signature ADM OFFR having custody of the Original Record.

(42281) Wt.54318/1622 75,000 10/39 A.S.E.W.Ltd. Gp.499
(124442) Wt.45722/760 [illegible] 1/40 - - Forms/B115/54

ARTICLE	QUANTITY	VOCAB PRICE	WORN PRICE
Badges, cap Arty	1	0-0-4½	0-0-3½
Blousses, B.D.	2	2-7-0	1-15-3
Trousers, B.D.	1	1-4-1½	0-18-1
Brushes, button	1	0-1-2	0-0-10½
Brushes, shaving	1	0-1-8	0-1-3
Combs, hair	1	0-0-2	0-0-1½
Dressings, F.F.	1	0-1-1	0-0-10½
Gloves, knitted prs	1	0-2-1	0-1-7½
Drawers, cellular prs	2	0-3-10	0-2-10½
Holdall	1	0-0-10	0-0-7½
Jersey pullover	1	0-8-0	0-6-0
Knife, clasp	1	0-3-10	0-2-10½
Razor sets	1	0-1-10½	0-1-5
Shirts, angola	2	0-18-2	0-13-7½
Vests, woln	2	0-10-9	0-8-1
Socks worsted, prs	4	0-6-8	0-5-0
Towels hand	2	0-2-10	0-2-1½
Shorts, gym	2	0-3-10	0-3-10½
Vests gym	2	0-3-2	0-2-4½
Belts, waist, WE	1	0-3-4	0-2-6
Haversack, WE	1	0-8-0	0-6-0
Helmet, steel	1	0-10-8½	0-8-0
Straps, web support	2	0-1-2	0-0-10½
Respirator, complete	1	1-0-11	0-15-8
TOTAL		£ 8-5-7	£ 6-19-3

Ex "B"

Police Station.

Welshpool Mont.

31st October 1944.

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1) (m) OF THE ARMY ACT, 1881.

I certify that the person whose description is given below was arrested at Welshpool, at [redacted] on the [redacted], 1944:-

Regimental particulars of soldier referred to above.	
Description.	
	No. L.55473.
	Rank. Gunner.
	Name. DELORME. Amable.
	Unit. Royal Canadian Army.
	Age. 26 years.
	Height. 5ft 9ins.
	Complexion. dark.
	Hair. black.
	Eyes. black.
	Marks. Index missing finger missi of right hand.
Signature of Officer in charge of Police Station, where the above named person was arrested.	

[signature] Insp.

In charge of Police Station.

POLICE STATION 31 OCT 1944 WELSHPOOL MONT

Expense Voucher Re— Ex "C" Ref: KR & O (Can) 539

Reg No. 1.55473 Rank Gnr. Name Delorme, A Unit 2 CARU

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Shrewsbury

Date	Particulars	Amount		
2 Nov. 44.	Escorts return fare from LONDON To Shrewsbury	1	3	6
	Prisoners single fare to LONDON From Shrewsbury	own	ticket	
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	0
	Total £	1	10	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

B. E. Birch CAPT. Capt

B. E. BIRCH,
ADMIN. OFFICER, D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense Voucher
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100/55
40/P & S/480 (6762)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L-55473	Gunner	DELORME, A.	No 2 Cdn Arty Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—since within last 12 Mos completion of 6 Mos service

For _____ _____ times.

For AA Sec.40 ONE ONE times.

For _____ _____ times.

For _____ _____ times.

[redacted] GCR

[redacted] GCR

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

[redacted] GCR

[redacted] GCR

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 14 days in military custody, *i.e.*, NIL days in open arrest, 14 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 26 years 140 days

6. The date of his attestation is 17 Jun 41

[redacted] GCR

7. The service which the accused is allowed to reckon is 3 years 149 days

8. The accused is in possession of‡ C.V.S.M. and Clasp

‡State the military decorations (if any) held by accused.

[redacted] GCR

[redacted] GCR

[redacted] GCR

[redacted] GCR

[redacted] GCR

[redacted] GCR

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] 100,000 4/42 A.S.E.W.Ltd. Gp.[illegible] Form B.296 War 2
[illegible] 60,000 9/42 " "

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14th day of Nov 44

(H.C. Rees) Captain
Administrative Officer
"P" Trg Wing, No 2 CARU

No L-55475 Name DELORME, A. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 17 Jun 41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field				PREVIOUS SHEET DESTROYED 5 Apr 44 in accordance with O.R.O. 2084					
Field	11Jun 44	Gnr		WOAS Conduct to the prejudice of Good Order & Mil Disc, improper possession of a bicycle, the property of Lt. K.D.Crone, AA Sec. 40	Lt KD Crone	14 days CB 14 days pay	14 Jun 44	Lt-Col G.T.Inch	Forf 14 days pay FRI 149(2) Total forf 14 days pay

CERTIFIED TRUE COPY

(H.C. Rees) Captain
Administrative Officer
"P" Training Wing, No 2 C.A.R.U.
Officer having custody of original document.

ETC

(PTO)

LIST OF WITNESSES

FOR THE PROSECUTION

Lt G.W. Currie, Assistant Admin Offr "P" Wing, 2 CARU

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

(a) CERTIFIED TRUE COPY OF RECORD OF DECLARATION OF COURT OF INQUIRY

(b) CERTIFICATE IN ACCORDANCE WITH SECTION 163(1)(m) OF THE ARMY ACT 1881.

(c) EXPENSE VOUCHER

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
8 Nov 44

Commanding Officer
No 2 C.A.R.U.

F.G.C.M. - L-55473 Gnr DELORME, A.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

A Delorme

L-55473 Gnr Delorme, A.

"P" TRAINING WING
No 2 C.A.R.U.

PW/5-4-5
8 Nov 44

Commanding Officer
No 2 C.A.R.U.

F.G.C.M. - L-55473 Gnr DELORME, A.

1. I acknowledge having duly received this date a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

A. Delorme
L/55473 Gnr Delorme, A.

H.Q. CDN RFT UNITS

14 Nov.44

COMD
"C" Group,
CRU

FGCM - 14 Nov.44
L-55473 Gnr. DELORME, A. - 2 CARU

1. I respectfully draw your attention to the evidence give by the accused and the statement made by his Defending Officer in Mitigation.

2. Inquiry should possibly be made as to why this man was not given leave. You will note what he has said about his efforts to transfer to Infantry etc. He is a fine looking chap and will probably make a very good Infantry soldier. The court is of the opinion that he should be transferred to Infantry so that he may be sent forward after he has been trained as an Infantryman in Detention Barracks.

(D.L. Redman)Lieut-Colonel.
President, F.G.C.M.

Copy to:

O i/c Admn.

SF. 28.

Ph. Delorme, D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H-40581 Pte David DELORME X-9 List Cdn Postal Corps att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A. sec 15 (1)	Guilty	Guilty	
2nd	A.A. sec 40	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N.A. beginning on (date) N.A. (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for ninety (90) days.

(Sgd) ..... 21 Mar 45 (Sgd) W/C Lawrence Major
Judge Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) (G S N Gostling) Brigadier,
Date 22 Mar 45 Commanding 2 Cdn Base Rft Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

H40581 Pte Delorme, D. 27/MAR/45 [signature] Lt-Col.
Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CR480
1-Lect
2/27 Mar 45

RECORDED AT CMHQ IN AB 160, 5F-25.

FIELD GENERAL COURT-MARTIAL

CF AAG (To Item of AFA31 40/P.S.D.(Misc) 40/P.D.) 4/38B

RECEIVED 1 MAY 1945 JAG BRANCH CMHQ

Convened by Order of Brigadier G S N Gostling ED Comd 2 CBRG dated 16 Mar 45

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) apptmt, A/rank or A/apptmt, if any, see AA 102, 103, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.
H-40581	Pte	David	DELORME

X-9 List Cdn Postal Corps att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
[signature] Lt-Col
1 May 45
REVIEWING OFFICER, JAG BRANCH CMHQ

Con Sec 1 Cdn Disc Centre HQ, 21 Army Gp 28 Apr 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 21 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/72.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AAG, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1140 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial instead of being dealt with summarily by the CO.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Con 557. 2. AA 46(B), RP 50 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans N.A.

The Interpreter is sworn.(1) Do you object to N.A. as shorthand writer? Ans N.A.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J M BOWMAN	48th Highrs att 1 Cdn Disciplinary Centre
Member	Capt	EB Cartmel	RCA att 1 Cdn Disc Centre
Member	Lt	EF McManus	RCE 4 CBRE
Judge-Advocate			
Prosecutor	Capt	FC Korn	C.I.C. att 1 Cdn Disc Centre
Defending Offr	Capt	ND Bowlt	C.I.C. att 1 Cdn Disc Centre

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 81 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused H-40581 Pte David DELORME before arraignment makes(s) (nos) (no) plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB record and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Book

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 6 P74

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii)*, Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3) The Court is closed, and considers the submission.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....
Do you intend to call witnesses on your behalf? Ans .....
Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex G respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I wish to plead in mitigation as such
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found Guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see leaflet on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-40581 Pte David DELORME, X-9 List Cdn Postal Corps, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 2000 hrs 16 Feb 45 until apprehended at ANTWERP, Belgium at 1145 hrs 26 Feb 45.
(Absent 9 days 15 hrs 45 minutes)

SECOND CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in the city of ANTWERP, Belgium, at 1145 hrs 26 Feb 45 made use of a document purporting to be a genuine pass, to be signed by Capt W R FRANKLAND, well knowing that it was not genuine.

In the Field
13 Mar 45

(A C Hood) Lt col
Commanding
1 Cdn Disc Centre

To be tried by Field General Court Martial

In the Field
18 Mar 45

(G S F Gostling) Brig
Comd
2 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA3)
40/PAS/1697 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if outherized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate outhy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
R-40581	Pte		David	DELORME	X-9 List Cdn Postal Corps att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ~~(since)~~ committed the offence(s) set forth in the Charge Sheet ~~(s)~~ attached and on (date) 16 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person ~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J M BOWMAN	48th Highrs att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G B CARTMEL	RCA att 1 Cdn Disciplinary Centre
Lt	To be detailed by OC 9 CBR Bn	9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 16 Mar 45

(Signed personally. RP 105 fn(2).)
(G S N Goetling)

Brigadier (Rank.)

Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

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OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 85(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 85(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 85(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply *so far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 80(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*a*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address [on *matters other than in mitigation of punishment*] by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 567.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA* 163 (1) (*g*) (*h*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(3), *RP* 118(C), *MML* p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined H 41581 (No.)
Pte (Rank) Delorme (Name) A.R. and in my opinion he is
fit to undergo trial by Court-Martial.

Station I Cdn Disciplinary Centre (Sgd) (Medical Officer)

Date 21 Jan 45 Unit I Cdn Disciplinary Centre

Plea in Mitigation

The accused, H40581 Pte. DELORME D, having been duly sworn states:-

I am 27 yrs of age, enlisted in Jun 1940 and arrived overseas with the R.W.R Regt in Sept 41.

I went into action on D Day and stayed until Aug 30 when I was wounded and evacuated to England. I returned 12 Nov 44 ~~and~~ until 16 Feb 45. I did not go absent from a Unit in the line, but from a Spec Employment Coy. I have been in close arrest for 23 days.

I regret going absent. ~~I have only had very minor offences since enlistment, the most serious being 1 day 15 hrs absence~~ I ask that the Court consider my long service and good record, and allow me to return to my Unit as soon as possible.

R.P.E.B. has been complied with

J.M. Bowman Maj

21 Mar 45 Delorme D

(1) Ex 'A'

Summary of Evidence in the case of H-40581 Pte David DELORME X-9 List Cdn Postal Corp, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No. 24 dated 7 Mar 45

Exhibit "B" - Certificate of apprehension dated 26 Feb 45

FIRST WITNESS A-59269 L/Cpl PHAIR L, No. 7 Cdn Prov Coy, Antwerp detachment.

I certify that in my opinion the attendance of this witness is, owing to exigencies of the Service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "C", and pass attached as Exhibit "D".

W D Hungerford Capt
(W D Hungerford) Capt

I do not require the attendance of L/Cpl PHAIR for the purpose of cross-examination.

Delorme
H-40581 Pte David DELORME

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.

A. No.

The accused does not call any witness

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

W D Hungerford Capt
(W D Hungerford) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
1o Mar 45

JHB

Ex: B

~~Exhibit A~~

W.J. Menzies Capt

PART II ORDER EXTRACT FORM

TO: A8 AK

99/~~26~~ 34 X/RCASC/1(A5X)

9 MAR 45 19

EXTRACTS FROM: UNIT X9

Part II Order No. 24 dated 7 MAR 45

ABSENT WITHOUT LEAVE

AWL from2000 hrs 16 Feb 45 Still absent 2000 hrs 24 Feb 45

H40581 PTE DELORME D

Certified to be a true extract from the regimental books and documents in my custody

R.S. Williams Lieut

Officer i/c Records "X"

Cdn Sec 2 Ech HQ 21 A Gp

The following documents are { ~~attached. Please acknowledge receipt on attached duplicate.~~ XX ~~required. Please forward action.~~

AWB

Originating Clerk's Initials

for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6 40/P & S/1276 (6704)

SCHEDULE F. Ex. C.

CERTIFICATE ACCORDANCE WITH P.C.2797 OF 10.APR.42. W Shandeth Capt

I certify that No. H.40581 Rank Pte. Name Delorme D.

Unit T.Cdn.Base Post Office? Was arrested at Antwerp (Place)

At 1145 (Hours) On 26 Feb 45 (Date) and at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~).

Signature of ~~Provost Marshal Assistant Provost Marshal~~)
or other ~~Officer or the Commanding Officer of the portion~~
~~of His Majesty's Forces or the Officer, Warrant Officer or~~
Non-Commissioned Officer in charge of the detachment of)
the Canadian Provost Corps, Canadian Army, into whose cus-)
tody the above named person was taken on arrest.

Strike out part inapplicable

Sgt?
F.49615 Moffatt R.
No.7 Cdn. Prov. Coy.
i/c Antwerp Detach

Ex. "D"

CHARGE. Army Form B 252
(See King's Regulations)

I.Cdn.Base Post Office. Regiment

Cdn.Postal Corps. Battery / Squadron / Troop or / Company

CHARGE against No. H.40581 Rank Pte.

Name Delorme D.

Place Antwerp Date of Offence Feb.26.45

OFFENCE W.O.A.S. was A.W.L. from ?until apprehended by the Cdn.Prov.Corps at Antwerp at about 1045 hrs.on the 26.Feb.45.
(2)Out of bounds i/c in the City of Antwerp without proper authority.
(3)Producing a false pass stating it to be genuine.

[signature] .....Sgt.
F.49815 MoffattR.R.
No.7.Cdn.Prov.Coy.
i/c Antwerp Detachment.

Names of Witnesses :— A.59269 L/Cpl/Chair L. No.7.Cdn.Prov.Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Antwerp .3.1/2/3. Adjutant.

P.T.O.

30423 WLW15452/2562 L.757,060 5-44 K. & H., Ltd. G657/47.

Statement of EVIDENCE in the case of:
H.40581 Pte.Delorme D.
I.Cdn.Base Post Office.
Cdn.Postal Corps.

Sir:

At about 1045 hrs.on the 26.Feb.45. I was on duty when on information received I proceeded to The C.M.P.information Post Antwerp where I saw the s/m soldier .

I requested to see his leave pass and authority to be in Antwerp which he produced in the form of the attached pass stating it to be genuine.Knowing this not to be so I informed him of this fact,and then he stated I am absent from my Unit for about ten days or more.

I placed the s/m in close arrest and escorted him to the Cdn.Guard Room where I handed him over to the M.C.O. i/c Guard to be detained and received a body receipt.

Feb.26.45.
Antwerp.

.....L/Cpl.
A.59269 Phair L.
No.7.Cdn.Prov.Coy.
Antwerp Detachment.

REMARKS

RESIDENTIAL PASS

Ex. "E"

PASS NO: 135

Number: H40581 Rank: Pte Name: Delorme, D

is required to be resident in ANTWERP in the course of duty.

CANADIAN ARMY BASE POST OFFICE
ORDERLY ROOM
16 DEC 1944
CANADIAN POSTAL CORPS

Signed W.E. Trinkland Capt
for Officer Commanding

Date of issue 16 Dec 1944

NOTE: This pass will be surrendered when the duty of the registered holder in Antwerp ceases.

This pass is not transferable.

It must be completed in ink or indelible pencil.

Ex. 'F'

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-40581	Pte	David DELORME	X-9 List Cdn Postal Corps

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 15 (1) 4 4 times.

For ____ times.

For ____ times.

For ____ times.

Date of first entry in Field Conduct Sheet 15 Apr 44

Date of last entry in Field Conduct Sheet 21 Jan 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 22 days in military custody, *i.e.*, NIL days in open arrest; 22 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 27

6. The date of his attestation is 10 Jun 40

7. The service which the accused is allowed to reckon is

8. The accused is in possession of‡ CVSM & Clasp

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

		Date of Promotion.
In the substantive rank of	////	
In the war substantive rank of	/////	
In the acting rank of	////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27625) Wt.24930/3404 24,000 7/44 A.& E.W.Ltd. Gp.6/98 Forms(B.296(War))3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of conviction by Court-Martial on MFM 6		
DCM	1940 Canada	A.W.L. 30 days (The above from soldiers own story)	3 months	(14 days Remission)

JWB

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 13 21 day of Mar 45

JWB

Admin. Offr.

1 Cdn Disciplinary Centre

No. H40581 Name DELORME DAVID Sqn, Battery, or Company Ex. G Corps GIC Date of enlistment 10/6/40 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/P&S/1561(5418)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-4-44	Rfn		AA 15(1) AWL 12 hrs 31 mins		forfs 3 days pay	15-4-44		FR&I 149(2)
Field	30-4-44	Rfn		AA 15(1) AWL 1 day 15 hrs 10 min		14 days CB forf 15 days Pay	30-4-44		FR&I 149(2)
Field	9-6-44	Pte		AA 15(1) AWL from 0635 hrs 7-6-44 to 0630 hrs 8-6-44		forfs 1 days pay forfs 28 days pay			FR&I 149(1)& FR&I 149(2)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	21-1 45	Pte		AA 15(1) AWL from 2300 hrs 21-1-45 to 1500 hrs 22-1-45		forf 1 days pay 21-1-45 forf 7 days pay 21-1-45			FR&I 149(1)a FR&I 149(2)
				Extract from MFM4 6 Mar 45	Record of conduct in Canada not available				
				Officer i/c Records X Cdn Sec 2	RSC Williams Lt. Con HQ 21 A Gp				
				Certified to be a true copy of MFM 6 in my possession					
					Admin. Offr. 1 Cdn Disciplinary Centre				

RR-69
TPR DELORME J.

B74343 Tpr John Douglas DELORME
HQ Sqn (7/XI H) 5 Cdn Armd Bde

RR-69

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this first day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Armd Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~(and that it is not practicable to delay the trial without reference to a superior qualified officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint xxx~~

*~~Three Officers to form the Court~~

*~~A Field Officer as President~~

for the following reasons, namely ~~xxx~~

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Maj	J L TYRER	9 Armd Regt (BCD)

Members.

Rank.	Name.	Regiment.
Capt	A E SHEPHERD	5 Armd Regt (SRSR)
Capt	J B WINDSOR	2 Armd Regt (LdSH)
Lt	J PROCTOR Waiting Member	HQ 5 Cdn Armd Bde

Judge Advocate
Capt G H MORRISON, ADJA
5 Cdn Armd Div

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (C R Smithbrooke) Brig
Commanding 5 Cdn Armd Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B74343 Tpr John Douglas DELORME, HQ Sqn (7/KI H) 5 Cdn Armd Bde	First Charge Sec 15(1) AA	Guilty	Guilty	Approved
	Second Charge Sec 40 AA	Guilty	Guilty	Approved
	Third Charge Sec 15 (1) AA	Guilty	Guilty	Approved
	Fourth Charge Sec 40 AA	Guilty	Guilty	Approved To undergo detention for 90 days To undergo stoppage of 4 days pay & $7.20 cost & return 2 Oct/43
	See Charge Sheet Attached			

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) _____ (Signed) _____
Rank 5 CDN. ARMD. BDE. Rank _____
Commanding Officer (d) _____ President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the second day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court — Judge Advocate
2. The witnesses
*3. ~~The Interpreter~~
*4. ~~The officers under instruction~~

*Omit if not applicable.

were duly sworn.

Signed this 2nd day of Oct. 1943

Gaudemer Capt. judge advocate

President of the Court Martial.

*See footnote (i) on page 762 M.M.L. 1929.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this _____ day of _____ 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 4th day of October 1943

R. K. Culmore Brig
Confirming Officer.
Offs. 5 Cdn Armd Bde

Promulgated and extracts taken in the case of B-74343 Tpr. DELORME, John Douglas

(a) (Dated) 5 Oct 43 (Signed) _____
(2nd) Lt. Adjutant
Cond HQ Sqn 5Cdn Armd Bde

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Jack Kopper Maj

CHARGE SHEET

The accused B-74343 Tpr. John Douglas DELORME Headquarters Squadron (7/XI Hussars) 5th Canadian Armoured Brigade, a soldier of the Canadian Army Overseas, is charged with :-

First Charge
Sec. 15 (1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on 4 Sep 43 absented himself without leave from his Unit, No. 3 Canadian Armoured Corps Reinforcement Unit from 1100 hrs on the said 4 Sep 43 until he was apprehended in London England by the Military Police at 2359 hrs on the 5 Sep 43. (Absent 1 day, 12 hrs and 59 mins). (Costs of apprehension and return to his Unit - 10/2).

Second Charge
Sec. 40 Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at London England, on 5 Sep 43 was in possession of a document purporting to be a genuine pass, well knowing that it was not genuine.

Third Charge
Sec. 15 (1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on 6 Sep 43 whilst in close arrest absented himself without leave from his Unit Headquarters Squadron (7/XI Hussars) 5th Canadian Armoured Brigade from 2015 hrs on the 6 Sep 43 until he was apprehended in London England by the Military Police at 1145 hrs on the 22 Sep 43. (Absent 15 days, 15 hrs and 30 mins) (Cost of Apprehension and return to Unit - 11/10).

Fourth Charge
Sec. 40 (Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at London England, on 22 Sep 43 was in possession of a document purporting to be a genuine pass well knowing it not to be genuine.

In the Field
28 Sep 43

(J.M. Grant) Major
Commanding
HQ Sqn (7/XI H)
5th Cdn Armd Bde

To be tried by F. G. C. M.

OCT 1 1943 [signature]
COMD. 5 CDN. ARMD. BDE.

Jack Lowenthal
Pres.

2 Oct 43

I hereby certify that I have this morning examined B-74343 Tpr. Delorme, J.D., H.Q. Squadron (7/XI Hussars) 5th Cdn Armd Bde, and find him fit to undergo trial by Field General Court Martial.

T Statten Capt. M.O.

PAGE 1

Record of Proceedings of a Field General Court Martial

Held in the Field in England (Country) on 2 Oct/43 (Date) to try

Accused B 74343 (Number) Tpr (Rank) John Douglas (Christian Names) Delorme (Surname) HQ Sqn (7/XI 44) 5th C.A.B. (Unit)

	Rank	Name	Unit
President	MAJOR	J. L. TYRER	9th Arm Regt (BCD)
Member	CAPT.	A. E. Shepherd	5th Arm Regt (8NBH)
Member	CAPT	J. B. WINDSOR	2nd Arm Regt (4SH) R.C.
Judge Advocate (if any)	CAPT	G. M. MORRISON	HQ. 5th Can Arm Div.
Offrs under Instruction (if any)			
Defending Officer	Lieut	J. F. BURTON	HQ. 5th C.A.B.

Lawyer? Ans NO

Prosecuting Officer Lieut J. J. Black HQ Sqn (7/11 H) 5th CAB

Lawyer? Ans NO

(The following procedure must actually be carried out)

1. The President produces the Convening Order, Charge Sheet(~~s~~) and Summary of Evidence. (Rs.P.17(E), 22(A)).

   (If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto.)
   (For form of record see MML page 742 top)

2. The President in closed Court, (R.P. 22, fn 1) reads the Convening Order and the Charge Sheet(~~s~~) to the Members, and the Court satisfy themselves that it is properly convened and constituted (A.A. 49; Rs.P. 105, 106, 107), that the accused is (~~[illegible]~~) amenable to Military Law, and that each charge discloses an offence (Rs.P. 23, 108).

3. The accused is (~~[illegible]~~) brought before the Court and at 1115 hours the trial commences.

4. The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 (See CMHQ Circular Letter 173) that the accused has (~~[illegible]~~) this day been examined and is (~~[illegible]~~) fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

5. President to accused:

   Q - Do you object to N.A. as interpreter?
   A - _____

   ~~The interpreter is duly sworn. (Form of oath on page "D")~~

   Q - Do you object to N.A. as shorthand writer?
   A - _____

7. The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P. 25).

President to accused

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A - NO

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto (R.P. 25). (For form of record see MML page 742 Variation).

8. The President, Members, Judge Advocate and ~~Officers under instruction~~ are duly sworn (Rs.P. 26, 27). (Forms of oath on page "D").

9. The Charge Sheet (is) is (~~not~~) signed by the President.

10. The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial. (A.A. 46(2)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P. 32(E), 106); or as to the jurisdiction of the Court (R.P. 34); or in bar of trial (R.P. 36); or as to accused's mental fitness to stand trial (A.A. 130; R.P. 57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto). (For form of record see MML page 744, 745, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P. 112). He pleads as follows:

First Charge	Guilty	Fifth Charge	
Second Charge	Guilty	Sixth Charge	
Third Charge	Guilty	Seventh Charge	
Fourth Charge	Guilty	Eighth Charge	

(For procedure on alternative charges, see R.P. 57(A) and fn 2). (For form of record see MML page 744 Instructions).

Further proceedings are recorded on pages hereto attached.

(For use when accused pleads "Guilty" to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. The President complies with R.P. 35(B) by ascertaining that the accused understands the nature of the charge(s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B) (fn 5) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. The finding(s) of the Court Z (are) recorded on page 2 of AFB 5.

3. President to accused

Q - Do you desire to make any statement of the circumstances in reference to the charge(s)? (R.P. 37(B)).

A - No

(Statement (if any) not on oath and on which accused is not subject to cross examination is recorded on separate sheet, initialled by the President and attached hereto.

4. The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

(If no such Summary, sufficient evidence for determination of the sentence is taken and recorded on separate sheets, initialled by the President and attached hereto). (R.P.37(2)).

5. President to accused

Q - Do you wish to make any statement in mitigation of punishment? (R.P. 37(C)).

A - No

(Statement (if any) not on oath and on which accused is not subject to cross examination is recorded on separate sheet, initialled by the President and attached hereto).

(If from paras 3, 4 or 5 it appears to the Court that the accused did not understand the effect of his plea see R.P. 37(B) fn 5; 37(C); 37(D) fns 5 and 6; MML page 747 Variations).

6. President to accused

Q - Do you wish to give evidence yourself or to call any witnesses as to character? (R.P. 37(3)).

A - No

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto).

7. Statement of Character and Service (AFB 296 or MFB 365) and Field Conduct Sheet (MFW 6), signed in the manner required by A.A. 163(1)(b) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, signed by the President and attached to the proceedings. (R.P. 40; Overseas RO 3131).

8. President to accused

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P. 46(D)).

A - Yes

(Address (if any) not on oath and on which accused is not subject to cross examination is recorded on separate sheet, initialled by the President and attached hereto).

/Overleaf

9. The President announces:

"The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

10. The Court is closed to consider the sentence.

11. The sentence is recorded, dated and signed by the President (R.P. 50) on page 2 of APA 3.

(Punishments, A.A. 44; MML pages 130-134; K.R. (Can) 563-586; Overseas Mos 309,2323).
(One sentence is awarded in respect of all offences, R.P. 48).
(For form of sentence see MML pages 756-759).

12. [signature] Maj
(Signature of President)

Jack Lefer Maj

For the Defense

The Defending Officer makes the following statement:-

Tpr Delorme has had a great deal of family trouble. At the age of 12 his parents separated and he was placed in an orphanage. He was adopted by a couple at 13 and stayed with them for a year. He left his foster parents and went to live with relatives. He has supported himself since that time and has been on his own. Shortly before coming overseas he married. The marriage was a happy one. However since coming overseas his marriage wife has not been writing as frequently as would be expected. Tpr Delorme asked CMHQ to investigate the circumstances & I submit the letter received from them in answer to his request.

I suggest that the report submitted by CMHQ is not in accord with the facts since postal records show that he has received almost no mail ~~I submit~~. No further enquiry was made by the unit. Delorme was not satisfied and was afraid that his marriage would break up as did his parents marriage.

No one took care of this man in his early years and I feel that that is the reason for his lack of responsibility. That is why he became depressed and went AWL.

CONFIDENTIAL

10/Delorme, J./1
(A.G.7b)

6 Sep 43

Officer Commanding,
H.Q. Sqn.,
5 Cdn. Armd. Bde. (7/11 Hussars)

B.74243 Tpr. DELORME, J.
5 Cdn. Armd. Bde.(7/11 Hussars)
H.Q. Sqn.

1. The m/n soldier paraded himself at this Headquarters, with permission, on 20 Aug 43, and as a result of this interview a cable request for investigation was put forward to N.D.H.Q., confirmed by this Headquarters' letter, 29 Aug 43.

2. Cable advice has now been received from N.D.H.Q. in the following terms:-

"DEPENDENT RESIDING WITH MOTHER 92 SEATON STREET TORONTO. IN GOOD HEALTH WRITING HUSBAND REGULARLY AT LEAST ONCE A WEEK AND SENDING THREE HUNDRED CIGARETTES PER MONTH. LAST LETTER RECEIVED FROM HUSBAND 8 JULY."

3. It is suggested that this soldier has no reason for anxiety in respect of his family.

(P.J. Montague) Major-General,
Senior Officer,
Canadian Military Headquarters.

EXHIBIT

A

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. B-74343 . Rank . Tpr. . Name . Delorme, J.D. . . .

Unit .H.Q.Sqd. 5th.C.A.B. . . . was arrested at . London. . .(Place)

at . 2359 . .(hour) on 5-Sept.43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~). Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

L. S. Grayson Capt.

. . . . . .f. Capt.

(W. Forn) D. A. P. M.,
London Area

This is Exhibit A referred to in the summary of Evidence of B 74343 Tpr Delorme J.D. taken before me this 28 day of September 1943

Jas J Black Lieut
Officer taking Summary

EXHIBIT B

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B74343 Rank Lpr. Name Delmore, J.D. Unit H.Q. 5 Armd Bde.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars 1/3 Portion	Amount		
6 Sept. 43	Escorts return fare from LONDON To Winchester		5	1
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Winchester		5	1
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		10	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/485(0287)

This is Exhibit B referred to in the Summary of Evidence of B 74343 Lpr Delmore J.D. taken before me this 21 day of September 1943

Jos J Black Lieut
Officer Taking Summary

PASS

EXHIBIT C

ARMY FORM B. 2[illegible]
(pads [illegible])

REGIMENTAL OR CORPS STAMP.

Regt. 7 K U Hussars

No. 67x343 Rank Tpr.

Name J. Delorme

has permission to be absent from his unit

from 1900 hrs 3-9-43 to 0900 hrs 0-9-43

O.C. G.P. Sales Co.

Commanding

H. A. Sgn. 5 (C.A.B.)

This is Exhibit C referred to in the Summary of Evidence of 15 Tpr 343 Tpr Delorme J.E.

1. From London District	4. Reporting Centre Aldershot	7. Ration Card Issued to bearer this 28 day of Sept 1943 Jas J Black Lieut
2. To London X	5. Eire/N. Ireland Destination Valid only with A.B. 64	8. For use of C.M.P. Officer Ceding Summary
3. Through London Yes	6. Nearest Hospital or Medical Unit 10th General (London)	9.

Items not applicable to be deleted and initialled by issuing officer vide A.C.I. 989/42 and any subsequent amendments.

P.T.O.

D

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY that No. B.74343. . Rank Tpr. . . Name Delorme, J.A. . . . .

Unit H.Q. Sqn. 5th Cdn Arm'd Bde. was arrested at London. . . . (Place)

at 1145 . . (hour) on 22 Sept. 43. (date) and that at the time of his arrest he was wearing (Military Uniform) or (xxxxxxxxxxxxxxxxxxxx Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

This is Exhibit D referred to in the Summary of Evidence of B74343 Tpr Delorme J A taken before me this 28 day of September 1943

London
22 Sept. 43.

[signature] . . . . . Capt.
(W. Fern) D. A. P. M.,
London Area

Jas J Black Lieut
Officer taking Summary

E

Ref: K.R. & O. (Can) 539

Expense Voucher Re—:

Reg. No. B74343 Rank Tpr. Name Delmore J.H. Unit 5 C.A.B.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount	
23 Sept 43	Escorts return fare from LONDON To Winchester	6	9
	Prisoners single fare to LONDON From Winchester To	5	1
	Prisoners fare from London		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	11	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

This is Exhibit E referred to in the Summary of Evidence of B74343 Tpr Delmore J.H. taken before me this 27 day of September 1943

Jas J Black Lieut
Officer Issuing Summary

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

Capt.

C.M.H.Q. [illegible]
[illegible]

F

CANADIAN ARMY OVERSEAS

LEAVE PASS

Pass No. 81 Date 22-9-1943

No. B 74343 Rank TROOPER Name DELORME J.W.

has permission to be absent from his unit from 0800 hrs. 22-9-43

to 0800 hrs. 30-9-43 for the purpose of proceeding to

London

This is Exhibit F referred to in the Summary of Evidence of B 74343 Tpr Delorme Jnt taken before me this 23 day of September 43.

Jas J Black Lieut R. H. Gordon Maj.

Officer taking Summary

O.C. H.Q. SQN. 8th CDN. ARMD. RGT. C.A.

Orderly Room Stamp (Unit Signature Stamp)

This is Exhibit G referred to in the Summary of Evidence of B74343 Tpr Delorme J. D. taken before me this 28 day Sep 43

Jan J. Blaad Grant

6

Statement of G 196 Cpl Hoyt J. E.

On the 4 Sep 43 I was ~~Wing~~ Squadron Orderly Corporal of E Squadron of #2 Training Wing of #3 C.A.C. R.O. of which Tpr B 74343 Tpr Delorme J. D was a member.

At 11 00 hrs of that day B 74343 Tpr Delorme J. D was required at E Squadron Orderly Room for an interview and I was sent to find him. I went to the hut where he was supposed to be but was unable to find him. I then searched through the lines & the buildings but could not locate him. I reported his absence to Sgt Gallagher F. P. the Wing Orderly Sgt. B 74343 Tpr Delorme J. D did not appear on any parade or answer his name on any roll call during the 4th 5th or 6th Sep 43 otherwise I would have known in my capacity as Orderly Corporal

J E Hoyt

G 196 Cpl J E Hoyt

This is Exhibit H referred to in the Summary of Evidence of B74343 Tpr Delorme J. D. taken before me this 28 day of September 1943

Jas J Black Lieut
Officer Taking Summary

Statement of K839 Sgt Gallagher F. P.

On the 4th Sep 43 I was Wing Orderly Sergeant of #2 Training Wing of #3 Canadian Armoured Corps Reinforcement Unit of which B74343 Tpr Delorme J. D was a member

At 1100 hrs of that day B74343 Tpr Delorme J. D was reported to me as being absent without leave. I entered this on the Tatoo report for that day He was also reported absent at reveille roll call on the 5 & 6 Sep 43 and during that time, in my capacity as Wing Orderly Sergeant, I know he did not appear on any parades of #2 Training Wing or answer his name on any roll call

Sgt. Gallagher F.P.
K839 Sgt F. P. Gallagher

This is Exhibit I referred to in the Summary of Evidence of B 74343 Tpr. Delorme J. D. taken before me this 28 day of September 1943

Jas J Black Lieut
Officer taking Summary

Statement of EVIDENCE in the case of

B-74343 Tpr. Delorme J.D.
H.Q.Sqd. 5th.C.A.B. 5th.Div.

- -

Sir,

At LONDON at about 2359 hrs. on the 5-Sept.43 I was on duty at the STRAND Y.M.C.A. in company with L/C.MONCKTON-HICKS when I had ocassion to check the a/m soldier for his pass. This he was unable to produce but when checking his M.B.M.1 the attached pass was found in it. I placed him under arrest and escorted him to No.6 Area Provost Coy. detention room where he was handed over to the N.C.O.i/c cells to be detained.

London.
6-Sept.43.

F. H. O'Brien L/C.
A-3788 L/C.O'BRIEN F.H.

Sir,

I have read over and corroborate the above statement

London.
6-Sept.43.

C R Monckton Hicks L/C.
L-55219 L/C.MONCKTON-HICKS R.

REMARKS

64.

CHARGE

Army Form B 252
(See King's Regulations)

5th.C.A.B. 5th.Div. — Regiment
H.Q.Sqd. — Battery / Squadron / Troop or / Company

CHARGE against No. B-74343 Rank Tpr.

Name DELORME J.D.

Place LONDON Date of Offence 5-Sept.43.

OFFENCE W.O.A.S. was A.W.L. from ?
until apprehended by the Cdn.Provost Corps at the
STRAND Y.M.C.A. LONDON at about 2359 hrs. on the
5-Sept.43. (2) Being in possession of a documents
purporting to be a genuine leave pass well knowing
it to be false, at the same time date and place.

Names of Witnesses:—

L/C.O'BRIEN F.H. #6 Area Provost Coy.

L/C.MONCTON-HICKS R. #6 Area Provost Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

[illegible] of B 74343 This is Exhibit K referred to in the Summary of Evidence of B 74343 Tpr Delorme, J.D. Cabin before me this 28 day of September 1943

K

Jas G Black Lieut
Officer Acting Summary

STATEMENT OF **EVIDENCE** IN THE CASE OF:

NO.B/ 74343 TPR.DELORME J.D.
"HQ"SQUADRON
5th.CANADIAN ARMOURED BRIGADE
WINCHESTER

Sir,

At LONDON on the 22 SEPT.1943 at 1145 Hrs,I was on m/c patrol in company with L/C.W.DYETT,C.M.POLICE in WALM LANE where I asked the above named soldier for his pass. He produced the attached CFA 24 which did not appear genuine. I then asked him for his M.R.M.Pts.1 & 2. The last entry in his Pt.2 (also attached)did not appear to be genuine either. I told DELORME that I was not satisfied and that I would detain him pending investigation. I conducted him to the WILLESDEN GREEN POLICE STATION where he said;"That pass is phoney and so is the last entry in my pay book" He was then handed over to a CANADIAN PROVOST escort to be detained.

[illegible] Short L/C.
C.M.POLICE

LONDON
22 SEPT.1943

Sir,

I have read over and corroborate the above statement.

REMARKS

W.S. Dyett L/CPL.
C.M.POLICE

LONDON
22 SEPT.1943

1852

Army Form B 252
(See King's Regulations)

CHARGE

5th.CANADIAN ARMOURED BRIGADE — Regiment

"B" — Battery / Squadron / Troop or Company

CHARGE against No. D/ 74343 Rank TPR.

Name DELORME J.D.

Place Date of Offence

OFFENCE N.O.A.S.(1)ABSENT from...until apprehended by the Military Police at 1145 Hrs.at WALM LANE LONDON on the 22 SEPT.1943.(2)Being in possession of and producing a C.F.A. 24 knowing same to be false. (3)Being in possession of an M.S.B. Pt.2 knowing same to contain false entries at the same time & place.

Names of Witnesses: L/C.A.E.SHORT C.M.POLICE
L/C.W.STETT C.M.POLICE

J. H. Thurn Capt

Signature of O.C. Battery, Squadron, Troop or Company — D/ ASSISTANT PROVOST MARSHAL LONDON

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30186 Wt.W21274 1943 2,000,000 10-42 M. & H. Ltd. G657/47

Summary of evidence in the case of B-74343 Tpr. John Douglas DELORME, Headquarters Squadron (7/XI Hussars) 5 Canadian Armoured Brigade, Canadian Army Overseas, charged with :

Absence without leave from 4 Sep 43 to 5 Sep 43.

Conduct to the prejudice of good order and military discipline in having in his possession a false pass.

Absence without leave while in close arrest from 6 Sep 43 to 22 Sep 43.

Conduct to the prejudice of good order and military discipline in having in his possession a false pass.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

K-70476, Sgt. Bone, W.R., H.Q. Sqn (7/XI H) 5 Cdn Armd Bde, having been duly sworn, states:

I am Orderly Room Sergeant for H.Q. Sqn (7/XI H) 5 Cdn Armd Bde of which B-74343 Tpr. Delorme, J.D., whom I recognize as the accused in this case, was a member. On the 25 Aug 43 he was sent to No. 3 Canadian Armoured Corps Reinforcement Unit for purposes of attending a course assembling 5 Sep 43 and was attached there for all purposes. On the 6 Sep 43 he was returned to the Unit under close arrest. Later that day I learned that B-74343 Tpr. Delorme, J.D., had escaped. I did not see him again until 23 Sep 43 when he was returned to the Unit under close arrest.

I present the following documents in this case :-

Certificate in accordance with P.C. 2797 signed by Captain L.S. Grayson for D.A.P.M. London Area.

Expense Voucher to the sum of ten shillings and two pence certified by Captain W. Fern.

AFB 295 made out to B-74343 Tpr. Delorme, J.D., from 0900 hrs 3 Sep 43 to 0900 hrs 10 Sep 43 signed by 'Captain G.P. Baker, O.C. HQ Sqn, 5 C.A.B.'. This pass does not bear the impression of an Orderly Room stamp.

Certificate in accordance with P.C. 2797 signed by Captain W. Fern. D.A.P.M. London Area

Expense Voucher dated 23 Sep 43 to the sum of eleven shillings and ten pence certified by Captain W. Fern, ~~D.A.P.M. London Area~~

CFA 24 made out to B-74343 Tpr. Delorme, J.D., from 0800 hrs 22 Sep 43 to 0800 hrs 30 Sep 43 signed by 'Major R.M. Gordon, O.C. HQ Sqn, 5th Cdn Armd Bde'.

The AFB 295 which purports to be a pass made out by Captain G.P. Baker as O.C., Headquarters Squadron 5 Cdn Armd Bde is not a form which has ever been in use in this Squadron.

The CFA 24 is the ordinary pass form that is used in the Squadron but the signature of R.M. Gordon, Major, OC HQ Sqn 5th Cdn Armd Bde, is a fictitious name as there is no such officer on our strength.

The accused declines to cross examine this witness.

(K-70476 Sgt. Bone, W.R.)

The Documents referred to by the witness are produced, read

over to the accused and marked Exhibits "A", "B", "C", "D", "E", "F", respectively, signed by me and attached hereto.

Jas J Black Lieut
(Lieut J.J. Black)
Officer Taking Summary

Second Witness

G-196, Cpl. Hoyt, J.E., No. 3 Canadian Armoured Corps Reinforcement Unit.

Document purporting to be a signed statement of the evidence of G-196 Cpl. Hoyt, J.E., No. 3 Canadian Armoured Corps Reinforcement Unit, was read over to the accused, marked Exhibit "G" and attached hereto.

I certify that in my opinion owing to the exigencies of the service including the time & expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured

Jas J Black Lieut
(Lieut J.J. Black)
Officer Taking Summary

Third Witness

K-839, Sgt. Gallagher, F.P., No. 3 Canadian Armoured Corps Reinforcement Unit.

Document purporting to be a signed statement of the evidence of K-839 Sgt. Gallagher, F.P., No. 3 Canadian Armoured Corps Reinforcement Unit, was read over to the accused, marked Exhibit "H" and attached hereto.

I certify that in my opinion owing to the exigencies of the service including the time & expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured

Jas J Black Lieut
(Lieut J.J. Black)
Officer Taking Summary

Fourth Witness

A-3788, L/Cpl. O'Brien, F.H., No. 6 Area Provost Coy.

Document purporting to be a signed statement of the evidence of A-3788 L/Cpl. O'Brien, F.H., was read over to the accused and marked Exhibit "J" and attached hereto.

I certify that in my opinion owing to the exigencies of the service including the time and expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

Jas J Black Lieut
(Lieut J.J. Black)
Officer Taking Summary

Fifth Witness

B-61316, Sgt. Harrison, S.H., H.Q. Sqn, 5th Canadian Armoured Regiment (8th New Brunswick Hussars), having been duly sworn, states :-

I am a sergeant in the H.Q. Sqn of the 5th Canadian Armoured Regiment (8th NBH). At 1900 hrs of 6 Sep 43 I took charge of the camp guard of 19 men. I checked the prisoners in the guardroom and B-74343 Tpr. Delorme, J.D., whom I recognize as the accused in this case was one of the prisoners present.

The guardroom consists of an outer or ante room with a door leading off into a second room which contains a number of cells.

A.H.H.

From this second room there is a door leading outside into a barbed wire enclosure. This door was not able to be locked as the lock was out of repair.

When I checked the prisoners at about 1900 hrs Tpr. Delorme and another prisoner whose name I do not recall were in this second room outside their cells. The other prisoner was at a table scrubbing his web and Delorme was standing beside him.

I returned to the anteroom and checked over the guard reports and remained there until the prisoner who was cleaning his web called me to put him back in his cell. When I went to do this I found that Tpr. Delorme was no longer in the room and on asking the prisoner where he was he said he thought he had stepped out into the enclosure for a leak. The lavatory for the prisoners was located in this enclosure. I immediately checked outside but Tpr. Delorme was not there. I then searched all through the guardhouse and not being able to locate him reported to the R.S.M., the Orderly Officer and Adjutant of the 5th Canadian Armoured Regiment (8 NBH). I then sent two of the men on guard to check the Naafi and two more to search his Unit's huts and lines but both reported that they could find no trace of him. The time I discovered Tpr. Delorme to be missing was 2015 hrs.

The accused declines to cross examine this witness.

S.H. Harrison

(B-61316 Sgt. Harrison, S.H.)

Sixth Witness

6208656 L/Cpl. Short, A.E., Corps of Military Police.

Document purporting to be a signed statement of 6208656 L/Cpl Short, A.E., C.M. Police, was read over to the accused, marked Exhibit "K" and attached hereto.

I certify that in my opinion owing to the exigencies of the service including the time and expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

J.J. Black Lieut

(Lieut J.J. Black)
Officer Taking Summary

Seventh Witness

B-74733 Sgt. McConnell, H.E., H.Q. Sqn (7/XI H) 5th Cdn Armd Bde, having been duly sworn, states :-

I am the Troop Sergeant in H.Q. Sqn (7/XI H) 5th Cdn Armd Bde in which B-74343 Tpr. Delorme, J.D., whom I recognize as the accused in this case, was a member.

On the 6 Sep 43 B-74343 Tpr. Delorme, J.D., was returned to the Squadron under close arrest. The same day he went absent without leave. I called his name at Roll Call at all parades of my troop from the 6 Sep 43 until the 23 Sep 43 and during that time he did not appear on any parades or answer his name on any Roll Call.

The accused declines to cross examine the witness.

H.E. McConnell

(B-74733 Sgt. McConnell, H.E.)

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused: I have nothing to say at this time.

The accused declined to call witnesses in his behalf.

I certify that Rules of Procedure 4 C. D. E. F. and G. have been complied with.

Taken by me in the field in the presence and hearing of the accused this 28th day of September 1943.

Jas J Black Lieut

(Lieut J.J. Black)
Officer Taking Summary

No B74343 Name Delorme, J.D. | Sqn., Battery, or Company | Corps | Date of enlistment 27-5-40 | G.C. Badge | Service or Proficiency Pay | (A.F. B.122) 40/P & /5136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc. J.M.Grant, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden.	28-2-41	Pte	Nil	AA 15(1) AWL from 2130 hrs 28-2-41 to 1720 hrs 10-3-41 (9 days 9 hrs 50 min.)	Cpl.Bremner Cpl.Charlton	5 days C.B.	10-3-41	Major R.L. Dinsmore	Fts 10 days F.R.&.L.
Camp Borden.	21-3-41	Pte	Nil	AA 15(1) AWL from 2130 hrs 21-3-41 to 0850 hrs 24-3-41 (59 hrs 20 min.)	Cpl.Ingram Sgt.Fletcher	14 days C.B.	25-3-41	Major.R.L. Dinsmore.	Fts 3 days F.R.&.I.
Camp Borden.	6-4-41.	Pte.	Nil	(1) AA 15(2) Failing to appear at the place of parade i.e. absent off defaulters parade at 2200 hrs (2) AA 15(1) AWL from 2200 hrs 6-4-41 to 0630 hrs 7-4-41 (8 hrs 30 min.)	Cpl.Ingram Cpl. Charlton	4 days C.B.	8-4-41	Major.R.L. Dinsmore.	

CERTIFIED TRUE COPY. J.M.Grant.Major. O.C.Hq.Sqn.(7/11 H) 5th.Cdn.Armd.Bde. (F.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brantford	13-7-41	Tpr	Nil	AWL from 2359 hrs 3-7-41 to 2315 hrs 14-7-41 (23 hrs 44 min) A.A.15(1)	Cpl.Waters Pte.Coe.	2 days C.B.	14-7-41	Major Curtis.	Fts 1days pay
Brantford.	2-7-41.	Tpr	Nil	AWL from 2359 hrs 20-7-41 to 2359 hrs 9-8-41 (Absent 20 days) A.A.15 (1)	Pte.Runnals Cpl.Waters.	28 days Detention	11-8-41	Mjr.Harris	Fts 20 days pay F.R.&.I.
In the Field.	18-3-42.	Tpr.	Nil	A.W.L.from 0645 RollCall on 18 March 42 A.A. 15 (1)	Cpl.Smith Cpl.Allan.	3 days C.B.	18-3-42	Major.J.W. Eaton.	
In the Field.	4-6-42	L/Cpl.	Nil	Disobeying a lawful command given by his superior officer did not appear on parade when ordered to do s o.	SSM Raven Cpl.Allan.	Reverts to rank of Trooper.	8-6-42	Major.J.W. Eaton.	
In the Field.	28-8-	Tpr	Nil	Conduct to the prejudice. etc. (1) Improperly dressed (2) Failed to comply with an order.	Documentary	5 days C.B.	29-8-42	Major.P. Templeton.	

M.F.M. 6
(A.F. B.122)
40/P & /B130 (2065)

No. B74343 Name Delorme.J.D. | Sqn., Battery, or Company | Corps | Date of enlistment 27-5-40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. J.M.Grant.Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field.	29-8-42	Tpr.	Nil.	Conduct to the prejudice, etc., broke out of lines whilst under going C.B. A.A.40.	Sgt.Howland Sgt.Sims.	7 days C.B.	3-9-42	Major.P. Templeton	
In the Field.	7-11-42.	Tpr.	Nil	Neglect to the prejudice, etc. failed to clean his rifle.AA 15	SSM Raven. Sgt.Howland.	5 days pay FRI 149(a) 7 days.C.B.	9-11-42	Major.P. Templeton.	
In the Field.	3-7-43	Tpr.	1.	A.A.Sec.15(1):AWL from 2230 hrs 3-7-43 to 0600 hrs. 5-7-43 (Absent 1 day 7½ hrs.)	Sgt.Cameron	3 days pay 7 days.C.B.	5/7/43	Major.J.M. Grant.	Forfeits 2 days pay F.R.&L.

CERTIFIED TRUE COPY.

J.M.Grant.Major. O.C.Hq.Sqn.(7/X1 H) 5th.Cdn.Armd.Bde.

M.F.B. 355
22M—5-41 (572-2)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-74343	Tpr	DELORME, John Douglas	H.Q. Sqn (2/XI H) 5th Cdn Armd Bde

1. The following is a fair and true summary of the entries in the Regimental Record Squadron, Battery Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L.	One times	Seven times
For Drunkeness	One times	One times
For Neglect to the Prejudice	times	Three times
For Disobeying a lawful Command	One times	One times

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 11 days in military custody, making a total of 11 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 yrs, 6½ mos.

6. The date of his attestation specified in his attestation paper is 27 May 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 5 mos.

8. The accused is entitled to reckon 3 yrs 4 mos. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

11/ (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit, dated ..... and in his regiment (or corps), the rank of ..... dated .....

12/ The accused has served as a non-commissioned officer continuously, without reduction, to the present date, to wit:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with, of accused, Number, Rank, Unit, Regiment, Name.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
XXX	XXX	XXX	XXX	XXX

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of September, 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

List of Witnesses in the case of

B-74343 Tpr. DELORME, J.D.

For the Prosecution

1.	K-70476	Sgt. Bone, W.R.	H.Q. Sqn (7/XI H) 5th Cdn Armd Bde
2.	G-196	Cpl. Hoyt, J.E.	No. 3 Canadian Armoured Corps Reinforcement Unit.
3.	K-839	Sgt. Gallagher, F.P.	No. 3 Canadian Armoured Corps Reinforcement Unit.
4.	A-3788	L/Cpl O'Brien, F.H.	No. 6 Area Provost Coy.
5.	B-61316	Sgt. Harrison, S.H.	H.Q. Sqn, 5th Cdn Armd Regt. (8th NBH)
6.	6208656	L/Cpl Short, A.E.	Corps of Military Police.
7.	B-74733	Sgt. McConnell, H.E.	H.Q. Sqn (7/XI H) 5th Cdn Armd Bde

For the Defence

Nil

List of Exhibits in the case of

B-74343 Tpr. DELORME, J.D.

EXHIBIT "A"	Certificate in accordance with P.C. 2797 of 10 Apr signed by Captain L.S. Grayson for D.A.P.M., London Area.
EXHIBIT "B"	Expense Voucher to the sum of ten shillings and two pence certified by Capt. W. Fern.
EXHIBIT "C"	AFB 295 made out to B-74343 Tpr. Delorme, J.D., from 0900 hrs 3 Sep 43 to 0900 hrs 10 Sep 43 signed by Captain G.P. Baker O.C. HQ Sqn, 5 C.A.B.
EXHIBIT "D"	Certificate in accordance with P.C. 2797 of 10 Apr and dated 22 Sep 43 signed by Captain W. Fern, D.A.P.M. London Area.
EXHIBIT "E"	Expense Voucher dated 23 Sep 43 to the sum of eleven shillings and ten pence certified by Captain W. Fern.
EXHIBIT "F"	CFA 24 made out to B-74343 Tpr. Delorme, J.D., from 0800 hrs 22 Sep 43 until 0800 hrs 30 Sep 43 signed by Major R.M. Gordon O.C. H.Q. Sqn 5th Cdn Armd Bde.
EXHIBIT "G"	Statement of Evidence signed by G-196 Cpl. Hoyt, J.E., No. 3 Canadian Armoured Corps Reinforcement Unit.
EXHIBIT "H"	Statement of Evidence signed by K-839 Sgt. Gallagher, F.P., No. 3 Canadian Armoured Corps Reinforcement Unit.
EXHIBIT "J"	Statement of Evidence signed by A-3788 L/Cpl. O'Brien, F.E., No. 6 Area Provost Coy.
EXHIBIT "K"	Statement of Evidence signed by 6208656 L/Cpl. Short, A.E., Corps of Military Police.

STATEMENT OF ACCUSED

I desire the Convening Officer to detail an officer to represent me at my forthcoming trial by Field General Court Martial.

(B-74345 Tpr. Delorme, J.D.)

H-143.

Dr. Delorme O.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B74343, Tpr John Douglas DELORME, 3 CACRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 22	Guilty	Guilty	
2nd	AA Sec 12(1)	(a) "	"	
3rd	AA Sec 15(1) (Alternative)	Withdrawn		
4th	AA Sec 22	Guilty	Guilty	
5th	AA Sec 10(2)	Not Guilty	Not Guilty	
6th	AA Sec 15(1)	Guilty	Guilty	
7th	AA Sec 24(2)	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

At present under sentence for 9 months det'n beginning on (date) 21 Apr 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo imprisonment for a period of two (2) years and to be discharged with ignominy from His Majesty's Service and to be put under stoppages of pay until he has made good (1) £2-10-6, the expenses of his return to his unit and (2) $16.31 value of his kit lost by neglect.

(Sgd) [redacted] 11 Dec 44 (Sgd) (????) Lt. Col.
Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed. (See attached endorsement) E.W.

[redacted] TJR
(1. AA 57A. Delete if not used.)

(Sgd) T J Rutherford, Brigadier.

Date Dec 12, 44

Commanding E Gp, CRU
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B74343 Tpr Delorme, J.D.	14 Dec 44	(sgd) J. T. Davies Capt. Adjutant 3 C.A.C.H.U.

PART II D.O. NO. 291 - 18 Dec 44.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Returned 2.45 p.m. 1944 16 Dec 44 Cmd HQ

Recorded at CMHQ in AB160 4H-143

CFA96 (In lieu of AFA3) 40/P & S/1898 (A1(2)) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig T J Rutherford Comd "E" Gp, CRU dated 8 DEC 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-74343	Tpr	John Douglas	DELORME	3 CACRU

PROCEEDINGS REVIEWED
(sgd) F Des Rivieres Lieut.
AVM.
26 Dec 44,
Reviewing Officer, JAG BRANCH

Certified true copy of original proceedings herein.
J.A.G. Rev. 5

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) England on (date) 11 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, [redacted], and Offrs under instr. [redacted], assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 16, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet [X] attached thereto.(1)

R The Court is satisfied that it is properly convened and constituted(2), accused is [X] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is [X] brought before the Court. At 1115 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is [X] fit to undergo trial by court-martial.(1)

R [redacted]

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. President to accused: [redacted] Do you object to Sgt. Sholtz as shorthand writer? Ans No sir

R [redacted] The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

R A7. The President, Members, [redacted], and Offrs under instr. [redacted], are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt. Col.	D. L. Redman, V.D.	HQ CRU
Member	Capt.	C. F. Whelpley	3 CACRU
Member	Lt.	D. Guest	1 CACRU
R. [redacted]			
Prosecutor	Capt.	M. L. Magill	3 CACRU
Defending Offr	Major	J. G. Perrigard	3 CACRU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 1 were not followed. See DI p 3.)

R A8. The accused [redacted] before arraignment make(s) (no) [redacted] (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

R A9. The accused is [X] arraigned [redacted] on all charges in the charge sheet.(1) The accused does [X] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [redacted] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D and B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

R EXCEPT 5TH CHGE

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~and JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

See note att.

R B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to that Guilty on the charge(s). The accused is(are) so informed, and he (they) changes(s) his (their) plea(s) to~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

The Prosecutor withdraws the 3rd (Alt) charge

B4. On the charge(s) to which the plea(s) of Guilty was (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

R C2. The charges on which accused pleaded GUILTY are read to him ~~(xxx)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5th

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(xx)~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) Note Att.

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s) (2). The Court is closed, and considers the submission(3). The Court is reopened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and directs that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans To give evidence . Do you intend to call witnesses on your behalf ?

R Ans No sir . Another witness or two character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

R D7. The Court is closed to consider the finding(s) (1). The finding(s) of the Court is ~~(xx)~~ recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

R D8. The President announces the finding(s) ~~(xx)~~ of Not Guilty, and states to the accused that the finding(s) of the Court on to the 5th charge

R ~~the charge(s) subject to confirmation will be promulgated (1) on the President announces that the accused is found Not Guilty and discharges the accused accordingly, and that the sum(s) ordered to be paid by Part I of the Schedule is (are) not to be paid, and such sum(s) are accordingly remitted.~~

(1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(2), RP 45, 142. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

continued

R D9. ~~The accused having been found Guilty on more than~~ the proceedings are ~~concluded~~ by using Record Form ~~(xxxx)~~ B above

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

R E2. The Prosecutor produces Statement(s) ~~(xx)~~ as to Character and Particulars of Service(1), and certified true copy ~~(xxxx)~~ of Conduct Sheet(s) ~~(x)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's ~~(x)~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)

(1. MFB 255 or MFB 296. 2. MFDM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

R E3. President to accused : Do you wish to address the Court on the Statement(s) ~~(x)~~ and Conduct Sheet(s) ~~(x)~~, and in mitigation of punishment ?(1) Ans By Def Offr Note Att.

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which

R is dated and signed by him ~~(xxxxxxxxxx)~~.

(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 46, 47 and its proviso, in so far awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 358, 530, 563-566, Overseas AO 309, 2203, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest for Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see insetrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

EW.

The sentence passed by this court and duly confirmed being invalid, I, the undersigned, being an authority having the power to commute the punishment awarded by the sentence if it had been valid, do hereby pursuant to RP 54(C) pass the following sentence - "To undergo imprisonment for a period of two (2) years less forty (40) days and to be discharged with ignominy from His Majesty's Service and to be put under stoppages of pay until he has made good (1) £2.10.6 the expenses of his return to his unit and (2) $16.31 value of his kit lost by neglect", which shall have the same effect as if passed by the court-martial.

(sgd)
E.G. Weeks, Major-General,
i/c Administration
Canadian Military Headquarters.
29 Jan 1945

C H A R G E S H E E T

The accused, B.74343 Tpr John Douglas Delorme, on strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
AA Sec 22

WHEN IN CONFINEMENT, ESCAPING

in that he

at Blackdown, Hants, at 0600 hrs 21 Apr 44 when in confinement in the Unit guard room at No. 3 CACRU, escaped.

SECOND CHARGE
AA Sec 12(1)(a)

DESERTING HIS MAJESTY'S SERVICE

in that he

at Blackdown, Hants, at 0600 hrs 21 Apr 44, absented himself from No. 3 CACRU until apprehended by the Corps of Military Police at Sheffield, at 2310 hrs 16 Jun 44, dressed in plain clothes.

THIRD CHARGE
ALTERNATIVE
AA Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 3 CACRU, absented himself without leave from 0600 hrs 21 Apr 44 until he was apprehended by the Corps of Military Police at Sheffield, at 2310 hrs 16 June 44. (Total time absent, 56 days, 17 hrs, 10 mins).

FOURTH CHARGE
AA Sec 22

WHEN IN CONFINEMENT, ESCAPING

in that he

at Sheffield, at 1435 hrs 20 Jun 44, when in confinement in Somme Barracks, escaped.

FIFTH CHARGE
AA Sec 10(2)

STRIKING A PERSON IN WHOSE CUSTODY HE WAS PLACED

in that he

At Somme Barracks, Sheffield, at 1435 hrs 20 Jun 44, when in custody, did kick several times on the shin and did strike several severe blows on the chest 13115867 L/Cpl Nuttall, J., NCO IC guard in whose custody he was being held.

SIXTH CHARGE
AA Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Sheffield, absented himself without leave from 1435 hrs 20 Jun 44 until he was apprehended by Detective Officer Arthur Sansby of the Leeds City Police in Leeds at 0930 hrs 14 Nov 44. (Total time absent, 146 days, 18 hrs, 55 mins).
Cost of apprehension and return to Unit £2-10-6.

SEVENTH CHARGE
AA Sec 24(2)

LOSING BY NEGLECT HIS EQUIPMENT & REGIMENTAL NECESSARIES

in that he

at Blackdown Hants, on 28 Nov 44, was deficient the following articles:

DLR

--- page 2 ---

		100% Vocab Price	75% Unexpired Wear Price
Trousers, Battle Dress	1	5.39	4.04
Blouses, " "	1	5.25	3.94
Boots, Ankle, prs.	1	5.46	4.09
Socks, prs.	1	.37	.28
Caps, Tank Battalion	1	1.00	.75
Badges, cap	1	.09	.07
Shirts, angola drab	1	2.03	1.52
Haversack, w.e.	1	1.79	1.34
Razor Safety w/Blade	1	.06	.04
Towels, hand	1	.32	.24
		21.76	16.31

In the Field,
6 DEC 44.

"G W Little"
(sgd) G. W. Little, Colonel
Commanding Officer
3 CACRU

To be tried by Field General Court-Martial.

(sgd) T J Rutherford
T. J. Rutherford, Brig
Comd
"B" GP CRU

In the Field,
8 DEC 44.

DLR.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to seperate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-74343	Tpr	John Douglas	DELORME	3 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 DEC 44 endorsed by me, (acting on the advice of my staff for this), "To be tried by Field General Court-Martial". TJR

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ TJR
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. TJR

4. ~~I duly enable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have and I so hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) TJR

5. ~~I thus appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lieut. Col. (Rank.)	D. L. Redman, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Capt	C F Whelpley	3 CACRU
Lt (Rank.)	D Guest (Named or detailed. RP 106.)	1 CACRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 8 Dec 44

"T J Rutherford"
(sgd) (T. J. Rutherford) Brig (Rank.)
(Signed personally. RP 105 fn 2.)

Commanding "E" (P) CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (CF Pam 13a Part of AFAS) (C.F. & G./1661) (4851)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the *pars* in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A.* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 96(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 562(*a*).)

(vii) Summing up by J.A., if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A., if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A., if any, and then pinned by top left corner to p 2 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 93(*D*).) A recommendation for mercy will be inserted in Part 1 of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML p* 759.)

4. The President or J.A., if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

Medical Officers' Certificate
KR (Can) para 557.

I certify that I have this morning examined:-

Regt'l No. B.74343 Rank Tpr, Name Delorme, J.D.

of 3 CACRU (unit) and in my opinion he is

AST. # fit to undergo trial by Court Martial
~~Unfit~~

#(cross out one N/A and initial)

Station: In the field

Date (of Court Martial)11-12-44

Sgd. A. S. Tompkins Capt (Rank)
Unit
Medical Officer, RCAMC

TJR.

F.G.C.M. IN THE CASE OF

B. 74343 Tpr DELORME, J.D., 3 CACRU

11 DEC 44

ACCUSED PLEAD Guilty to the 1st Charge, guilty to the 2nd Charge, Prosecutor withdrew the 3rd Charge (alternative to 2nd), accused plead guilty to 4th Charge, Not guilty to 5th Charge, Guilty to the 6th Charge and guilty to the 7th Charge.

TRIAL ON THE 5th CHARGE

EVIDENCE FOR THE PROSECUTION D-3

1st WITNESS FOR THE PROSECUTION
13115287 L/Cpl Nuttal, J., on strength 512 Coy Pnr Corps, having been duly sworn states:

I was NCO in charge of the guard room at Somme Barracks in Sheffield on the 20 Jun of this year. Amongst some of the prisoners was one that I see here he is the accused in this Court. At about 1430 hours on the 20 Jun 44 I let nine prisoners out on exercise parade, I posted my guard at the different points where it was possible for the prisoners to escape. At about 1435 hours the MO came in and I went with him into the guard room to sign the sick book. I heard a scuffle in the yard outside and I went out. As I got out two of the prisoners had already got out and another two were just going through the gate. I grabbed the one that was actually in the gate and put my arms around him so that he could not move, the accused was hitting another fellow in the corner and when he finished with him he came to me and hit me in the mouth and broke my teeth and then kicked me in the shins, I had to let go the other fellow and he got away. Besides kicking me in the shins the accused, Pte Delorme, hit me in the mouth, cut my lip and hit me in the chest. He was dressed in civilian clothes with a rain coat on and no hat.

CROSS EXAMINATION BY THE DEF OFFR

Q You state that the accused was dressed in civilian clothes, what sort of shoes had he on?
A He was wearing civilian low cut shoes.

Q Did they have rubber soles on?
A I cannot say sir.

Q Were you in the guard room when the accused tried to escape?
A Yes sir, with the MO.

Q And when you came out four prisoners were trying to escape?
A Two had gone, I saw two more trying to get away.

Q Who were these two?
A Pte Delorme and Kilrey.

Q Was Pte Smith one of the guards?
A Yes sir

Q Was he fighting with the accused?
A He was the one that was trying to keep the accused from escaping. The accused finished with Smith and came over and hit me.

Q In the Summary you say that the accused only kicked you on the shins, now you tell us he hit you several times, is that so?
A Yes sir, but he did hit me.

Q Why did he hit you?
A I tried to stop him or I was in his way, I could not run after him after he kicked me, I had to have my legs fixed up.

DLR.

Q There were four escaped altogether, two before you got out and two later, is that right?
A. Yes sir.

Q. Are you sure that one of the two first ones was not the accused?
A. I am quite sure sir that the accused was the last to get away. He came and hit me and I had to leave loose of the prisoner I was holding onto, and lost him also.

In the opinion of the Court it is unnecessary to comply with RP 83(B).

CASE FOR THE PROSECUTION IS CLOSED

EVIDENCE FOR THE DEFENCE D-6.

1st WITNESS FOR THE DEFENCE
The Accused, duly sworn states:

Q. Did you hit or did you not hit L/Cpl Nuttal?
A. No sir. When we broke for the gate the L/Cpl was inside and there were two of his that got through to the gate and through it together and one of the troopers on guard hit me on the head with a big stick and I was able to get by him with the other prisoner and out of the yard before the L/Cpl came back. I was the second man out the gate. There were two or three other fellows in the gate or trying to get through the gate and I was quite sure that the guards would not be able to get out and follow me. I had seen L/Cpl Nuttal around the guard room before and I am sure that he was not there when I left, I did not hit him, I did not hit anyone for that matter.

Q. Would you know who did strike the L/Cpl?
A. No sir, I was out of the gate and did not see any one strike him, it was rather confusing at the time, there were a lot of the fellows trying to get out but I made sure that I got out, I was not interested in what was happening to the others, I was not trying to form a rear guard for any other people trying to escape. I am positive that the first man out was a little fellow in civilians, he was not a soldier, I was the only Canadian there and I was in civilians.

CROSS EXAMINATION BY THE PROSECUTOR

Q. What civilians were you wearing?
A. A pair of civilian trousers and blue coat and a rain coat, I did not have a hat on.

Q. How many other people were there wearing civilians there?
A. Three or four.

Q. Why do you think that he has mistaken you for somebody else that did hit him and kick him?
A. Because I simply did not do it.

In the opinion of the Court it is unnecessary to comply with RP 83(B).

CASE FOR THE DEF IS CLOSED

PROSECUTOR SAID HE HAD NOTHING TO SAY ON THE FINDING

DEF OFFR SAID HE HAD NOTHING TO SAY ON THE FINDING

COURT IS CLOSED TO CONSIDER THE FINDING

COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE ACCUSED IS FOUND NOT GUILTY ON THE 5TH CHARGE.

DLR

PLEA IN MITIGATION

Sir,

The accused today is a man of 22 years old. He joined at the age of 18 years. His home life has been one of the very very sad ones, at the age of 12 years his mother and father separated. His family of two boys and two girls was broken up and also separated. The accused and his brother were sent to Peterborough to an orphanage. He stayed there one year and when 13 years old left, and went from relation to relation, however they had families of their own and could not keep and provide for him, he actually spent his life from 13 to 18 in the bush. I need not go into detail as to the meaning of that, but I am sure that the Court knows that it is a hard life and not always in the best of company. However during that 18 years of life he did not have an offence, he had been in not police court or other trouble with the authorities. He enlisted like all other young men in Canada have done, he did so in May 1940, he came to England hoping to get to the way in May 1941, up to this time he had had no offences, and he left a newly married wife who was but 16 in Canada. His first charge, an AWL, like too many of our soldiers probably the result of inactivity and a browned off feeling. His only brother is in the 48 Highrs, he went to Italy with the 1st Cdn Div. This brother wrote regularly each month, and now for a long time the accused has had no word from this brother, he has heard a rumour that his brother has been killed. I have a statement from the MO of this Unit I would ask the Court to read, which relates to the accused.

I ask the Court to look upon this young man, not as a criminal, but as a man who lived his life in the open with no restraining hand upon him. He enlisted voluntarily and came over here to fight in a war. He is actually anxious to get into action, now with the added desire to revenge his brother's death. I feel quite sure that if he were sent to the front and given the most dangerous jobs he would carry out his duties in such a way as to atone for all his mis-deeds in the eyes of the army. I ask that you give him this chance.

COURT IS CLOSED TO CONSIDER THE SENTENCE.

NOTE B-2.

After the accused had plead guilty to the 2nd Charge, that of Desertion, the President pointed out to the Def Offr that upon that plea the Court could sentence the accused to suffer penal servitude for a term between three years and life, and suggested that he and the accused should re-consider the plea. The Def Offr answered that he and the Accused had considered the plea and understood the nature of the punishment which might be awarded, but were still content with the plea of guilty to the 2nd Charge, that of Desertion.

DLR.

STATEMENT BY CAPT A.D. TOMPKINS MEDICAL OFFICER OF #3 C.A.C.R.U. WITH REGARD TO B74343 TPR JOHN DOUGLAS DELORME #3 CDN ARMOURED CORPS.

I have interviewed B74343 Tpr John Douglas Delorme and in my opinion his alleged actions have been largely due to his insecurity of home life, and his long period of inactivity since enlistment, as he has beenquite eager for front line duty. This man would probably be a good soldier if his desire for field operations were satisfied.

(sgd) A. D. Tompkins
(A. D. Tompkins) Capt
RCAMC
M.O. #3 C.A.C.R.U.

D.L.R.

Summary of evidence in the case of B.74343 Tpr Delorme, J.D., a soldier of the Canadian Army Overseas, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for the Prosecution

F.29960 L/Cpl Deighan, E.C. of No. 3 Canadian Armoured Corps Reinforcement Unit Regimental Provost, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states:-

I went on duty at 2359 hrs 20 April 44 as NCO in charge of the Unit Guard Room. B.74343 Tpr Delorme, J.D. was being held in custody awaiting promulgation of sentence. At 0600 hrs 21 April 44 I sent B.4492 Tpr Hopkins, T.L. with four prisoners to bring the prisoners' breakfast, at the same time I left Tpr Delorme in guard room enclosure to wash. When Tpr Hopkins marched the prisoners out of the guard room I proceeded to the main door to close it. On returning to the enclosure I found Tpr Delorme missing. I immediately proceeded to the latrine which is situated in the enclosure and found that Tpr Delorme was not there. I also checked the prisoners cells and found that he was not there. When Tpr Hopkins returned with the breakfast I put him in charge of the guard room and went outside to search for the prisoner but could not find him. I reported the escape to the duty officer.

The accused declines to cross-examine the witness.

(sgd) E. C. Deighan
F.29960 L/Cpl Deighan, E.C.

Second Witness for the Prosecution

5875944 L/Cpl Bland, A. of the Corps of Military Police, on strength of 151 HQ Provost Company, C.M. Police, Sheffield.

I certify that in my opinion the attendance of this witness is owing to the exigencies of the service, not readily procurable and a written statement of his evidence purporting to be signed by him, has been read to the accused and is attached hereto as exhibit "A".

(sgd) (G. Dodds) Capt.
Officer detailed to take Summary of Evidence.

I do not require the attendance of this witness for the purpose of cross-examination.

(sgd) J. D. Delorme.
B.74343, Tpr Delorme, J.D.

Third Witness for the Prosecution

13115287 L/Cpl Nuttall, J. NCO in charge of guard at Somme Barracks, on strength 512 Coy. Pioneer Corps.

I certify that in my opinion the attendance of this witness is owing to the exigencies of the service, not readily procurable and a written statement of his evidence purporting to be signed by him has been read to the accused and is attached hereto as exhibit "B".

(sgd) (G. Dodds) Capt., Officer detailed to take Summary of Evidence.

DLR.

I do not require the attendance of this witness for the purpose of cross-examination.

"J.D. Delorme"

(sgd) B.74343 Tpr Delorme, J. D.

Fourth Witness for the Prosecution

Lt J.O. Racicot, on strength of No 3 Canadian Armoured Corps Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn, states:-

I hereby produce as documentary evidence in the case of B.74343 Tpr Delorme, J.D. army form C.1618 descriptive return of a deserter or absentee without leave, purporting to be signed by John Power, committing magistrate of the Town Hall, Leeds, showing the apprehension of B.74343 Tpr Delorme, J.D. at 0930 hrs 14 Nov 44 and declaration signed by Tpr Delorme, that he was a deserter (Exhibit "C").

I also produce as documentary evidence in the case of B.74343 Tpr Delorme, J.D. a certified true copy of No. 3 C.A.C.R.U. daily Part II Order #113 dated 18 May 44 inwhich B.74343 Tpr Delorme, J.D. was struck off strength this Unit as a deserter with effect 18 May 44 (Exhibit "D").

I also produce as documentary evidence Expense Voucher in accordance with K.R. & O (Can) 539 purporting to be signed by Lt J.A. Thomson, Officer issuing railway warrants and expense monies, No. 6 Area Provost Company, Canadian Provost Corps, London, setting out expenses incurred in the apprehension and return to Unit of B.74343 Tpr Delorme J.D. (Exhibit "E").

"J.O. Racicot"

(sgd) (J. O. Racicot) Lieut.

The above documents have been shown to the accused, marked by me as Exhibits C, D & E respectively for the prosecution and attachedto the summary of evidence.

"G Dodds"

(sgd) G. Dodds Capt.
Officer detailed to take the
Summary of evidence.

Fifth Witness for the Prosecution

G.54513 A/Sgt Huycke, D.W., acting SQMS of "A" Squadron, No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

I am G.54513 A/Sgt Huycke, D.W., acting SQMS of "A" Squadron. A check of the kit of B.74343 Tpr Delorme, J.D. was made by me 28 Nov 44. I hereby submit a list of the deficiencies found. (Exhibit "F").

The accused declines to cross-examine the witness.

"D.W. Huycke"

D.W. (sgd) G.54513 A/Sgt Huycke, D.W.

The above document has been shown to the accused, marked by me as Exhibit "F" for the prosecution and attached to the summary of evidence.

"G Dodds"

(sgd) (G. Dodds) Capt.
Officer detailed to take The Summary
of Evidence.

Sixth Witness for the Prosecution

D.142518 L/Cpl Popiel, P. of the special Investigation Section, Canadian Provost Corps, CMHQ, a soldier of the Canadian Army Overseas.

I certify that in my opinion the attendance of this witness is owing to the exigencies of the service, not readily procurable and a written statement

of his evidence purporting to have been signed by him, has been read to the accused and is attached hereto as exhibit "G".

On having this statement read the accused said "I wish to make a change in the statement, I was apprehended 16 June 44 not 1 May 44 and I escaped from military custody on 20 June, not 4 May 44.

"J D Delorme"
(sgd) B.74343 Tpr Delorme, J.D.

"G D Dodds"
(sgd) G. Dodds Capt,
Officer detailed to take
The Summary of Evidence.

I do not require the attendance of this witness for the purpose of cross-examination.

"J D Delorme"
(sgd) B.74343 Tpr Delorme, J.D.

Copy of statement referred to by this witness has been read to the accused and is attached hereto as Exhibit "H".

"G D Dodds"
(sgd) G. Dodds Capt.
Officer detailed to take
The Summary of Evidence.

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence on oath or to make a statement.

The accused does not call any witness for the defence.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4(c), (d), (e), and (f) have been complied with.
/& "G" (GD)

"G D Dodds"
(sgd) G. Dodds Capt.
Officer detailed to take
The Summary of Evidence.

In the field
5 Dec 44.

Ex A
D.J.R.

C
O
P
Y

EXHIBIT "A"

ED.

Statement of EVIDENCE in the case of,

No. B/74343. Tpr. Delorme, J.D.
3. C.A.C.R.U.
Canadian Army, England.

Sir,

At Sheffield on the 16th June 44 about 2310 hrs in company with L/Cpl. Barber, C.M.P. and detective Constable N. Evans, C.I.D. City Police, I proceeded to 102 Gell Street, where on admittance to a flat I saw the above named with a woman.

I asked to see his identity card and he produced a civilian identity card No.Y.K.I.A. Thomas Kinghorn 34 Fitzwilliam Street, Sheffield.

Knowing he was not Thomas Kinghorn and being in possession of information that he was a Canadian deserter, I asked him where he had obtained this card. He said "Where do you think, it is mine". He was then asked how long he had been in England and the date, also for a specimen signature. He stated "I have been in England since October 1937 and his signature was obtained.

It was obvious the signature did not correspond with the identity card signature. He was then informed that from information received he was a deserter from the Canadian Army and that he would have to accompany us to C.I.D. office for further questioning regarding his identity.

He then admitted he was a deserter and said he had an idea who shopped him and that he would be looking for him.

He was arrested and conducted to Somme Barracks where he admitted his name was as above and said he got 12 months for the last time and did not do it and he would not be doing this.

He was handed over to the M.C.O. i/c guard to be detained awaiting Canadian escort.

He was wearing civilian clothes and would not state where his uniform was. Identity card was taken possession of by the C.I.D. officer.

Sheffield.
17th June 44.

5878944. (Sgd) A. Bland. L/Cpl.
151 HQ Provost Company,
C.M. Police.

Sir, I have read over and corroborate the above statement.

Sheffield
17th June. 44.

2124067 Barber L/Cpl
151 H.Q. Provost Company,
C.M. Police.

BLR

Statement of Evidence in the
case of No.B.74343 Trooper Delorme, J.D. EXHIBIT "B"
No. 3 C.A.C.R.U., Canadian Army, England. (D

Sir, At Sheffield on 20 June.44., about 14.30 hrs. I was Guard Commander at Somme Barracks. I released nine prisoners I had in custody for daily exercise. I posted my guards at all main points, myself and two O.Rs. were at the Main Gates. The Medical Officer arrived at .435hrs. and I conducted him to the Guard Room for the purpose of signing the Sick Book, whilst doing so I hard a scuffle outside and I immediately ran out and found that two of the prisoners had already escaped after attacking Ptes. Smith and Evans. They were struggling with another two prisoners who were almost through the gates; I grabbed hold of one of the prisoners round the neck, I recognized this man to be Trooper Delorme, who was dressed in civilian clothes, he kicked me violently on the shins several times. I tried to keep holdof him but he struck me several severe blows on the chest and forced me to leave loose of him. Delorme then ran out through the Barracks gates. I was unable to give chase because my leg was giving me great pain as a result of the violence used on me by Delorme. I immediately called the roll from the Guard Report and found that No.B.74343. Tpr. Delorme J.D. was one of the prisoners who had escaped by using violence.

Somme Barracks,
Sheffield.
29 Nov 44

(Sgd) Nuttall, J. L/Cpl.
N.C.O. i/c Guard, 512 Coy Pioneer Corps.

Sir, I have read over and corroborate the above statement.

Somme Barracks,
Sheffield,
29 Nov.44.

(Sgd) 14304009 D. Smith Pte.
(Sgd) 14298569 E. Evans, Pte.
512 Company, Pioneer Corps.

C
O
P
Y

EXHIBIT "A"

GD.

Statement of EVIDENCE in the case of,

No. B/74343. Tpr. Delorme, J.D.
3. C.A.C.R.U.
Canadian Army, England.

Sir,

At Sheffield on the 16th June 44 about 2310 hrs in company with L/Cpl. Barber, C.M.P. and detective Constable N. Evans, C.I.D. City Police, I proceeded to 102 Gell Street, where on admittance to a flat I saw the above named with a woman.

I asked to see his identity card and he produced a civilian identity card No.Y.K.I.A. Thomas Kinghorn 34 Fitzwilliam Street, Sheffield.

Knowing he was not Thomas Kinghorn and being in possession of information that he was a Canadian deserter, I asked him where he had obtained this card. He said "Where do you think, it is mine". He was then asked how long he had been in England and the date, also for a specimen signature. He stated "I have been in England since October 1937 and his signature was obtained.

It was obvious the signature did not correspond with the identity card signature. He was then informed that from information received he was a deserter from the Canadian Army and that he would have to accompany us to C.I.D. office for further questioning regarding his identity.

He then admitted he was a deserter and said he had an idea who shopped him and that he would be looking for him.

He was arrested and conducted to Somme Barracks where he admitted his name was as above and said he got 12 months for the last time and did not do it and he would not be doing this.

He was handed over to the N.C.O. i/c guard to be detained awaiting Canadian escort.

He was wearing civilian clothes and would not state where his uniform was. Identity card was taken possession of by the C.I.D. officer.

Sheffield.
17th June 44.

5875944. (Sgd) A. Bland. L/Cpl.
151 HQ Provost Company,
C.M. Police.

Sir, I have read over and corroborate the above statement.

Sheffield
17th June. 44.

2124067 Barber L/Cpl
151 H.Q. Provost Company,
C.M. Police.

DLR

151/d/706

In Lieu of Army Form B.252
(See King's Regulations.)

CHARGE

.....Canadian.Armoured.Corps..... Regiment
(Battery
(Squadron
No. 3. C.A.C.R.U. .....(Troop or
(Company

CHARGE against No. B/74343 Rank. Trooper.

Name Delorme. J.D.

Place ??? Date of Offence ?

OFFENCE W.O.A.S. (1) Absent from ? until apprehended by the Military Police at 102 Gell Street Sheffield on the 16th June 1944 about 2310 hrs (2) Wearing civilian clothes. (3) Committing a civil offence, i.e. Being in possession of a civilians identity card No. Y.K.I.A. Thomas Kinghorn 34 Fitzwilliam St., Sheffield, and offering same purporting it to be his own with intent to deceive.

Names of Witnesses: L/Cpl. A. Bland, C.M.P.
L/Cpl.W.Barber, C.M.P.

Signature of O.C. Battery, Squadron, Troop or Company) .....(sgd)??? Capt.

Punishment Awarded).....

By whom Awarded) .....
.....Adjutant,
P.T.C.

In Lieu of Army Form B.252
(See King's Regulations)

CHARGE

. . . . . Regiment
(Battery
. . . . . .(Squadron
(Troop or
(Company

CHARGE against No.....Rank.....

Name. . . . . .

Place. . . . . Date of Offence. . . . . .

OFFENCE. . . . . .

. . . . . .

Names of Witnesses:-

Signature of O.C. Battery,) Squadron, Troop, or Company). . . . . .

Punishment Awarded).. . . . . .

By whom Awarded . . . . . .

. . . . . .Adjutant.

P.T.C.

CHARGE

In Lieu of Army Form B.252
(See King's Regulations).

Canadian Armoured Corps. .....Regiment.
(Battery
No. 3 C.A.C.R.U. .....(Squadron
(Troop or
(Company

CHARGE against No. B.74343. Rank Trooper.

Name..Delorme, J.D. .....

Place.Somme Barracks, Sheffield. .....Date of Offence.20 June 44. . .

OFFENCE .Whilst on active service, ...

.....

.....

Names of Witnesses:- L/Cpl. Nuttall, J. Ptes. Smith, D and Evans, E.
512 Company, Pioneer Corps.

Signature of O.C. Battery,)
Squadron, Troop or Company) . . . . . (sgd)??? Capt.

Punishment Awarded. .....

By whom awarded. .....

.....Adjutant.

P.T.O.

Statement of Evidence in the
case of No.B.74343 Trooper Delorme, J.D. EXHIBIT "B"
No. 3 C.A.C.R.U., Canadian Army, England.

Sir, At Sheffield on 20 June.44., about 14.30 hrs. I was Guard Commander at Somme Barracks. I released nine prisoners I had in custody for daily exercise. I posted my guards at all main points, myself and two O.Rs. were at the Main Gates. The Medical Officer arrived at .435hrs. and I conducted him to the Guard Room for the purpose of signing the Sick Book, whilst doing so I hard a scuffle outside and I immediately ran out and found that two of the prisoners had already escaped after attacking Ptes. Smith and Evans. They were struggling with another two prisoners who were almost through the gates; I grabbed hold of one of the prisoners round the neck, I recognized this man to be Trooper Delorme, who was dressed in civilian clothes, he kicked me violently on the shins several times. I tried to keep holdof him but he struck me several severe blows on the chest and forced me to leave loose of him. Delorme then ran out through the Barracks gates. I was unable to give chase because my leg was giving me great pain as a result of the violence used on me by Delorme. I immediately called the roll from the Guard Report and found that No.B.74343. Tpr. Delorme J.D. was one of the prisoners who had escaped by using violence.

Somme Barracks,
Sheffield.
29 Nov 44

(Sgd) Nuttall, J. L/Cpl.
N.C.O. i/c Guard, 512 Coy Pioneer Corps.

Sir, I have read over and corroborate the above statement.

Somme Barracks,
Sheffield,
29 Nov.44.

(Sgd) 14304009 D. Smith Pte.
(Sgd) 14296569 E. Evans, Pte.
512 Company, Pioneer Corps.

"C" GD

PTIVE RETURN OF § Trooper No.B.74343 Jack Douglas Delorme who was
ended at 9.30 a.m. (hour) on the 14th day
of Nov/44, and was ~~committed on conviction of~~ ordered to await escort Leeds
on the 20th day of Nov/44 as a Deserter (or ~~Absentee without~~
leave) from the No.3 Canadian Armoured Corps
Regiment of Blackdown, Reinforcement Unit
Aldershot

Age 22	Height 5 feet 11½ inches		
Complexion Dark	Hair Black	Eyes Brown	
Marks Nil	In uniform or plain clothes Plain clothes		

Probable date and place of attestation	27/5/40 - Toronto, Canada
Probable date of desertion or beginning of absence and from what place	5/5/44, Sheffield.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	Det. Officer Arthur Sansby Leeds City Police.

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given

• On the 14th day of November, 1944 I apprehended the above named at Vernon Road, Leeds, 2. I took him to the Town Hall, charged him with being a deserter and he admitted it.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he IS a deserter from the before-mentioned Corps.

(sgd)????? Signature
The Town Hall Residence
Leeds, 1. Post Town
of Committing Magistrate
20/11/44 Date of Signature

(sgd) John Douglas Delorme Signature of Prisoner

(sgd) Arthur Sansby Signature of Informant

DLR

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
of Magistrate
Date of Signature

§ Care should be taken to insert Army No. and Rank.

‡ Insert "was apprehended" or "surrendered," as the case may be.

• It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs" or "does not belong to," as the case may be

Army Form O.1618.

IMMEDIATE.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

---

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*10004) Wt.12203/236 10,000 5/39 A.& E.W.Ltd. Gp.498
(*12557) Wt.10225/1716 50,000 11/39 " " Forms/O.1618/52

EXHIBIT "D" CD.

3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
PART II ORDERS
BY

Last Order No 112 Dated 17 May 44 — Colonel G.W. LITTLE,M.V.O.,M.C.,E.D., Commanding Officer — This Order No 113 Dated 18 May 44

(the following is an extract taken from the copy which was on the original proceedings of the F.G.C.M.)

"B"

12. PUNISHMENTS:

(c) On 20 Apr 44 tried by FGCM
Charges: (1) A.A. Sec 15(1) AWL from 1800 hrs 7 Jan 44 until 1100 hrs 7 Apr 44. (90 days, 17 hrs)
(2) AA Sec 24(2)
Findings: Guilty on both charges.
Sentence: To undergo detn for a period of nine (9) months, and placed under stoppages of pay to the sum of £1-12s-6d to cover cost of apprehension, and £7-3s-5d to cover deficiencies in kit.
Confirmation: Findings & Sentence confirmed by Brig N.A. GIANELLI, Comnr "B" Gp, CRU on 21 Apr 44.
Close Arrest: In close arrest from 1100 hrs, 7 Apr 44 until 2400 hrs 19 Apr 44 (In close arrest 12 days, 13 hrs)
Forfeitures: 91 days' pay PR&I 149(1)(a)
13 days' pay PR&I 149(1)(c)(i)
275 days' pay PR&I 149(1)(b)
Total Forf: 379 days' Pay.
Stoppages of pay: Placed under stoppages of pay to the sum of £1-12-6 to cover cost of apprehension and £7-3-5 to cover deficiencies in kit.

B-74343 Tpr DELORME, J.D.

13. STRENGTH DECREASE
(b) B-74343, Tpr DELORME, J.D., is SOS as a deserter wef 12 May 44, having been declared illegally absent by a Court Inq from 0600 hrs 21 Apr 44.

(sgd) G.L.Marshall Lt & A/Adjt, for
(sgd) (H.C.LAWSON) Capt.
Adjutant,
No. 3 C.A.C.R.U.

EXHIBIT "E" CD.

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. B74343 Rank Tpr Name Delorme, J.D. Unit 3 CACRU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Leeds

Date	Particulars	Amount		
20 Nov 44	Escorts return fare from LONDON To Leeds	1	8	6
	Prisoners single fare to LONDON From Leeds		14	3
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	9
	Total £	2	10	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. A. Thomson Lt. Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London DLR

1/35 CMHQ 100-55
40/P & S/483 (6762)

EXHIBIT "P" CD.

38 Nov 44

Deficiencies in Kit and Regimental Necessaries of
B.74343 Tpr Delorme, J.D. at kit inspection held
28 Nov 44

		100% Vocab Price	75% Unexpired Wear Price
Trousers, Battle Dress	1	5.39	4.04
Blouses, " "	1	5.25	3.94
Boots, Ankle prs.	1	5.46	4.09
Socks, prs.	1	.37	.28
Caps, Tank Battalion	1	1.00	.75
Badges, Cap	1	.09	.07
Shirts, angolia drab	1	2.03	1.52
Haversack, w.e.	1	1.79	1.34
Razor Safety w/Blade	1	.06	.04
Towels, hand	1	.32	.24
		21.76	16.31

Sgt Hoycke D.W.

(sgd) G.84513 A/Sgt Hoycke, D.W.

DLR

EXHIBIT "G"

GD

29 Nov 44.

Statement of D.142518, L/Cpl. POPIEL, P.

Attached to Special Investigation Section,

D.P.M's Branch, C.M.H.Q.

"I am D.142518, L/Cpl. POPIEL, P., attached to Special Investigation Section, D.P.M's Branch, C.M.H.Q.

In the course of my duty on 21 Nov 44, I interviewed Regt. No. B.74343, Tpr. DELORME, J.D., No. 3 C.A.C.H.U. The accused, after having been duly cautioned, volunteered a statement. This statement was incorporated into my report on Tpr. DELORME and forwarded under SIS/E-2-121 on 21 Nov 44 to Tpr. DELORME's Unit.

The original statement is on file in the S.I.S. office, and could be produced as evidence if required."

(sgd)J. A. Thomson, Lt.
WITNESS:

(sgd)P. Popiel L/Cpl.
D.142518, POPIEL, P.
Cdn Provost Corps, S.I.S.,
C.M.H.Q.

DLR

EXHIBIT "H"

GD

STATEMENT OF Reg No: B.74343 DATE: Nov 21, 44.

Tpr DELORME, J.D. UNIT: No 3 C.A.C.R.U.

"I have been cautioned by L/Cpl. POPIEL, P. of the S.I.S. Cdn. Provost Corps, that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be given in evidence.
To show that I understand this caution I sign my name here.
Witness: L/Cpl. POPIEL, P. (Sgd) JOHN DOUGLAS DELORME.

BEGINS:-

I, Tpr. DELORME enlisted in the Cdn. Army 27th May 40. at Toronto Ont. with the 48th. Highlanders of Canada. I came overseas sometime in Nov 41. The first time I went A.W.L. was spring 43. I was away for a month. When apprehended I was sentenced to (3) months in Detention. Second time was 7 Jan 44, being on the loose till 7 Apr 44. While awaiting sentence I escaped on the 21 April 44 and apprehended 1 May 44 at Sheffield. After being locked up at Somme Barracks Guard Room, I again escaped military custody on 4 May 44 and I remained absent till apprehended by the Civil Police at about 0900 hrs., 14 Nov 44, at 30 Verdon Rd., Leeds. During my absence from 4 May 44 till 14 Nov 44 I was at Leeds, Yorkshire. Here I was doing odd jobs, such as working in a Garage and also repairing watches. The Garage where I was employed and the Proprietor whom I only know by the name of Whil paid me an average of £3-10-0 to £4-0-0 per week according to number of days I put in. Here I worked for about six weeks. As for my Civilian clothes, I bought a pawn ticket from a woman in a Public House at Leeds, and my uniform I dispose d of as I deemed necessary also in a lane at Leeds, together with my boots. I also wish to say that during my absence I was never involved in any civil offences or any trouble of any kind as I always managed to earn my living honestly.

3. Cont'd The above statement was read to me and approved.

WITNESS: L/Cpl P. Popiel SIGNED: John Douglas Delorme.

4. During my course of interview with DELORME, he admitted staying with a Mrs. May CALDWELL at 30 Vernon Rd. Leeds Yorkshire, also that she had four children. Subject also stated that this woman was well known in that district being a professional singer.

5. As no further information of use could be obtained from Tpr DELORME, he will be returned to his Unit 22 Nov 44 under Cdn Provost Corps, escort.

CONCLUDED

(Sgd) P. POPIEL, L/Cpl.
SIS CDN PROV CORPS CMHQ

O.C.R.

(sgd) G. Dodds, Capt.
Officer detailed to take summary of evidence.

ARMY FORM B.256 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.74343	Tpr.	Delorme, J.D.	3 C.A.C.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15(1)	7 times.
For	AA. Sec 15(2)	1 times.
For	AA Sec 19	1 times.
For	AA Sec 40	3 times.

Date of first entry in Field Conduct Sheet 10 Mar 41

Date of last entry in Field Conduct Sheet 21 Apr 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for AA15(1) - AA24(2) beginning on the 21st day of Apr 44

4. The accused has been awaiting trial on the present charges for 8 days in civil custody; and for 26 days in military custody, *i.e.*, nil days in open arrest, 26 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 24 yrs, 8 mos, 14 dys

6. The date of his attestation is 27 May 40

7. The service which the accused is allowed to reckon is 4 yrs, 6mos, 8dys.

8. The accused is in possession of C.V.S.M. & Clasp.

State the military decorations (if any) held by accused.

~~9. (a) Whether convicted previously by Field General Court-Martial, or by Court of Inquiry, and the sentence in each case; or~~

~~(b) Whether ever sentenced previously to imprisonment with hard labour, or to penal servitude, without subsequent pardon, in the present case.~~

~~Date of Sentence.~~

E & B A.L.R.

~~At the commencement of the present war~~

~~At the end of the last previous year~~

~~At the corresponding date~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.3677/666 100,000 6/42 A. & E. W. Ltd. Gp.698 Forms/B.256(War)/1
(22439) W1.20464/1573 60,000 6/43

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	21 Apr 44	AA15(1) AWL 90 dys 17 hrs AA24(2) Loss of kit	9 mos detn. Stoppages Loss of Kit £7-3-5 Apprehension £1-12-6	
F.G.C.M.	1 Oct 43	AA 15(1) AWL 1 dy, 12 hrs, 59 mins. AA 40 Possession of false docs AA15(1) AWL 15 dys,15hrs,45 mins. AA 40 Possession of false docs.	90 dys detn	Remitted 29 dys 30 Nov 43

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of Dec 44

(sgd) J.T.Davies, Capt.
(Adjutant 3 C.A.C.H.U.)

LLL-145 (Case #2)

TPR DELORME J.D

See RR.69 for 1st case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-74343 Tpr John Douglas DELORME, 3 CACRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
~~2nd~~	~~AA Sec 40~~			
and 2nd	AA Sec 24(2)	Guilty	Guilty	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one (1) month.

(Sgd) ..... Judge-Advocate, if any. 20 Apr 44 Date awarded. (Sgd) F D Lucredo Lt Col President. (RP 45, 90.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 562-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed.

~~I direct that the accused be not committed to prison or detention barracks for the further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) K W Wi Brig

Date 21 Apr 44 Commanding E Group CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
B74345 Tpr Delorme, J.D.	12 May 44	F Emarshall Lt + ADJUTANT 3 C.A.C.R.U.

Promulgated in Part II Orders only, in accordance with KR+O (Can) 577

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 31 MAY 1944 JAG BRANCH

RECORD AT CMHQ IN AS 100 22C-745

FIELD GENERAL COURT-MARTIAL (CFAR 1 (In lieu of AFAR) 40, P & E, 1940 (28864))

Convened by Order of Brig N. A. Gianelli Comd "E" Gp, CRU dated 18 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 182, (fns, KR Con 308, 328, 330.))

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-74343	PROCEEDINGS REVIEWED 2 June 44 W.C. Dudley Lieut REVIEWING OFFICER, JAG BRANCH C.M.H.Q.	John Douglas	DELORME	3 CACRU

PROCEEDINGS OF TRIAL.

Held in the ~~Field~~ (country) ~~Station~~ on (date(s)) 20 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

707 A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Instr RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 84, 103, 119, 132.)

707 A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

707 A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

707 A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to 707. as shorthand writer? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

707 A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col.	F D Lucredo	1 CA CRU
Member	Capt.	S. H. Pratt.	2 CA CRU
Member	Lieut	R. F Coughlin	1 CA CRU
Judge-Advocate			
Prosecutor	Lieut	H A R Dowling	3 CA CRU
Defending Offr	Lieut	C. B C Fenton	3 CA CRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 seem not followed. See Dir p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~a~~ plea(s). 707

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Instrs. For forms of record see references in fns to RoF cited. Insert in full name and name of the accused making the plea.)

707 A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused ~~does~~ ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Instrs.)

707 A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *securing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused : Do you wish to make a statement ? Ans ~~N O~~ .....(4)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1). The Court decides (now) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~F07.~~ charge(s). The accused is (are) so informed, and he (they) ~~changes; his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A ; initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1) ~~F07.~~
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 535. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....Do you intend to call witnesses on your behalf ?
Ans .....Are they witnesses as to character only ? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ~~N O~~
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 3. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

~~F07.~~ E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 255 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 5 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

~~F07.~~ E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also the JA, if any.~~(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its purpose, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 300, 330, 563-566, *Overseas RO* 309, 1233, *RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 300, 330, 563-566, *Overseas RO* 309, 1233, *RP* 48. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of recruits after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B74343, Trooper John Douglas DELORME on strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE A.A. SEC. 15 (c) **WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE**

in that he

at No. 3 C.A.C.R.U. on 7 Jan 44 did absent himself without leave from 1600 hrs 7 Jan 44 until apprehended by the Military Police at Leeds at 1100 hrs 7 Apr 44. (Total time absent 90 days 17 hrs). Cost of apprehension one pound, twelve shillings and six pence (£1-12-6).

SECOND CHARGE A.A. 24 (a) WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENTS, CLOTHING, AND REGIMENTAL NECESSARIES

in that he

in the Field on or about 12 Apr 44 was deficient the following articles of kit:-

Article	Qty	Vocab Price	Depreciated Value
Boots Ankle prs	1	£1- 4- 5	£0-18- 7½
Caps Mechanic	1	0- 0- 8	0- 0- 6
Cape Tank Bn	1	0- 4- 5½	0- 3- 4½
Drawers Woollen prs	2	0-10- 9	0- 8- 0½
Gloves Knitted Drab prs	1	0- 2- 1	0- 1- 7
Greatcoat Drab 1941	1	2-11- 8	1-18-10½
Jacket Sweater	1	0- 8- 0	0- 6- 0
Overalls combination prs	1	0-12- 2	0- 9- 1½
Shirts Angola Drab	1	0- 9- 1	0- 7- 1
Shoes Canvas prs	1	0- 2-11	0- 2- 2½
Trousers B/Dress prs	1	1- 4- 1½	0-18- 1½
Vests Woollen	2	0-10- 9	0- 8- 0½
Brasses Cleaning	1	0- 0- 2	0- 0- 1½
Brushes Button Brass	1	0- 1- 2	0- 0-11
Brushes Hair	1	0- 1- 6	0- 1- 2
Brushes Shaving	1	0- 1- 8	0- 1- 3
Brushes Shoe Polishing	1	0- 1- 3	0- 0-11½

24
24
31

Dressings F/Field	1	£0- 1- 1	£0- 0-10
Spoons Dessert	1	0- 0- 4	0- 0- 3
Holdall	1	0- 0-10	0- 0- 7½
Housewife complete	1	0- 0- 9	0- 0- 7
Vests Cotton Gym	1	0- 1- 7	0- 1- 2
Tins Mess sets	1	0- 1- 7	0- 1- 2
Respirators complete(New)	1	0-14-10	0-11- 1½
Ointment A/Gas tins	1	0- 0- 8	0- 0- 6
Eyeshields A/Gas pkge(6)	1	0- 2- 0	0- 1- 6
Total		£9-10- 6	£7- 3- 5

H. M. Sharp Lt Col.

"H.M.SHARP" Lieut-Col
A/Commanding Officer
No. 3 C.A.C.R.U.

In the Field
15 Apr 44

To be tried by Field General Court Martial.

In the Field,
18 Apr 44

(N. A. GIANELLI) Brig
Comd "E" Gp, CRU

FDT

FIELD GENERAL COURT-MARTIAL.

CFA95 (In lieu of AFA3)
40/PAS/1697 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-74343	Pte		John Douglas	DELORME	3 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and dated (*date*) 18 Apr 44 endorsed by me, ~~for trial by a Field General Court-Martial~~." To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable that the accused should be tried by a Court to be assembled at a place at which the ordinary Courts-~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am aware that it is open to me to apply to the Chief Offr to detail the Court, but I do not do so because I have no such power.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I hereby appoint as President of the Court the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.-col	F. D. Tweedie	Hq, CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 CACRU	2 CACRU
Lt	to be detailed by OC 1 CACRU	1 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 18 Apr 44

(Signed personally.)
(N. A. McNAUGHTON) Brigadier
Commanding "E" Group, CRU
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 *I* ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence *is* taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 89(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn* 2, *46 fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly, see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).*)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S REPORT

I HEREBY CERTIFY that No. B 14343 Tpr. Delorme J. D.

of #3 C.A.C. R.U. has this day been

examined by me and that he is in a good state of health and

fit to undergo trial by Court Martial.

Station Field

Date 20-4-44

J.D.T.

Aero Sacks Capt

Medical Officer

No. 3 C.A.C.R.U.

Plea of Mitigation
In The Case
of
B74343 Tpr John Douglas Delorme.

In entering this plea of mitigation in the case of Tpr Delorme I should like to respectfully submit to the Court that Tpr Delorme does not desire to escape the just consequences of his acts. He only wishes to lay before the Court, for their consideration, an account of some of the events in his life which may have some bearing on the present charges.

First of all I should like to say that Delorme's background is only too frequent in the world today. He belongs or rather was a member of a family of four; two sisters, a brother all younger than himself. When he was twelve years old his father and mother separated, owing, I'm afraid to say to the usual squalid circumstances of drink and mutual unfaithfulness. Naturally, such an event could not fail to have an awful effect on the sensitive mind of a child of twelve. He has not seen or heard from his sisters since.

A Child Welfare Association took Delorme and his younger brother to Peterborough where both of them were lodged in an orphan asylum.

It is not intended for one moment to cast any aspersions on what was undoubtedly an admirable institution but I should like to point out that it could not and did not pretend to take the place of a proper home especially in regard to a little boy who had already been allowed to run practically wild and had already seen more than usual of the seamy side of life. Therefore after a year he managed to escape and ran away to a small town known as Honey Harbour where he managed to find shelter with a family who offered him board and lodging in exchange for such work as a boy of his age was able to do. This family knew the boy's background and all the circumstances surrounding his escape from the orphanage, yet they took him in and paid him purely nominal wages by doing what practically amounted to a man's work.

This family was quite a large one and quite apart from the work he had to do, Delorme felt that he was still an unwanted outsider, tolerated only for the menial jobs he performed so after a year he left and managed to find his way to an aunt's home.

Here again he knew himself to be looked on as a tolerated encumbrance so he finally went to Toronto

and was able to find odd jobs such as errand boy up to the declaration of war when he joined up in May 27 1940.

While Delorme was in Toronto he met and fell in love with a girl, who he married after knowing her for two years, hoping that at last he would be able to have what he had never had before - a home and security, when the war was over. ~~[illegible]~~ When the time came for Tpr Delorme to proceed overseas his wife promised to send him anything he needed, however, when he did write home for any of the small comforts a soldier requires, ~~although~~ he received nothing and although his wife wrote to him at infrequent intervals she never mentioned any of his requests and he has not even received a Christmas parcel during the three years he has been in this army.

Can there be any doubt to the Court that this man who is obviously seriously handicapped by both his early life and by ~~later events~~ his domestic troubles is in his present state of no use whatever to the Canadian Army? And therefore should, as his record undoubtedly shows be discharged after the ~~[illegible]~~ sentence ~~[illegible]~~ is actually demanded by the length of his absence, which ~~[illegible]~~ should not be too long since it is possible that the Accused's mental condition might be from the aggravated.

G. B. C. Fenton Jr
Offr Detailed for Defence

925

EXHIBIT F

Ref: K.R. & O. (Can) 539

Expense Voucher Re—:

Reg. No. B74343 Rank Tpr. Name Delmore, J. D. Unit 3 CAC RU.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Leeds

Date	Particulars (½ Portion)	Amount		
10 April 44	Escorts return fare from LONDON To Leeds		14	3
	Prisoners single fare to LONDON From Leeds.		14	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ Portion		4	0
	Total £	1	12	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J. Stinson Capt.

LIEUT.
R. J. STINSON
ADMN. OFFICER - D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense Imprest
No. 6 Provost Company, Canadian Provost Corps, London

C.M.H.Q. 1000/55
40/P & S/483

EXHIBIT "B"

CHARGE 151A/765. Army Form B 252
(See King's Regulations)

CANADIAN ARMOURED CORPS — Regiment
No 3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT — Battery / Squadron / Troop or Company

CHARGE against No. B74343 Rank TPR.

Name DELORME J.D.

Place ..... Date of Offence .....

OFFENCE WHILST ON ACTIVE SERVICE

1. ABSENT FROM ? UNTIL APPREHENED BY THE MILITARY POLICE IN BOND STREET LEEDS ON THE 7TH APR/44 about 11.00HRS.

2. IRREGULAR CONDUCT IE. NOT BRING IN POSSESSION OF HIS MILITIA BOOK M1.

MAJOR A.P.M.
151 M.Q. PROVOST COMPANY,
NORTHERN COMMAND.

Names of Witnesses :—

L/CPL C.L. GLEDHILL C.M. POLICE

CPL. A. HORNE C.M. POLICE

SGT J.W. [illegible] C.M. POLICE (Statement ATTACHED)

Signature of O.C. Battery, Squadron, Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

Adjutant.

P.T.O.

Exhibit B

Statement of **EVIDENCE** in the Case of:-

B74343 TPR. DELORME J.D.

No 3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT.

CANADIAN FORCES, ENGLAND.

Sir,

At LEEDS on the 7th APL/44 about 11.00 HRS I was on duty in BOND STREET accompanied by CPL HORNE C.M. POLICE where I saw the a/n soldier.

On being questioned he admitted being absent without leave from his unit.

I arrested and conducted him to the GARRISON ADJUTANTS GUARDROOM, GIBRALTAR BARRACKS, LEEDS, where I handed him over to the N.C.O. i/c to be detained.

I obtained his particulars verbally, he was not in possession of his MILITIA BOOK M1.

LEEDS.
7th APL/44

4621891 C.L. Gladdie L/CPL
151 PROVOST COY
C.M. POLICE

REMARKS

Sir,

I have read over and corroborate the above statement.

7688777 [illegible] CPL
151 PROVOST COY
C.M. POLICE

LEEDS.
7th APL/44

EXHIBIT "C"

CERTIFIED IN ACCORDANCE WITH ARMY ACT SECTION 163 (1) (J.J.)

I certify that No. B/74343..... Rank..Tpr.... Name ..Delorme..J.P.....

Unit. Canadian Arm. Corps..... Was arrested at ...LEEDS.....

On..7/4/44..... At...11-00hrs.... and at the time of his arrest he was wearing Military Uniform.

Signature of Provost Marshall A.P.M. or other Officer into whose custody the a/n person was taken on arrest.

Exhibit C

Captain,
Garrison Adjutant,
Gibraltar Barracks, Leeds 2.

8/4/44

Exhibit P 44

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 31st day of January 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 74343 Tpr. Delorme, J.

DECLARATION

The Court declare that No. B 74343 Tpr. Delorme, J. illegally absented himself without leave (or other sufficient cause) at 1800 hrs on the 7th day of January, 1944; that he is still so absent and that on the 9 February 1944 he was deficient, and that he is still deficient of the following articles:-

Articles		Value of Unexpired Wear	Value Vocabulary
Anklets Web, prs	1	0-3-4	0-4-5
Blouses D/Dress	2	1-15-3	2-7-0
Boots Ankle, prs	2	1-16-7	2-8-10
Caps, Mechanic	1	0-0-6	0-0-8
Caps, Tank Bn.	1	0-3-4½	0-4-5½
Drawers Cell. Shorts, prs	2	0-2-11	0-3-10
Drawers, Woollen, prs.	2	0-8-½	0-10-9
Gloves knitted Drab, prs	1	0-1-7	0-2-1
Great Coat Drab, 1941 Model,	1	1-18-10½	2-11-8
Sweater Jacket	1	0-6-0	0-8-0
Overalls Combination, prs	1	0-9-1½	0-12-2
Shirts Angola Drab	2	0-13-7	0-18-2
Shoes Canvas, prs.	1	0-8-2½	0-8-11
Socks Woollen, prs	4	0-6-0	0-6-8
Trousers B/Dress prs.	2	1-16-2½	2-8-3
Vests Woollen	2	0-8-½	0-10-9
Badges, Cap	1	0-0-4	0-0-4½
Bags Kit Universal	1	0-3-5½	0-4-7
Braces, prs.	1	0-0-11½	0-1-4
Brasses, Cleaning	1	0-0-1½	0-0-2
Brushes Button Brass	1	0-0-1½	0-1-2
Brushes Clothes	1	0-1-7½	0-2-2
Brushes Hair	1	0-1-2	0-1-6
Brushes Shaving	1	0-1-3	0-1-8
Brushes Shoe Polishing	1	0-0-11½	0-1-3
Brushes Tooth	1	0-0-4½	0-0-6
Caps Comforter	1	0-1-2	0-1-6
Sheets Ground	1	0-9-10½	0-13-2
Combs Hair	1	0-0-1½	0-0-2
Discs Identity	1	0-0-1	0-0-1½
Dressings Field	1	0-0-10	0-1-1
Ford Table	1	0-0-3	0-0-4
Holdall	1	0-0-7½	0-0-10
Housewife complete	1	0-0-7	0-0-9
Knife Clasp & Lanyard	1	0-2-11½	0-3-11
Knife Table	1	0-0-6	0-0-8
Razor & Blades	1	0-0-2½	0-0-3
Shorts Gym	2	0-2-11	0-3-10
Spoons Dessert	1	0-0-3	0-0-4
Vests Cotton Gym	2	0-2-4½	0-3-2
Towels Hand	2	0-2-1½	0-2-10
Belts Waist WE Patt .37	1	0-2-7½	0-3-6
Bottle Water	1	0-2-10	0-3-8
Braces WE Left & Right	2	0-2-0	0-2-8
Carriers Cartridge	2	0-4-10	0-6-6

(Cont'd)

Exhibit 19 Pl

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 31st day of January 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 74343 Tpr. Delorme, J.

DECLARATION

The Court declare that No. B 74343 Tpr. Delorme, J. illegally absented himself without leave (or other sufficient cause) at 1800 hrs on the 7th day of January, 1944; that he is still so absent and that on the 9 February 1944 he was deficient, and that he is still deficient of the following articles:-

Articles		Value of Unexpired Wear	Value Vocabulary
Anklets Web, prs	1	0-3-4	0-4-5
Blouses D/Dress	2	1-15-3	2-7-0
Boots Ankle, prs	2	1-16-7	2-8-10
Caps, Mechanic	1	0-0-6	0-0-8
Caps, Tank Bn.	1	0-3-4½	0-4-5½
Drawers Cell. Shorts, prs	2	0-2-11	0-3-10
Drawers, Woollen, prs.	2	0-8-½	0-10-9
Gloves knitted Drab, prs	1	0-1-7	0-2-1
Great Coat Drab, 1941 Model,	1	1-18-10½	2-11-8
Sweater Jacket	1	0-6-0	0-8-0
Overalls Combination, prs	1	0-9-1½	0-12-2
Shirts Angola Drab	2	0-13-7	0-18-2
Sjoes Canvas, prs.	1	0-2-2½	0-3-11
Socks Woollen, prs	4	0-5-0	0-6-8
Trousers B/Dress prs.	2	1-16-2½	2-8-3
Vests Woollen	2	0-8-½	0-10-9
Badges, Cap	1	0-0-4	0-0-4½
Bags Kit Universal	1	0-3-5½	0-4-7
Braces, prs.	1	0-0-1½	0-1-4
Brasses, Cleaning	1	0-0-1½	0-0-2
Brushes Button Brass	1	0-0-1½	0-1-2
Brushes Clothes	1	0-1-7½	0-2-2
Brushes Hair	1	0-1-2	0-1-6
Brushes Shaving	1	0-1-3	0-1-8
Brushes Shoe Polishing	1	0-0-11½	0-1-3
Brushes Tooth	1	0-0-4½	0-0-6
Caps Comforter	1	0-1-2	0-1-6
Sheets Ground	1	0-9-10½	0-13-2
Combs Hair	1	0-0-1½	0-0-2
Discs Identity	1	0-0-1	0-0-1½
Dressings Field	1	0-0-10	0-1-1
Ford Table	1	0-0-3	0-0-4
Holdall	1	0-0-7½	0-0-10
Housewife complete	1	0-0-7	0-0-9
Knife Clasp & Lanyard	1	0-2-11½	0-3-11
Knife Table	1	0-0-6	0-0-8
Razor & Blades	1	0-0-2½	0-0-3
Shorts Gym	2	0-2-11	0-3-10
Spoons Dessert	1	0-0-3	0-0-4
Vests Cotton Gym	2	0-2-4½	0-3-2
Towels Hand	2	0-2-1½	0-2-10
Belts Waist WE Patt .37	1	0-2-7½	0-3-6
Bottle Water	1	0-2-10	0-3-8
Braces WE Left & Right	1	0-2-0	0-2-8
Carriers Cartridge	2	0-4-10	0-6-6

(Cont'd)

Carriers W/Bottle	1	0-1-3	0-1-8
Haversack	1	0-0-6	0-0-8
Helmet Steel Mk II	1	0-8-0	0-10-8½
Nets Camouflage Helmet	1	0-0-6	0-0-8
Packs Large	1	0-6-2	0-8-3
Straps Shoulder Haversack R&L	2	0-2-1½	0-2-10
Straps Web Supporting	2	0-0-11	0-1-2
Tins Mess (Sets)	1	0-1-2	0-1-7
Cape A/Gas	1	0-8-1	0-12-4
Respirator A/Gas (Old)	1	0-15-8	1-0-11
" " (New)	1	0-11-1½	0-14-10
Ointment A/Gas	2	0-1-0	0-1-4
Eyeshields (Pkge of 6)	1	0-1-6	0-2-0
Detectors Individual prs	2	0-0-9	0-1-0
Wallet A/Gas	1	0-0-5½	0-0-7
Blanket 1098	1	0-13-9	0-13-9
Total		£17-11-7	£21-18-11

C.L. Nelson, Capt. PRESIDENT

D.H. Flick, Lt. MEMBER

..... MEMBER

Signed at In the Field

this 21 day of Feb 1944

Signature of Commanding Officer G.W.Little, Col.

Certified true and correct copy of the original document held on file at this HQ.

G.L. Marshall Lt.

(G.L. Marshall) Lt.
A/Adjt 3 C.A.C.R.U.

pjcc. 987

EXHIBIT "D"

B-74343 Tpr Delorme J.D. No. 3 C.A.C. R.U. April 12th 1944

KIT DEFICIENCIES.

Articles	Qty.	Vocab Price	Unexpired Price
Boots Ankle Prs	1	1 - 4 - 5	0 -18- 3½
Caps Mechanic	1	0 - 0 - 8	0 - 0- 6
Caps Tank Batt	1	0 - 4 - 5½	0 - 3- 4½
Drawers Woollen Prs	2	0 -10 - 9	0 - 8- 0½
Gloves Knitted Drab Prs	1	0 - 2 - 1	0 - 1- 7
Greatcoat Drab 1941	1	2 -11 - 8	1 -18-10½
Jacket Sweater	1	0 - 8 - 0	0 - 6- 0
Overalls Combination Prs	1	0 -12 - 2	0 - 9- 1½
Shirts Angola Drab	1	0 - 9 - 1	0 - 7- 1
Shoes Canvas Prs	1	0 - 2 -11	0 - 2- 2½
Trousers B/Dress Prs	1	1 - 4 - 1½	0 -18- 1½
Vests Woollen	2	0 -10 - 9	0 - 8- 0½
Brasses Cleaning	1	0 - 0 - 2	0 - 0- 1½
Brushes Button Brass	1	0 - 1 - 2	0 - 0-11
" Hair	1	0 - 1 - 6	0 - 1- 2
" Shaving	1	0 - 1 - 8	0 - 1- 3
" Shoepolishing	1	0 - 1 - 3	0 - 0-11½
Dressings F/Field	1	0 - 1 - 1	0 - 0-10
Spoons Dessert	1	0 - 0 - 4	0 - 0- 3
Holdall	1	0 - 0 -10	0 - 0- 7½
Housewife Complete	1	0 - 0 - 9	0 - 0- 7
Vests Cotton Gym	1	0 - 1 - 7	0 - 1- 2
Tins Mess Sets	1	0 - 1 - 7	0 - 1- 2
Resperator Complete (New)	1	0 -14 -10	0 -11- 1½
Ointment A/gas Tins	1	0 - 0 - 8	0 - 0- 6
Eyeshields A/Gas PKGE.(6)	1	0 - 2 - 0	0 - 1- 6
TOTAL		9-10-6	7-3-5

Certified that the above prices are as per C.A.R.O. 3959 d/27 Oct.43

O C Galan Sgt.
i/c A. Squadron Stores..

I, B74343 Tpr. Delorme, J.D., ~~do desire~~ do not desire

to have an officer assigned to defend me at

my trial by Court Martial.

I request the services of _____

if this officer is available.

Tpr. Delorme

B74343 Tpr Delorme, J.D.

LIST OF WITNESSES IN THE CASE OF

B.74343 Tpr. Delorme, J.D.

For the Prosecution

1. Documentary: Certified true copy of a Declaration of a Court of Inquiry held on 31 Jan 44.

2. Documentary: Certificate of charge Army Form B.252 in accordance with King's Regulations dated 7 Apr 44.

3. Documentary: Certificate in accordance with A.A. 163 (1) (j.j.)

4. Documentary: Certificate in accordance with K.R.& O. (Can) 539 purporting to be signed by Lieut. R.J. Stinson.

5. B.87478 Sgt. Graham, V.C. - No. 3 C.A.C.R.U.

For the Defence

NIL

LIST OF EXHIBITS IN THAT CASE OF

B.74343 Tpr. Delorme, J.D.

For the Prosecution

1. Exhibit "A" - Certified true copy of a Declaration of a Court of Inquiry held on the 31 Jan 44.

2. Exhibit "B" - Certificate in accordance with 151 A/765 dated 7 Apr 44, signed by Lieut. B.A. Wright for A.P.M., 151 H.Q. Provost Company, Northern Command.

3. Exhibit "C" - Certificate of charge Army Form B.252 in accordance with A.A. 163 (1) (j.j.) signed by the Garrison Adjutant, Gibraltar Barracks, Leeds 2.

4. Exhibit "D" - List of Deficiencies of kit found by Sgt. Graham, V.C.

5. Exhibit "E" - MBM I Part III made out by Sgt. Graham, V.C. in accordance with standard army issue.

6. Exhibit "F" - Certificate in accordance with K.R. & O. (Can) 839 purporting to be signed by Lieut. R.J. Stinson for D.P.M.'s BR CMHQ.

For the Defence

NIL

897

Summary of Evidence in the case of B74343, Tpr Delorme, J.D., a soldier of the Canadian Army Overseas, on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for The Prosecution

Documentary: Certified true copy of a Declaration of a Court of Inquiry held on 31 Jan 44 at No.3 C.A.C.R.U. In the Field. This document has been shown to the accused, marked by me as exhibit "A" for the prosecution and attached to the Summary of Evidence.

(G.I. Langmuir) Lt
Officer detailed to take
The Summary of Evidence

Second Witness for The Prosecution

Documentary: Certificate of Charge Army Form B252 in accordance with Kings Regulations, dated 7 Apr 44 purported to be signed by Lt B.A. Wright for A.P.M. 151 H.Q. Provost Company, Northern Command. This certificate has been shown to the accused, marked by me as exhibit "B" for the prosecution and attached to the Summary of Evidence.

(G.I. Langmuir) Lt
Officer detailed to take
The Summary of Evidence

Third Witness for The Prosecution

Documentary: Certificate in accordance with AA 163 (1) (j.j.) purported to be signed by the Garrison Adjutant, Gibraltar Barracks, Leeds 2. The certificate has been shown to the accused, marked by me as Exhibit "C" for the prosecution and attached to the Summary of Evidence.

Ex A 401

(G.I. Langmuir) Lt
Officer detailed to take
The Summary of Evidence

Fourth Witness for The Prosecution

Documentary: Certificate in accordance with KR&O (Can) 539 purported to be signed by R.J. Stinson, Lt, Adm Officer, DPW's BR, CMHQ. This certificate has been shown to the accused, marked by me as Exhibit "F" for the prosecution and attached to the Summary of Evidence.

(G.I. Langmuir) Lt
Officer detailed to take
The Summary of Evidence

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say orany evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence on oath or to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

G Langmuir

(G.I. LANGMUIR) Lt
Officer detailed to take
The Summary of Evidence

In the Field
13 Apr 44

Additional Summary of Evidence in the case of B74343 Tpr. Delorme, J.D. on strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIFTH Witness for The Prosecution

B87478 Sgt. Graham, V.C. on strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:-

I am B87478 Sgt. Graham, V.C., N.C.O. IC "A" Sqn stores, No. 3 CACRU. On 12 Apr 44 on checking Tpr. Delorme's kit, I found him deficient the articles listed on list I submit.

The list has been shown to the accused, marked by me as Exhibit "D" for the prosecution and attached to the Summary of Evidence.

(G.I. Langmuir) Lieut.
Officer detailed to take
The Summary of Evidence

Q.1 What evidence have you that the kit deficiencies listed were on charge to Tpr. Delorme?
A.1 Sir, I checked the kit according to M.B.M. I Part III made out in accordance with Army issue in the presence of the accused.

A copy of the M.B.M. I Part III of Tpr. Delorme, made out by Sgt. Graham in accordance with army issue, in the presence of the accused, is marked by me as Exhibit "E" for the prosecution and attached to the Summary of Evidence

(G.I. Langmuir) Lieut.
Officer detailed to take
The Summary of Evidence

The accused declines to cross-examine the witness.

(B87478 Sgt. Graham, V.C.)

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence on oath or to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing additional Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

(G.I. Langmuir) Lieut.
Officer Detailed to take
The Summary of Evidence

In the Field
13 Apr 44

487.

MFM 6 (AFH 122) 40/PAS/136 (3438)

No. B74343 Name DELORME, J.D. | Sqn. Battery or Company | Corps CAC. | Date of enlistment 27 May 40 | GC Badges | Service or Proficiency Pay N/A. | Character

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A. | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	28Feb 41	Pte		AA.Sec.15(1)AWL from 2130 hrs. 28Feb.41 to 0720 hrs. 10Mar.41 (9 days 9 hrs. 50 mins)	Cpl.Bremner Cpl.Charlton	5 days C.B.	10 Mar.41	Maj.R.L. Dinsmore	Forf.10 days pay FR&I
Camp Borden	21Mar 41	Pte		AA.Sec.15(1)AWL from2130 hrs.21 Mar.41 to 0850hrs. 24 Mar.41. (59 hrs. 20 mins)	Cpl.Ingram Sgt.Fletcher	14 days C.B.	25Mar.41	Maj.R.L. Dinsmore	Forf.3 days pay FR&I.
Camp Borden	6 Apr 41	Pte		(1)AA.Sec.15(2)Failing to appear at place of parade.i.e. absent off defaulters parade at 2200 hrs. (2)AA.Sec.15(1)AWL from 2200hrs 6 Apr.41 to 0630 hrs.7 Apr.41 (absent 8 hrs. 30 mins)	Cpl.Ingram Cpl.Charlton	4 days C.B.	8Apr.41	Maj.R.L. Dinsmore	

(PTO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Brantford	13Jul 41	Tpr		AA.Sec.15(1)AWL from 2359 hrs. 3 Jul.41 to 2315 hrs.14Jul.41 (23 hrs.44 mins.)	Cpl.Waters Pte.Coe	2 days C.B.	14Jul.41	Major Curtis	Forf.1 days pay FR&I.
Brantford	20Jul 41	Tpr.		AA.Sec.15(1)AWL from 2359 hrs.20 Jul.41 to 2359 hrs. 9 Aug.41 (absent 20 days)	Pte.Runnals Cpl.Waters	28 days Detn.	11Aug.41	Major Harris	Forf.20 days pay
Field	18Mar 42	Tpr.		AA.Sec.15(1)AWL from0645 hrs. Ross Call on 18 Mar. 42.	Cpl.Smith Cpl.Allan	3 days C.B.	18Mar.42	Maj.J.W. Eaton	
Field	4 Jun	L/Cpl		Disobeying a lawful command given by his superior officer did not appear on parade when ordered to do so.	SSM.Raven Cpl.Allan	Reverts to the rank of Tpr.	8 Jun. 42	Maj. J.W. Eaton	
Field	28Aug 42	Tpr.		AA.Sec.40Conduct to the prej.etc (1) Improperly Dressed (2)Failed to comply with an order	Documentary	5 days C.B.	29Aug.42	Maj. P. Templeton	

MFM 6 (AFB 122), 40/P&G/136 (2458)

Nr 74343 Name Delorme, J.D. | Sqn, Battery or Company | Corps C.A.C. | Date of enlistment 27 May 40 | GC Badges | Service or Proficiency Pay N/A | Character

Company Conduct Sheet Date of last entry in N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 Aug 42	Tpr		A.A.Sec.40 Conduct to the Prej., ect.,broke out of lines whilst undergoing C.B.	Sgt.Howland Sgt.Sims	7 days C.B.	3 Sep 42	Major P. Templeton	
Field	7 Nov 42	Tpr		A.A.Sec.40 Neglect to the Prej., ect.,failed to clean his rifle.	SSM RAVEN Sgt.Howland	5 days pay FR&I 149(a) 7 days C.B.	9 Nov 42	Major P. Templeton	
Field	16 Jan 43	Tpr.	/	A.A.Sec.19 W.O.A.S.was drunk	Documentary	7 days C.B.	19 Jan 43	Major P. Templeton	
Field	3 Jul 43	Tpr.		A.A.Sec.15(1) AWL from 2230 hrs 3 JUl 43 to 0600 hrs 5 Jul 43 (Absent 1 day 7 hrs 30 Mins.)	Sgt.Cameron	3 days pay 7 d ys C.B.	5 Jul 43	Maj.Grant	Forf 2 days pay FR&I

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	5 Sep 43	Tpr.		A.A.Sec.15(1)AWL from 1100 hrs 4 Sep 43 until 2359 hrs 5 Sep 43 (Absent 1 day 12 hrs 59 mins.) A.A.Sec. 40 Possession of false Documents A.A Sec.15(1) AWL from 2015 hrs 6 Sep 43 until 1145 hrs 22 Sep 43 (Absent 15 days 15.hrs 45 Mins.) A.A.Sec.40 Possession of false Documents "CERTIFIED TRUE COPY" of Original Held in My Possession 20 Apr 44		90 days Detention	1 Oct 43	F.G.C.M.	Forf 2 days pay FR&I 149 (1)(a) Forf.16 days pay FR&I 149(1)(a) Forf 90 days pay FR&I 149 (1)(b) Forf 9 days pay FR&I 149 (1)(c)(1)

Army Form B.296(War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Courts-Martial only).

Number	Rank	Name	Regiment(or as the case may be)
B.74343	Tpr.	DELORME, J.D.	No 3 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:#

For A.A. Sec. 15 (1) ..... 9 ..... times.

For A.A. Sec. 15 (2) ..... 1 ..... times.

For A.A. Sec. 40 ..... 5 ..... times.

For A.A. Sec. 19 ..... 1 ..... times.

Date of first entry in Field Conduct Sheet 28 Feb 41

Date of last entry in Field Conduct Sheet 5 Sep 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

#Strike out if not applicable.

3. [redacted]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody: and for 8 17 days in military custody, i.e., ... in open arrest, 8 13 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of his attestation [redacted] is May 27,1940 .

7. The service which the accused is allowed to reckon is 3 yrs 328 days .

State the military decorations (if any) held by accused.

8. The accused is in possession of NIL

9. [redacted]

Date of Promotion.

In the substantive rank of..... .....

In the war substantive rank of ....

In the acting rank of..... .....

INSTRUCTION.-- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	1 Oct 43	A.A. Sec.15 (1). AWL from 1100 hrs 4 Sep 43 until 2359 hrs 5 Sep 43 (Absent 1 day 12 hrs 59 mins). A.A.Sec.40.Pos session of alse documents. A.A.Sec.15(1). AWL from 2015 hrs 6 Sep 43 until 1145 hrs 22 Sep 43. (Absent 15 days 15 hrs 45 mins. A.A.Sec.40 Possession of alse documents.	90 days detention.	N / A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th April day of April 1944

H.M. Sharp Lt.
[illegible] Lt.
[illegible] Lt-Col.

Joint Trial

Tpr. DELORME, T.A.

SR

Tpr. BOLAND, T.D

O. H. M. S.

M. F. B. 270

92 R
93 R

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 24th day of October, , 1942

Whereas it appears to me, the undersigned, an officer in Command of "E" Group, Cdn Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

~~And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint :—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

PROCEEDINGS REVIEWED.

[signature] Capt
Commanding Officer (SAC Branch) C.M.H.Q.
23 Nov 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	R.C.A.

Members.

Rank.	Name.	Regiment.
A Major	To be detailed by	3 C.A.C.R.U.
A Captain	To be detailed by	3 C.A.C.R.U.
A Captain (Waiting Member)	To be detailed by	3 C.A.C.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
(S.A. Lee) Colonel,
Commanding "E" Group, C.R.U.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H.63753 Tpr DELORME, T.A. No 3 C.A.C.R.U.	FIRST CHARGE Sec 18 (4) A.A. (See attached charge sheet)	Not Guilty	Not guilty	
L.54832 Tpr BOLAND, T.D., No 3 C.A.C.R.U.	FIRST CHARGE Sec 18 (4) A.A. (See attached charge sheet)	Not guilty	Not Guilty. 29/10/42 F.G.	Confirmed [illegible] Brie

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" each accused answered "No"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [illegible] Colonel (Signed) [illegible]

Commanding "E" Group, C.R.U. — Convening Officer (e)

[illegible] Major — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here. [illegible]

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of Oct 42, and duly tried the persons named in the Schedule, and that the plea, finding, ~~and sentence~~ in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 29 day of Oct 1942.

[illegible] Major

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 14 day of Nov 1942

[illegible] Brie

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

3

The Accused, No. H.63750 Trooper DELORME, THOMAS ALEXANDER, "D" Squadron, No.3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas and No. L.54832 Trooper BOLAND, THOMAS DUNCAN, "A" Squadron, No.3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, are charged with:

Sec. 18 (4) Army Act

WHILE ON ACTIVE SERVICE, STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW,

In That They

At Dettingen Barracks, BLACKDOWN, Hants, on the 12th October 1942, stole two cartons of Sweet Caporal Cigarettes, each containing three hundred cigarettes, the property of No. L.54786 Trooper LAZOR, STEVE, a person subject to Military Law.

Commanding No 3 CACRU

BLACKDOWN, Hants.
21 Oct 42

To be tried by a field general court-martial.

(S.A. Lee) Colonel,
Commanding "E" Gp., C.R.U.

Blackdown, Hants.,
October, 1942.

MEDICAL OFFICER'S REPORT

I certify that No. 462753 Tpr. Delorme L.A.

of #3 C.A.C. N.Y. is in a good State of health

and fit to undergo Trial by Court Martial.

J. H. Pettigrew
Medical Officer

Station Dillingen Lake

Date 29 Oct 42

"A" H Calmour

MEDICAL OFFICER'S REPORT

I certify that No. L 54832 Tpy. Boland, T.D.

of 73 C.A.C. R.V. is in a good state of health

and fit to undergo Trial by Court Martial.

J H Pettigrew
Medical Officer

Station Dettingen, Bks.

Date 29 Oct 42

The defending officer assures the Court that the accused was examined this morning 29 Oct 42

TRIAL OF NO. H-63755 TPR. THOMAS ALEXANDER DELORME, 'D' SQUADRON, NO. 3 C.A.C. R.U.

- and -

L-54632 TPR. THOMAS DUNCAN BOLAND, 'A' SQUADRON, NO. 3 C.A.C. R.U.

HELD AT DETTINGEN BARRACKS, BLACKDOWN, HANTS. ON 29 OCT 42.

President: --- Major F.J. Gilmour, R.C.A.
Members: ----- Major P.D. Holt, No. 3 C.A.C. R.U.
Capt. W.R. Crooks, No. 3 C.A.C. R.U.

The Order convening the Court, the Charge Sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by R.s P. 22, 23 and 106

Prosecuter -- Lieut. M.L. McGill, No. 3 C.A.C. R.U.

Defending Officer -- Lieut. L.W. Tayler, No. 3 C.A.C. R.U.

The Two Accused persons are brought before the Court.

Two medical certificates covering each Accused are laid before the Court. The Defending Officer assures the Court that both Accused were medically examined this morning, being the date of the medical certificate in each case. Medical certificates marked 'A', signed by the President and attached to the proceedings.

At 1300 hrs. the trial commences.

The Order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the Accused and they severally answer their names.

President to the Accused

Q.- Trooper Delorme and Trooper Boland, do you object to be tried by me as President, or by any of the Officers whose names you have heard read over.
Answer by Trooper Delorme: No, sir.
Answer by Trooper Boland: No, sir.

Q.- Trooper Delorme and Trooper Boland, do you object to B-85000 Trooper Sheedy, J.S. acting as shorthand writer?
Answer by Trooper Delorme: No, sir.
Answer by Trooper Boland: No, sir.

The President, Members and shorthand writer are duly sworn.

The following Officers under instruction are duly sworn.

Lieut. C.C. MacLachlin, No. 3 C.A.C. R.U.
Lieut. F.N. Ritchie, No. 3 C.A.C. R.U.

The Charge Sheet is signed by the President, marked 'B' and attached to the proceedings.

The Accused are arraigned upon the charge in the above mentioned charge sheet, in accordance with R.s P. 31 & 112.

The Accused are asked the question at the foot of page 2 of A.F.A. 3, and they each separately answer as follows:
Answer by Trooper Delorme: No, sir.
Answer by Trooper Boland: No, sir.

The Accused plead not guilty to the charge.

The Defending Officer applies for separate trials for the Accused, on the grounds that statements have been obtained from each Accused, which implicates the other.

The Prosecutor states that he does not oppose the application.

The application is granted by the Court.

The Court proceeds with the case of L-54832 Trooper Thomas Duncan Boland, No. 3 C.A.C. R.U.

The Prosecutor makes an opening address outlining the evidence he proposes to adduce.

First Witness for the Prosecution. Lieut. C. Todd, Canadian Postal Corps, Postal Unit C.R.U., being duly sworn states as follows.

Examined by the Prosecution:

Q.- What is your rank and name?
A.- Lieut. C. Todd of the Canadian Postal Corps, C.R.U. Postal Unit.

Q.- What do your duties consist of?
A.- Commanding the Postal Unit, C.R.U.

Q.- In the course of your duties, do you make inspections of Post-Offices?

A.- Yes.

Q.- Where were you on the 13th of October of this year?
A.- About 1500 hours on the 13th of October 1942, I came over to 3 C.A.C. R.U, Dettingen Barracks, to make an inspection of their Unit mail room.

Q.- Did anyone accompany you?
A.- The Unit Record Officer, Lieut. C.B. Fergusson and my own Q.M.S. -- Q .M.S. Woods.

Q.- On visiting the Post-Office, what did you do?
A.- I assigned my Sgt. Major to check Unit records, while I looked around the Unit mail room to see that everything there was in order.

Q.- Are there any cupboards in the Unit mail room.
A.- Yes, there is one cupboard there.

Q.- You opened this cupboard!
A.- Yes, I opened the cupboard.

Q.- Will you explain what you did during the inspection of this room.
A.- On entering the Unit mail room, I assigned my Sgt.-Major, to check the records, while I checked the room and the contents to see that everything was in order. I opened a cupboard in this room, and noticed that it contained several items. I picked up a writing kit, and this is the writing kit, which I recognize as having been in the cupboard in the Unit mail room. It has the name L-54832 Pte Boland, T.D. Inscribed. I asked if Boland was on the mail staff and Boland presented himself. I opened the writing kit, and --

Question by the Court: Can you identify Boland?
A.- I can, sir. There he is sitting at that table. (indicating the Accused)

Q.- Will you continue please.
A.- Upon opening the writing kit, I discovered two cigarette cartons which I again recognize. They were addressed to Pte. Lazor.

Q.- Did you find the actual carton, or --
A.- I found these two wrappers, exactly as they are here, except that there was no handwriting on them. Someone has marked 'exhibit 4' here. I asked if Pte. Lazor was on the mail staff and received the reply that he was not. I then asked my Sgt.-Major to find out where Pte. Lazor was so that we could interview him, as to whether or not he had received these cigarettes. During the balance of the time I am making a report on, the Accused, Trooper Boland, was present. Unit Records indicated that Pte. Lazor had been struck off strength to N.E.T.D. I then asked to see the Unit cigarette record book to find out who had signed for these cigarettes. This is the book given to me as the Unit cigarette book.

Exhibits were identified and marked as follows:

Exhibits C & D -- Two wrappers addressed to Pte. Lazor, referred to in the above evidence.

Exhibit E -- Unit cigarette book referred to in the above evidence (page 115)

Exhibit F -- Service writing kit, referred to in the above evidence.

A.- (continued) In the Unit cigarette book on Page 115, both these cartonms of cigarettes had been entered, and I can identify them as these cartons by the serial number on the Unit cigarette book. The number 46193 and 47317. There was no signature for either one of these cartons.

Q.- Was there anyone present when you made discovery of this kit.
A.- The Unit Records Officer was right beside me during the whole time, and almost the entire postal staff were present as well. Upon completing this discovery, I asked the Unit Records Officer to call in his Commanding Officer, reported my findings to him and suggested the matter be turned over to the Provost, by the Unit, for further investigation.

The Court rules it is not necessary to comply with R.P.81(h)

Cross-Examined by the Defence

Q.- How many times have you made a check on No. 3 C.A.C.R.U. Post-Office.
A.- I believe this is the first time. By saying 'I believe' I mean I have been away from C.R.U. for several months on a tour of field duty.

Q.- You had not previously checked this Post-Office?
A.- Not to the best of my knowledge.

Q.- How often do you normally check Post-Offices?
A.- There is no such thing as a normal check.

Q.- In other words you came here for a special purpose.
A.- I came here for no special purpose, other than to check the Unit mail room.

Q.- How long had you been in the Post/Office, when you discovered this writing kit?
A.- Unfortunately I did not time my every move.

Q.- Was it a short period?
A.- Definitely a short period.

Question by the Court: Do you know how long it was?
A.- About ten minutes.

Q.- Was any objection or obstruction offered by the Accused in your examination?
A.- No, sir.

Q.- He was helpful to you. You must have spoken to him I suppose, in the course of your visit.
A.- Yes, I addressed him on a couple of occasions and he answered.

Q.- There was no attempt on his part, to lead you away from the cupboard or the writing kit.
A.- I wouldn't say there was -- the discovery was made so quickly he had very little opportunity to. He was at the far end of the room, and the cupboard was about the centre.

Examined by the Court:

Q.- Was there any particular reason why you inspected the writing kit and opened it?
A.- I check everything on these inspections sir. I checked everything in the cupboard, sir. There was no particular reason at all. In the course of my inspection, I even checked the coal bin and emptied the ashes out of the stove.

The Court rules it is not necessary to comply with R.s P. (83 C.A. (b).

SECOND WITNESS for the Prosecution.

C-97103 Q.M.S. Woods, Postal Unit, C.R.U. being duly sworn states as follows:

Examined by the Prosecution:

Q.- What is your number, rank and name, and to what Unit do you belong?
A.- I am C-97103 Q.M.S. Woods, C.A., C.R.U. Postal Unit.

Q.- Where were you on the 13th of October, this year?
A.- On the 13th of October, in the afternoon, I was making a routine inspection of the Unit mail room, No. 3 C.A.C. R.U.

Q.- Did anyone accompany you?
A.- Lieut. C. Todd, and Lt. Ferguson, the Unit Records Officer.

Q.- Will you explain to the Court, what you did?
A.- On entering the Unit Post-Office, I commenced to check the registration records of the Unit mail room. Shortly after I began to check the registration records, I was handed two wrappers from tobacco parcels, by Lieut. Todd, who requested that I check the records and find what record there was of the wrappers.

Q.- I now hand you two wrappers. Can you identify them?
A.- I can sir. These are the two wrappers which were handed to me by Lieut. Todd, to be checked. (holding exhibits C & D)

Q.- How do you know?
A.- By the serial number, and by the name.

Q.- How did you check on the ownership?
A.- I commenced by checking the card index system, as to the person they were addressed to. I found that the addressee was struck off strength of No. 3 C.A.C. R.U., to No. 1 N.E.T.D. as of the 14th of July, by --

Q.- I now hand you a mimeographed sheet. Can you tell the Court what that sheet is?
A.- It is a Part II Order sir, of No. 3 C.A.C. R.U. dated 14th July, 1942.

Q.- Do you find any reference as to the owner of the cigarette wrappers on that Order?
A.- Not at the moment sir.

Q.- Did you make any further check, in regard to the wrappers?
A.- Yes, sir. I checked through the list which showed receipts by the Unit of tobacco parcels, and found they were both received on the 5th of October.

Q.- What was this list contained in?
A.- It was contained in the list, or in the file of tobacco receipts.

Q.- Did you check through any other records?
A.- I then checked through the Unit cigarette ledger, in which was the signatures for claimed cigarettes.

Q.- Can you identify this book? (handing witness Exhibit E).
A.- Yes, sir, this is the book I checked to find further record of these two parcels.

Q.- Is there any record of it there?
A.- Yes, sir, on page 115, under date of 5th of October, 1942, the two parcels are entered and there are no signatures.

Q.- How do you arrive at the conclusion that these are the two parcels in question?
A.- Because of the serial numbers of the cigarette parcels and the numbers here.

The Court rules that it is not necessary to comply with R.s P. 83 (b).

Cross-Examined by the Defence:

Q.- Have you been in C.R.U. Post-Office, since No. 3 C.A.C. R.U. has been part of C.R.U.?
A.- Yes, sir.

Q.- How many checks have you made at the Post-Office here?
A.- I myself personally -- only one.

Q.- That was the last one you made then?
A.- No, there was one prior to that.

Q.- You say that this was a routine check?
A.- Yes, sir.

Q.- You had not been here previously for some months.
A.- No. I had been here approximately a month before.

Q.- To the best of your knowledge there was no check for some time prior to that.
A.- No, sir.

Q.- You didn't notice any attempt by the Accused, or anyone, to obstruct your search.
A.- At this time we made no search -- we were merely checking the system.

Q.- The staff were helpful.
A.- Oh, yes, sir. They were helpful.

Q.- Are you familiar with the system or with the procedure, by which cigarette parcels are despatched?
A.- Despatched from where sir?

Q.- Cigarette parcels coming to this Unit for instance, for men who had been sent to N.E.T.D.
A.- Yes, sir. The tobacco parcels are endorsed 'S.O.S. to N.E.T.D.' with the date and the initials of the man that is making the re-direction. They are listed in duplicate, returned to the field post-office, where a signature is obtained on one copy of the list, the other copy being retained by the field post-office. The cigarettes are forwarded to N.E.T.D. where the records at N.E.T.D. are checked and if the manhas returned to Canada, the parcel is stamped, 'S.O.S. to Canada'. They are forwarded from N.E.T.D. to Canadian Postal Corps Headquarters, where they are held for some time and a further check is made through the Records. If at the end of that time they are satisfied that the man has returned to Canada, and that the parcel is not deliverable, the parcel is returned to the Officer Commanding the addressees Unit, sir, for disposal.

Q.- Do you notice a date stamp on these exhibits?
A.- Yes, sir, the date stamp is September 8th, 1942.

Q.- Your investigation took place at what time?
A.- On the 13th day of October, 1942, sir.

Q.- A little better than a month later. Could you say from that, whether these cigarettes had been stamped to be forwarded to N.E.T.D.
A.- No, they had not, sir.

The Court rules that it is not necessary to comply with R.s P. 83 (b).

THIRD WITNESS for the prosecution. Lieut. C.B. Ferguson, Officer i/c Records, No. 3 C.A.C. R.U. being duly sworn states as follows:

Examined by the Prosecution:

Q.- What is your name, rank and position?
A.- Lieut. C.B. Ferguson, Records Officer, No. 3 C.A.C. R.U.

Q.- What did you do on October 13th, of this year?
A.- My normal duties in the Records Office.

Q.- Was there anything happened on that day, which wasnot normal?
A.- Yes, sir, the inspection of the Post-Office by Mr. Todd of the Postal Corps.

Q.- Did he visit you before the inspection?
A.- Yes, he called at the Records Office at approximately 1600 hrs.

Q.- Why did he call on you before inspecting the Post-Office?
A.- That is part of my normal duty too, more or less to supervise the running of the Post-Office.

Q.- Did you have on the strength of the Post-Office, a TrooperBoland?
A.- Yes, sir, I did.

Q.- Is TrooperBoland present?
A.- Yes, sir, he is sitting right over there.

Q.- Had he been on the Post-Office strength for very long?
A.- I would say for approximately one and a half months to two months.

Q.- What happened during the course of this inspection?
A.- Lieut. Todd proceeded to inspect the letters office first of all, and the first place he inspected was a cupboard inside the door of the letters office. He removed a writing kit from the inside of the cupboard and inquired whose property it was.

Q.-I now show you a writing kit, can you identify it?
A.- Yes, that is the writing kit Mr. Todd removed from the cupboard.

Q.-What happened then?
A.- Mr. Todd inquired whose writing kit it was, and Trooper Boland said that it was his.

Q.- You were present at that time?
A.- Yes, sir, I was present then.

Q.-What happened then?
A.- Mr. Todd proceeded to examine the contents of the writing kit, and he found two wrappers from cigarette cartons.

Q.- Did you see these wrappers yourself?
A.- Yes, they were shown to me at the time.

Q.- I show you exhibits C & D, can you identify them?
A.- Yes, sir, these are the wrappers that were removed from the writing kit.

Q.- To whom were these wrappers addressed?
A.- To a Pte. Lazor.

Q.- Were any inquiries made regarding this Pte. Lazor?
A.- Yes, Mr. Todd inquired at the time as to what the wrappers were doing in the writing kit of Trooper Boland, who replied that he did not know.

Q.- What happened then?
A.- Mr. Todd then instructed his assistantSgt.-Major Woods to examine the cigarettes book and see if these cigarettes had been signed for, and if so, by whom.

Q.- Now, was any further check made on Trooper Lazor, to see where he was, or who he was?
A.- The index was checked, and it was found that Pte. Lazor had been struck off strength to No. 1 N.S.T.D.

Q.- I now show you two mimeographed sheets, what are they?
A.- Part II Order No. 65, issued by the Records Office, by ~~Lt~~ Col. G.W. Little, M.V.O, M.C., Commanding No. 3

C.A.C. R.U., dated 14th July, 1942.

Q.- Do you find any reference to Trooper, or rather Private Lazor, there?
A.- Yes, sir, on page 1, under Strength Decreases, paragraph 5, he is struck off strength to N.E.T.D. with effect from the 14th day of July, 1942. He is entered here as a Trooper.

Exhibit G -- Pt. II Order No. 65, of No. 3 C.A.C. R.U. dated 14th July, 1942.

Q.- After this was discovered, was any further action taken?
A.- Mr. Todd requested that I ask the C.O. to come to the Post-Office. I proceeded to Unit Headquarters and did so. I was then instructed to order the Provost to come to the Post-Office.

Q.- Didthe Provost appear?
A.- The Provost Corporal reported to the Post-Office.

Q.- And what happened then?
A.- In view of the circumstances surrounding the discovery of the wrappers in Boland's kit, I placed Trooper Boland under close arrest, and the remainder of the staff under open arrest.

The Court rules that it is not necessary to comply with R.s P. 83 (b).

Cross-examined by the Defence:

Q.- You said that in this day in question, something out of the normal had happened. Is it right then, that the post-Office is not normally inspected by C.R.U. personnel?

A.- No, sir, that wouldn't be correct. It is not a normal, every-day happening, or routine.

Q.- How often does the inspection of the Unit Post-Office by C.R.U. personnel, take place?
A.- There is no specified time laid down that I know of, but I would say approximately one month to a month and a half.

Q.- Do you know how many inspections there have been here, since the Post-Office opened?
A.- I couldn't say definitely, sir.

Q.- Had there been any?
A.- Yes, sir.

Q.- You are in charge of the Unit Post-Office.
A.- Designated by the Unit C.O. to supervise it, yes.

Q.- Also the Records Officer of the Unit.
A.- Right.

Q.- In that dual capacity, you are very busy.
A.- Correct.

Q.- To what extent do you supervise the activities of the Post-Office?
A.- I usually attend at the Post-Office during the morning and again during the afternoon after the mail has come in, from the Post-Office outside the area.

Q.- That would be a regular routine call.
A.- Yes, to check up and see that everything is running as smoothly as can be.

Q.- Whom would you have directly responsible to you, and in charge of the Post-Office?
A.- The senior of the postal staff is Cpl. Fenton, or in his absence, the next senior.

Q.- Do you have any supervision over the hours of work, in the Post-Office?
A.- That more or less comes under the Adjutant -- I don't set them.

Q.- You said that the first thing -- speaking of Lt. Todd -- he did, was to open a cupboard behind the door.
A.- That is correct.

Q.- He went almost directly to the cupboard.
A.- Yes, that is right.

Q.- He went almost directly to the cupboard, opened the cupboard and took out the writing kit.
A.- That is correct.

Q.- Have you been around in the past, when an inspection of the Post-Office was made, by C.R.U. personnel.
A.- I don't believe I was. When Capt. Kerr was here before, I was out on other duties.

Q.- You saw Trooper Boland on the occasion in question, I believe you said. He didn't appear to be offering any obstruction or making any effort to divert the attention of the examining Officer.
A.- No, not that I can recall, no.

The Court rules that it is not necessary to comply with R.s F. 83 (b).

Examined by the Court

Q.- Will you take a look please at Exhibit 'E', on page 115, in the centre column where a list of addressees names are set out. Whose writing is that, or do you know?
A.- I cannot state definitely sir, but I --

Q.- You don't know whose writing that is?
A.- No, sir, I couldn't swear definitely.

FOURTH WITNESS for the Prosecution.

A-11153 S/Sgt. Ferguson, W.G, staff Provost Sergeant, No. 3 C.A.C. R.U. being duly sworn states as follows:

Examined by the Prosecution

Q.- What is your number, rank and name?
A.- A-11153 staff Provost Sergeant William Graham Ferguson, No. 3 C.A.C. R.U.

Q.- Did you visit the Unit Post-Office on October 13, this year?
A.- I did, sir.

Q.- What was the occasion of your visiting it?
A.- On October 13, at 1550 hours, I was instructed by Col. Little to proceed to the Post-Office, and there I would contact one Lieut. Todd.

Q.- What time again, did you say?
A.- 1550 hours.

Q.- And when you get there did you meet Lieut. Todd?
A.- Yes, sir.

Q.- What did he do, or what did he say?
A.- He handed me a writing kit, bearing Trooper Beland's regimental number and name, and told me --

Q.- Was the Accused present during the conversation, of which you propose to tell us?
A.- Yes, sir.

Question by the Court: Is he present here in this room?
A.- Yes, sir.

Question by the Court: What is his name?
A.- Trooper Beland, sir.

Q.- I now shew you Exhibit 'F', do you recognize it?
A.- Yes, sir, this is the field service writing kit, belonging to the Accused, Trooper Beland.

Q.- What happened next, after you were given this writing kit?
A.- I was told to look around and see if I could find any other parcels, papers and so forth.

Q.- Were you given anything else?
A.- Yes, sir, I was given 2 cigarette wrappers, addressed to Pte. Lazer, Se

Q.- I now shew you exhibits C & D, can you identify them?
A.- Yes, sir, these are the same ones. These are the ones Lieut. Todd handed me.

Q.- Will you continue with your story, as to what you were told to do, and so on.
A.- The Accused was placed under close arrest, and I took him to his quarters and seized his kit.

Q.- What did you do with his kit?
A.- I inspected it sir, and there I found 12 packages of Sweet Caporal Cigarettes, in his small kit bag.

Q.- How many were there there?
A.- 12 sir.

Q.- I now hand you an envelope marked Exhibit 5 in previous proceedings, will you open it and see if you can identify the contents?
A.- These are the cigarettes with my initials on them.

Q.- Did anyone else accompany you when you were examining this kit?
A.- Yes, sir.

Q.- How many of these packages have your initials on them?
A.- There are fifteen packages here.

Q.- You just said there were twelve.
A.- That's my mistake. There are fifteen.

Question by the Court: Just tell us how many cigarettes you found.
A.- There are fifteen packages here sir, with my initials on them, making a total of 300 cigarettes.

Q.- Was anyone else present when you found these cigarettes?
A.- Yes, sir, Cpl. Heigh was with me. His initials are also on these packages.

Q.- Did you ask the Accused any questions about these cigarettes?
Q.- Yes, sir.

Exhibit 'H' -- Fifteen Packages of Sweet Caporal Cigarettes referred to by the Witness.

Q.- What were the questions you asked?
A.- After I duly warned him -- I gave him the usual caution of, 'You are not bound to say anything, but whatever you do say may be taken down in writing, and may be given in evidence against you.'

Q.- And did the Accused still make a statement after the warning?
A.- Yes, sir.

Q.- And was Cpl. Heigh still present?
A.- Yes, sir.

Q.- What statement did he make?

At this stage, the Defence is permitted to cross-examine the Witness.

Q.- Staff Sgt. Fergusen, you said that after duly warning the Accused, you questioned him?
A.- That is correct sir.

Q.- When did this take place?
A.- After I found the cigarettes, sir.

Q.- The evening you found the cigarettes!
A.- Right there and then, sir, when I found them.

Q.- Approximately how long after the man had been taken into custody?
A.- He had been in custody for approximately half an hour, but he was right with me when the cigarettes were found.

Q.- He had been in your custody for approximately half an hour.
A.- Yes, sir.

Q.- You went to the Post-Office at 1550 hrs. did you?
A.- Yes, sir.

Question by the Court: What time would you say that was, if you weren't using Army language?
A.- Three-thirty, sir.

Q.- In the summary of evidence, taken at proceedings prior to this, you made this statement? "At 1550 hours accompanied by Trooper Boland, I proceeded to his quarters, where his kit was seized and brought to the guard room." That would be how long after 1530 hrs.?
A.- From the time I get there sir, at 1550 hours, until I had the cigarettes and the Accused and his belongings in the guard room, would be approximately an hour and a half, sir.

Q.- Did you not say a moment ago, that it was half an hour?
A.- I took it from the proceedings and from the time I went to the guardroom.

The Court: "Let's get this time question straightened out."

Q.- I asked the witness how long it would be after the time he mentioned of 1550 hrs and 1650 hours given in his previous testimony. He then said that it would be about an hour and a half until he started to question this man.

A.- That's not the way I put it. The explanation is, after I had taken the prisoner to the guard room, and from there to the time I found the cigarettes, from the time he was first handed into my custody, which was in the Post-Office --

Q.- Was there a considerable lag in time, say several hours, between the taking of this man into custody, and the time when he made the statement which you have mentioned? Was there a time lag of several hours between the time when the man was taken into custody and the time when he made the statement?
A.- No, sir.

Q.- How long would you say it was?
A.- Well an hour to an hour and a half, when he made his statement to me.

Q.- Who took the statement down that you refer to?
A.- The statement that I am referring to, is not the statement in the Summary of Evidence. When I found the cigarettes and saw that the boy was prepared to speak, my experience is such that I know that no statement can be taken from a man without duly warning him, and when I saw he was about to talk, I warned him and asked him if he understood the warning, and he said, "I do Provost. These are the cigarettes which you are looking for."

Q.- This was not a written statement?
A.- No, sir, this is when I seized the cigarettes.

The Court: Did you ask him to make a statement?
A.- No, sir.

The Court: Did you threaten him in any way?
A.- No, sir.

The Court: Did you offer him any inducement if he would say anything?
A.- No, sir.

The Court: Was there a written statement obtained from the Accused?
A.- No, sir, not at that time.

<u>The examination-in-chief by the Prosecution continues.</u>

Q.- Did the Accused make an oral statement?
A.- Yes, sir.

Q.- And didyou warn him before he made this statement?
A.- Yes, sir.

Q.- And what was the statement made by the Accused?
A.- He said, "Provost, I am going to tell the truth. These are the cigarettes I took from the Post-Office." I then initialled the cigarettes, which my Provost Cpl. also did and we then took him to the guard room, and there was no more said about it until the Summary of Evidence.

<u>Cross-Examined by the Defence:</u>

Q.- You said that the witness remarked; "Provost, I must tell the truth. These are the cigarettes."
A.- I didn't say that. "Provost, I will tell the truth." I didn't put the word 'must' in at all.

Q.- You found 15 packages of cigarettes in the Accused's quarters.
A.- Yes, sir, in his small pack.

Q.- Do you know to whom these cigarettes belonged?
A.- Just on the Accused's admission that these are the cigarettes he took.

Q.- You had no personal knowledge as to whom they belonged?
A.- No, sir. I cannot say that I know to whom these cigarettes belonged. I was looking for cigarettes and when I found them in his kit, he said "Those are the cigarettes I took from the Post-Office."

Q.- Sweet Caporal are a common brand of cigarettes, aren't they?
A.- Yes, sir, I smoke them myself.

Q.- There are probably thousands come in here every week.
A.- I would imagine so, sir.

Q.- It is pretty hard to tell one package of cigarettes from another, isn't it?
A.- Well, they are all labelled the same, and put up in twenties and tens.

Q.- I think you made the statement that he was ready or wanted to talk to you?
A.- Yes, sir.

Q.- Did he say, 'I want to make a statement?'
A.- Well, he was right by my side sir, and --

Q.- Did he say,'I want to make a statement'?
A.- I have been a detective for over 15 years, and I know when an Accused is going to talk, and that I must not use any evidence, verbal or otherwise, before he is duly warned, because if you do it is useless.

Q.- I am merely asking you, did he come to you and say, 'I want to make a statement'?
A.- He said, "I am going to tell the truth. These are the cigarettes you are looking for Provost." Those were his only words.

Q.- You didn't say to him -- "Will you make a statement?" You didn't urge him to say these words, did you?
A.- No, sir, I dare not.

Q.- You didn't say to him -- "Are these the cigarettes?" You didn't question him at all, did you?
A.- No, sir, right there and then he offered the statement, and when I saw the statement was coming, I duly warned the Accused.

Q.- Did the Accused co-operate, you might say, with you? Did he assist you in getting his kit and searching it? He didn't seem to be trying to lead you away from anything.
A.- No, sir, he gave us every assistance possible.

The Court rules that it is not necessary to comply with R.S P. 83 (b).

FIFTH WITNESS for the Prosecution.

M-65836 A/Cpl. Heigh, L.L. Provost Cpl. No. 3 C.A.C. R.U., being duly sworn states as follows:

Examined by the Prosecution:

Q.- What is your number, rank and name?
A.- M-65836, A/Cpl. Lester, Lee, Heigh, No. 3 C.A.C. R.U.

Q.- On October 13th, of this year, were you called to the Unit Post-Office?
A.- Yes, sir

Q.- Who called you?
A.- Lieut. Fergusen.

Q.- And when you arrived there, what instructions did he give you?
A.- He instructed me to place under close arrest, the Accused, Trooper Beland.

Q.- Do you know Trooper Beland by sight?
A.- Yes, sir.

Q.- Could you point him out?
A.- Yes, there he is sitting over there. (indicating the Accused)

Q.- Did you carry out any search of Trooper Beland kit?
A.- Yes, sir, Staff Provost Sgt. Fergusen and myself made a search.

Q.- Was the Accused with you at that time?
A.- Yes, sir.

Q.- Did you find anything in his kit?
A.- Yes, sir, we found 300 Sweet Caperal cigarettes, in packages of twenty.

Q.- What did you do with these cigarettes?
A.- These cigarettes were initialled by Staff Fergusen and myself in the presence of Trooper Beland.

Q .- I show you an envelope, which has been identified as Exhibit 'H'. I want you to examine the contents and tell us whether or not you can identify it?
A.- Yes, sir, I can.

Q.- Can you tell us how many cigarettes there are, and what cigarettes they are?
A.- They are Sweet Caperal cigarettes sir, in fifteen packages of twenty cigarettes in each package.

Q.- Are these the cigarettes you found in Beland's kit?
A.- Yes, sir.

Q.- How do you know?
A.- They are initialled with my own initials and Staff Sgt. Fergusen's.

Q.- Did Trooper Beland make any statement in regard to these cigarettes?
A.- Yes, sir, he did.

Q.- Was he given any warning before he made this statement?
A.- He was sir. He was told that he was not compelled to give any statement of any sort, and anything he did say might be used against him.

Q.- Who gave him that warning?
A.- Staff Sgt. Fergusen.

Q.- In the face of that warning, did he still make a statement?
A.- Yes, sir, he said that these were the cigarettes that had been taken from the Post-Office, not belonging to himself.

Q.- Did anybody offer him any violence?
A.- No, sir.

Q.- Or offer him any exemption from punishment?
A.- No, sir.

Q.- Or no other inducement to make a statement of that kind?
A.- No, sir.

The Court rules that it is not necessary to comply with R.S, P. 83 (b)

Cross-Examined by the Defence:

Q.- Cpl., when did you eat on the occasion in question?
A.- I don't recall sir, just what time it was.

Q.- Do you remember with whom you ate? Do you remember whether or not the Accused ate an evening meal on that occasion?
A.- I believe sir, that we ate together.

Q.- When did this oral statement that you refer to -- when was that given or made to you and Sgt. Ferguson; prior to eating or afterwards?
A.- That was at the time we searched his kit sir.

Q.- Was that prior to eating or afterwards?
A.- I am not sure sir.

Q.- Would you say it was before supper?
A.- I believe it was, but I am not certain, sir.

Q.- You took the Accused from the Post-Office to his quarters, took his kit to the guard room, searched it, he made a statement, and then you went to supper. Is that right, or is it wrong?
A.- I am not sure of that sir. I don't know if he was taken for his kit before supper or after supper.

Q.- If I suggest to you that he went to supper first, would you say I was wrong?

The Court: Do you remember whether the search was made before supper or after supper?
A.- I don't, sir.

Q.- What time approximately, or how long after this man had been taken into custody, did he make this oral statement?
A.- That was at the time the kit was searched sir, and I am not sure what time that was.

Q.- You, in giving your evidence, quoted your version of his oral statement with the phrase, 'not belonging to himself', did he say that?
A.- That is right sir.

Q.- He used these words! He did use these words, did he?
A.- I am not sure of the exact wording he used, but it was to that effect.

Q.- The previous witness has said that, 'these are the cigarettes I took from the Post-Office'. He said that was the statement, do you agree?
A.- That is the statement I have given, sir.

Q.- Do you think that is right?
A.- That is right.

The Court rules that it is not necessary to comply with R.s P. 83 (b).

SIXTH WITNESS for the Prosecution. G-45426 L/Cpl. Latta, R., No. 9 Provost Company, attached to the D.A.P.M.s Office, C.R.U., being duly sworn states as follows:

Examined by the Prosecution:

Q.- What is your number, rank and name, and to whom are you attached at the present time?
A.- G-45426 L/Cpl. Latta, R., of No. 9 Provost Company, attached to the D.A.P.M.s Office, C.R.U., sir.

Q.- Were you called to No. 3 C.A.C. R.U. on the 14th of October of this year?
A.- I was, sir.

Q.- For what purpose?
A.- Well, the 'phone message received was --

Q.- You cannot tell us of the 'phone message. Whom did you contact here?
A.- I contacted Provost Staff Sgt. Ferguson, sir.

Q.- What did he tell you?

The Court: Was the Accused present?
A.- Later on he was, sir.

Q.- What didyou do at No. 3 C.A.C. R.U.?
A.- I made a few preliminary investigations myself, sir, and when Staff Sgt. Ferguson told me --

The Court: Was the Accused present?
A.- Later on he was sir.

The Court: Well tell us only of any conversation which took place in the presence of the Accused.

Q.- What did you do?
A.- I made a few preliminary investigations myself -- and I don't know just how I am going to explain things, without telling about the conversation -- as a result of a report made to me by Staff Sgt. Ferguson, I saw Trooper Boland.

Q.- Did you ask Trooper Boland any questions?
A.- I did, sir.

Q.- Did you first caution him?
A.- Yes, sir.

Q.- What form did the caution take?
A.- 'You are not obliged to say anything, but anything you do say will be taken down in writing and used in evidence'. He signed that caution in his statement.

Q.- You gave him the caution in writing and he signed it?
A.- Yes, sir, the caution was put down on paper, and he signed it.

Q.- Did Trooper Boland make any statement to you regarding the subject of your investigations?
A.- He did, sir.

The Court: Did you obtain a written statement from the Accused?
A.- Yes, sir.

The Court: In obtaining a statement did you in any way threaten the Accused?
A.- No, sir.

Q.- Did you offer him any inducement to make a statement?
A.- No, sir, I didn't.

Q.- How did you happen to get a statement from him?
A.- We talked over the circumstances there, leading up to it, and I asked him if he was willing to make a written statement of what he had already told me verbally, and he said he was.

Q.-Did you write it down, or did he write it down?
A.- I wrote it down and he dictated it to me.

Q.- When he was making this statement, did you cross-examine him or cross question him?
".- Well, if there was a little point to clear up, but it was his words that were being used.

Q.- Did you tell him that it would in any way be to his advantage to make a statement?
A.- Definitely not, sir.

Q.- I shew you a book containing certain writings, can you identify that?
A.- Yes, sir, that's my writing.

Q.- Will you point out Trooper Beland's statement, where it begins and where it ends?
A.- Here it is here. It contains 3 pages all initialled at the bottom by Trooper Beland.

Exhibit 'I': Three pages, containing the statement made by the Accused to the Witness.

Q.- Will you read this statement please, to the Court?
A.- (Witness reads Exhibit 'I')

Q.- This statement is signed by whom?
A.- By the Accused, Trooper Beland, sir.

Q.- Would you recognize Trooper Beland, if you saw him again?
A.- Yes, sir.

Q.- Do you see him present in this room?
A.- Yes, sir, there he is. (indicating the Accused)

The Court rules that it is not necessary to comply with R.s P. 83 (b).

Cross-Examined by the Defence:

Q.- This statement was written and given, the day after the man had been taken into custody.
A.- Yes, sir.

Q.- What time, do you remember?
A.- About 1400 hours, sir.

Q.- Almost a full day had elapsed since he was taken into custody.
A.- Yes, sir, that's right.

Q.- The man was taken to the R.S.M.s Office, I understand.
A.- Yes, sir, that's right.

Q.- Who was present?
A.- R.S.M. Slater, Staff Sgt. Ferguson, and there was a request made to allow Trooper Boland's brother who is a Sgt. to be present, and I decided to allow him to be present during the time the statement was being taken.

Q.- Are you connected with this sort of investigation regularly?
A.- Since September 19th, sir.

Q.- If possible you prefer to get a statement from the Accused.
A.- That is right, sir.

Q.- What was the general attitude of the Accused. Was he hard to get to talk? Did you have any difficulty in getting a statement from him?
A.- No, sir, I won't say I had much difficulty as far as the statement was concerned. The most difficult part was that he was trying to cover the other fellow up. He admitted his own part in it, and tried to cover the other fellow up.

Q.- The facts as given here, were heard by all present, and apparently agreed to by all present. I mean the fact of time, and so on.
A.- It is not correct to say that the fact of time was agreed to by all present. It was just a question of me getting a statement and having witnesses, to be present when the statement was made.

Examined by the Court:

Q.- How many people were present when the statement was taken?
A.- R.S.M. Slater, Staff Sgt. Ferguson, Sgt. Boland the Accused's brother, and the Accused.

The Court rules that it is not necessary to comply with R.s P. 83 (b).

The Prosecution is closed.

R.s P. 40 (a) complied with.

President to Accused:

Q.- Do you apply to give evidence yourself, as a witness?
A.- No, sir.

Q.- Do you wish to call any witnesses as to your Defence?
A.- Yes, sir, two witnesses.

Q.- Witnesses as to character only.
A.- One is a character witness, sir.

The Defending Officer submits that the Prosecution have not established a prima facie case, in as much that the charge sheet alleges that the Accused stole cigarettes, the property of a person subject to Military Law, and that the evidence so far adduced, shews that Trooper Lazer was struck off the strength of No. 3 C.A.C. R.U. to N.E.T.D., and there is no evidence that the said La,or is now a person subject to Military Law.

The Prosecution replies to the submission.

The Court closes at 1700 hours to consider the submission.

The Court re-opens at 1900 hours.

The President: "The Court have now come to a conclusion on the submission made by the Defending Officer. The charge against the Accused, is of stealing property belonging to a person subject to Military Law. The onus of proof is on the Prosecution because, firstly every man is presumed to be innocent until he is proven guilty and secondly, because he who alleges the fact must prove it.

Now, in the statement of the offence, there are two facts to be proved. First that the Accused stole property, and secondly that the property belonged to a person subject to Military Law. The cigarettes that are alleged to have been stolen, were consigned to L-54786 Pte. Lazer, S., No. 3 C.A.C. R.U. C.A.(O). Part of the evidence adduced by the Prosecution consists of Part II Orders by Col. G.W. Little, M.V.O., M.C., Commanding No. 3 C.A.C. R.U., dated 14th July, 1942, and item No. 5 of this Order shews that L-54786 Trooper Lazer, S. to whom the cigarettes in question were assigned, was struck off the strength of No. 3 C.A.C. R.U. to No. 1 N.E.T.D. with effect from the 14th of July, 1942, and this Order further shews that he was medical category 'E'.

At first, one might assume that because the Prosecution have shewn that the person to whom the cigarettes in question were addressed, was at one time a person subject to Military Law and the last record produced shewed that this person was taken on strength of No. 1 N.E.T.D. that it could be safely assumed that Lazer was still a person subject to Military Law, or at least that the Prosecution had established a prima facie case, and had complied with the necessity of making out a prima facie case, and that therefore the burden of proving that Lazer is no longer a person subject to Military Law, had shifted, and that this burden of proof was now for the Defence. Under R.P. 74 the Court may take judicial notice of matters of notoriety, including all matters within their general Military knowledge, and the Court of course knows that soldiers who are in medical category 'E' and are struck off the strength of their Units to No. 1 N.E.T.D., are sent to this depot, pending return to Canada, and it would not be reasonable to assume that a soldier whose medical category 'E' had been established, and was struck off strength to No. 1 N.E.T.D. on the 14th of July, would still be at that Depot when the alleged offence in question took place. That is to say the 12th of October, 1942, approximately 2 months later. In any event note 6 to Army Act Section 18 (4) states (President read the note).

Now, evidence was given by one of the witnesses called for the Prosecution, when cross-examined by the Defending Officer, to the effect that when a soldier is struck off the strength of his Unit to No. 1 N.E.T.D., that the cigarettes follow the soldier to No. 1 N.E.T.D. and if they can be delivered to him there, they are so delivered. If not they are not sent back to Canada, but remain in this country, in England, and apparently the practice is to return them to the soldier's C.O. of his former Unit, for distribution to the personnel of that Unit.

So we find ourselves in this position, that at the date that the alleged offence took place, we have no evidence to shew whether Lazer is still in England, or has returned to Canada, nor do we know whether he is still in the Army. If he is not in the Army, he is not a person subject to Military Law, and even if he is still in the Army, but has gone back to Canada, the cigarettes are not his, and in this connection it is to be observed that on the carton instructions have been given providing dispesal as follows: 'Dispesal instructions of sender -- If parcel cannot be delivered or forwarded to addressee, deliver to Officer Commanding addressee's Unit'. I would also refer to Note 10, under Army Act Section 18 (4) (President reads the passage in question).

The Court had thought of the possibility of making a special finding, but that does not seem possible, because as pointed out in Note 6 of Rules of Procedure 44, the special finding relates only to the particulars of the charge, and not to the statement of the offence. Accordingly even though the facts which have been proved here today, might disclose that the offence of stealing has taken place, they do not disclose clearly the ownership of the property alleged to have been stolen. In other words the Court does not know who is the owner of the cigarettes and accordingly the Court allows the submission of the Defending Officer. Consequently the Accused is not called upon for his defence, and the case is dismissed.

H. Wilmour Major.
PRESIDENT

TRIAL OF NO. H-63755 TPR. THOMAS ALEXANDER DELORME 'D' SQUADRON, NO. 3 C.A.C. R.U.

- and -

L-54632 TPR. THOMAS DUNCAN BOLAND, 'A' SQUADRON, NO. 3 C.A.C. R.U.

HELD AT DETTINGEN BARRACKS, BLACKDOWN, HANTS. ON 29 OCT 42.

President:--	Major F.J. Gilmour,	R.C.A.
Member -----	Major P.D. Holt,	No. 3 C.A.C. R.U.
Member -----	Capt. W.R. Crooks,	No. 3 C.A.C. R.U.

The Order convening the Court, the Charge Sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by R.s P. 22, 23 and 106.

Prosecutor -- Lieut. M.L. McGill, No. 3 C.A.C. R.U.

Defending Officer -- Lieut. L.W. Tayler, No. 3 C.A.C. R.U.

The Two Accused persons are brought before the Court.

Two medical certificates covering each Accused are laid before the Court. The Defending Officer assures the Court that both Accused were medically examined this morning, being the date of the medical certificate in each case. Medical certificates marked 'A', signed by the President dnd attached to the proceedings.

At 1300 hrs. the trial commences.

The Order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the Accused and they severally answer their names.

President to the Accused

Q.- Trooper Delorme and Trooper Boland, do you object to be tried by me as President, or by any of the Officers whose names you have heard read over.
Answer by Trooper Delorme: No, sir.
Answer by Trooper Boland: No, sir.

Q.- Trooper Delorme and Trooper Boland, do you object to B-85000 Trooper Sheedy, J.S. acting as shorthand writer?
Answer by Trooper Delorme: No, sir.
Answer by Trooper Boland: No, sir.

The President, Members and shorthand writer are duly sworn.

The following Officers under instruction are duly sworn.

Lieut. C.C. MacLachlin, No. 3 C.A.C. R.U.
Lieut. F.N. Ritchie, No. 3 C.A.C. R.U.

The Charge Sheet is signed by the President, marked 'B' and attached to the proceedings.

The Accused are arraigned upon the charge in the above mentioned charge sheet, in accordance with R.s. P 31 & 112.

The Accused are asked the question at the foot of page 2 of A.F.A. 3, and they each separately answer as follows:
Answer by Trooper Delorme: No, sir.
Answer by Trooper Boland: No, sir.

The Accused plead not guilty to the charge.

The Defending Officer applies for separate trials for the Accused, on the grounds that statements have been obtained from each Accused, which implicates the other.

The Prosecutor states that he does not oppose the application.

The application is granted by the Court.

The Court being satisfied that the regimental number of the Accused is H-63753, and not as stated in the charge sheet, amend the charge sheet accordingly.

The Court proceeds with the case of H-63753 Trooper Thomas Alexander Delorme, 'D' Squadron, No. 3 C.A.C. R.U.

The Prosecuter makes an opening address outlining the evidence he proposes to adduce.

FIRST WITNESS for the Prosecution. A-11153 S/Sgt. Ferguson, W.G. staff Provost Sergeant, No. 3 C.A.C. R.U. being duly sworn states as follows:

Examined by the Prosecution:

Q.- What is your name, rank and number, please?
A.- A-11153 staff Provost Sgt. Ferguson, W.G., of No. 3 C.A.C. R.U.

Q.- I show you a mimeographed sheet, can you identify it?
A.- Yes, sir. This is an Order sir, Part II, by Col. G.W. Little, M.V.O., M.C., and Identify this sheet in as much as I have marked it here beside Trooper Lazer's name, number and initials.

Q.- Does this contain any information, regarding Trooper Lazer?
A.- Yes, sir.

Q.- Will you read that please?
A.- Under Strength Decrease, paragraph 5 of this Order, which is No. 65, is the following: (reads the paragraph in question)

Question by the Court: "Who was that Trooper Lazer, do you Know?"
A.- Trooper Lazer was a member of this Unit, and was sent to N.P.T.D. as medically unfit.

The Prosecutor advises the Court that he is not able to adduce any evidence in any way different from the evidence adduced in the case of No. L-54632 Tpr. Thomas Duncan Boland, to establish that the cigarettes in question were property belonging to a person subject to Military Law.

The Defending Officer makes the submission that the Prosecution have not presented a prima facie case, and that the onus is on the Prosecution to establish that the property stolen in fact belonged, at the date of the alleged offence, to a person subject to Military Law, and that the case accordingly be dismissed.

The Court agrees with the submission of the Defending Officer and the charge is dismissed.

The Court desire it to be noted that the Prosecutor, at the commencement of proceedings, in view of the decision of the Court in the case of L-54832, Trooper Thomas Duncan Boland, applied for an adjournment, which was not granted.

H. Gilmour Major

PRESIDENT.

SUMMARY OF EVIDENCE, In The Case Of L-54832 TROOPER BOLAND, T.D. on the strength of number 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION.

LIEUT. C. TODD, acting Officer Commanding, Postal Unit, C.R.U. an Officer of the Canadian Army Overseas, having been duly sworn states as follows:

I, Lieut. C. Todd, acting Officer Commanding, Postal Unit, C.R.U. made a postal inspection of No. 3 C.A.C.R.U. Unit post office, at approximately 1500 hours. 13 October 42, at Dettingen Barracks, Blackdown, Hants. In the course of this inspection, I opened a cup-board in the letter room of the Unit post office, and noted that it contained a miscellaneous assortment of articles. I picked up a service writing kit with the name L-54832, Boland, T.D., 3 C.A.C.R.U. on it, and opened it for examination.

EXHIBIT NO. 1 - Service Writing Kit referred to.

It contained the wrappers from two packets of 300 Sweet Caporal Cigarettes, both addressed to L-54786 Private Lazor, S. No. 3 C.A.C.R.U., bearing cigarette order numbers A-u A-47317 and A-u A-46193. I asked my Sergeant Major, Q.M.S. Woods, to check the Unit records as to the whereabouts of Private Lazor. A Unit records showed that on Part II Order No. 65, dated 14 July 42, paragraph 5, Private Lazor was S.O.S. to N.E.T.D. with effect 14 July 42.

EXHIBIT NO. 2 - Copy of No. 3 C.A.C.R.U. Pt. II Order No. 65 dated 14 July, 1942.

I then instructed the Sergeant Major to look up the Unit cigarette register and find out who had signed for these two parcels. Unit cigarette register showed no signature for these cigarettes on page 115.

EXHIBIT NO. 3 - No. 3 C.A.C.R.U. Cigarette Register.

Lieut. C.B. Ferguson, Officer i/c Records, No. 3 C.A.C.R.U. was present with me, and I asked him to send for the Officer Commanding and the Unit Provost, so that the matter could be further investigated. That is my evidence.

The Accused declines to cross-examine this witness.

C. Todd Lieut
Signature of the Witness.

SECOND WITNESS FOR THE PROSECUTION.

C-97103 Q.M.S. Woods, C.A., on the strength of Postal Unit, C.R.U. being duly sworn states as follows:

I am C-97103 Q.M.S. Woods, C.A. on the strength of Postal Unit, C.R.U. On the 13 October 42, in company

with Lieut. Todd, I was making a routine inspection of the Unit postal affairs, at No. 3 C.A.C.R.U., Bettingen Barracks, Blackdown. On entering the post office in company with Lieut. Todd and the Records Officer, Lieut. Ferguson, I immediately began to check the registration records of the Unit, while Lieut. Todd began to check the room itself. A few minutes later Lieut. Todd asked me to check on two wrappers for cigarette parcels, which he handed me and which I checked through the records office. I found that the parcels had been addressed to Private Lazor, and on checking further regarding this man, I found that he had been S.O.S. to N.E.T.D. on 14 July 42. I checked the incoming receipts of parcels and found that they were both received on the 5 October 42. I then checked the cigarette register book and found that both items had been entered on page 115 on the 5-10-42, but that neither item had been signed for. The two entries in the book corresponded with the two numbers that were on the wrappers. These are the two wrappers, bearing order numbers A-U A-47317 and A-U A-46193.

EXHIBIT NO. 4 - Wrappers referred to.

I then brought this to the attention of Mr. Todd, that I had found the record of these parcels. That is my evidence sir.

The Accused declines to cross-examine this witness.

[signature] Witness
Signature of the Witness

THIRD WITNESS FOR THE PROSECUTION. Lieut. C.B. Ferguson, Officer i/c Records, No. 3 C.A.C.R.U., on the Permanent Establishment of No. 3 C.A.C.R.U. being duly sworn states as follows:

I am Lieut. C.B. Ferguson, Officer i/c Records, No. 3 C.A.C.R.U. On the afternoon of the 13 October 42, Lieut. Todd, of the Postal Unit, C.R.U., called at the Records Office at approximately 1600 hours and stated that he wished me to accompany him to the post office in order that he could carry out his inspection of same. On arrival at the post office, Lieut. Todd proceeded to inspect the postal premises. On opening a cupboard in the letters office, he took down a writing kit and inquired who was the owner of same. Trooper Boland who was present, stated that the writing kit belonged to him. This is the writing kit in question. (holding Exhibit No. 1) Lieut. Todd removed from the writing kit, the outside wrappers from 2 cartons of cigarettes, and inquired what they were doing in Trooper Boland's writing kit. Trooper Boland stated that he did not know what they were doing there, nor how they came to be in his kit. I saw these wrappers myself, and these are the wrappers in question. (holding Exhibit No. 4). In view of the circumstances, I placed Trooper Boland under close arrest, and the remainder of the postal staff under open arrest. That is my evidence.

The Accused declines to cross-examine this witness.

C B Ferguson Lieut.
Signature of the Witness.

FOURTH WITNESS FOR THE PROSECUTION.

A-11153 S/Sgt. Ferguson, W.G. staff P rovost Sergeant, No. 3 C.A.C. R.U. on the permanent establishment of No. 3 C.A.C. R.U., being duly sworn states as follows:

I am A-11153 S/Sgt. Ferguson, W.G. staff Provost Sergeant of No. 3 C.A.C. R.U. On the 13 October 42, at approximately 1550 hours, I was instructed by the Commanding Officer, to proceed to the Unit post Office. On arriving there I met Lieut. Todd, O.C. Postal Unit, C.R.U., and he handed to me service writing kit bearing the number L-54832 Trooper Boland, T.D. 3 C.A.C.R.U., and in that kit I found 2 wrappers, bearing registration numbers A-4 A-47317 and A-u A-46193; the wrappers covering 300 Sweet Caporal Cigarettes each, 600 in all. At 1650 hours, accompanied by Trooper Boland, I proceeded to his quarters, where his kit was seized and brought to the guardroom. On examining same, I found 15 packages of 20 Sweet Caporal Cigarettes, which I now produce.

EXHIBIT NO. 5 - Cigarettes referred to.

Each package is marked with my initials and by Cpl. Heigh who accompanied me. Trooper Boland was duly warned by me, the warning given being as follows: 'You are not bound to say anything, but whatever you do say may be taken down in writing and used in evidence against you.' Trooper Boland told me that these were the cigarettes he took from the post office belonging to Private Lazor, S. On examining the cigarette registration book, I found the 2 entries showing Lazor's name, which I marked, on page 115, dated 5 October 42. That is my evidence sir.

The Accused declines to cross-examine this witness:

W G Ferguson
Signature of the witness.

FIFTH WITNESS FOR THE PROSECUTION.

M-65836 A/Cpl. Heigh, L.L. Provost Corporal, No. 3 C.A.C. R.U., on the permanent establishment of No. 3 C.A.C.R.U., being duly sworn states as follows:

I am M-65836 A/Cpl. Heigh, L.L., Provost C orporal, on the permanent establishment of No. 3 C.A.C. R.U., and at the time and date in question sir, I was asked by Lieut. Ferguson the Records Officer, to go to the post office, and there instructed to place under close arrest, Trooper Bolan Upon checking his kit in company with S/Sgt. Ferguson, these cigarettes were found, 300 Sweet Caporals, which we both have initialed on the outside of the packs. These are the cigarettes in question. (holding Exhibit No. 5) That is my evidence, sir.

The Accused declines to cross-examine this Witness:

L.L. Heigh
Signature of the Witness.

SIXTH WITNESS FOR THE PROSECUTION.

G-45426 L/Cpl. Latta, R. on the strength of No. 9 Provost Company, attached to the D.A.P.M.s Office, C.R.U., being duly sworn states as follows:

I am G-45426 L/Cpl. Latta, R. on the strength of No. 9 Provost Company, attached to D.A.P.M., C.R.U. On the 14 October 42, I was notified by telephone that a theft of cigarettes had occurred here at No. 3 C.A.C. R.U, and the D.A.P.M. detailed me to come out here. When I arrived here, I contacted S/Sgt. Ferguson, and he explained to me the circumstances, and what had been done. He also told me that Trooper Boland was under arrest. After making a few preliminary investigations, Trooper Boland was brought to the R.S.M.s office and questioned. Later I obtained a statement from him in the presence of S/Sgt. Ferguson. This statement admits his part of the guilt and is contained in this book.

EXHIBIT 6 -- Book containing statement referred to.

Trooper Delorme was then taken to the R.S.M.s office and questioned. After the usual caution, a statement was taken from him, in which he admitted his part in the matter. He told me that he would take me to where the cigarettes were hidden, and in company with Cpl.McColl I went to the post office and Trooper Delorme handed over these twelve packages of cigarettes.

EXHIBIT 7 - Twelve packages of cigarettes referred to.

These were initialed by Cpl. McColl and myself in the presence of the Accused. After we took the cigarettes, Trooper Delorme was returned to the guardroom. That is my evidence, sir.

The Accused declines to cross-examine this witness:

R Latta
Signature of the Witness

SEVENTH WITNESS FOR THE PROSECUTION.

L-2612 A/Cpl. McColl, D.R. Provost Corporal, No. 3 C.A.C. R.U. on the permanent establishment of No. 3 C.A.C. R.U., being duly sworn states as follows:

I am L-2612 A/Cpl. McColl, D.R., Provost Corporal, No. 3 C.A.C. R.U. On the 14th of October 1942, at approximately 1500 hours, S/Sgt. Ferguson came to the guardroom and ordered me to go to the post office with him. I went to the post office and took Trooper Delorme down to his sleeping quarters and there we looked through his kit. In the bottom of his kit bag, we found one package of Sweet Caporal Cigarettes, which were not opened. Trooper Delorme was then taken to the guardroom, and from there he was taken over to the office of the R.S.M. On being questioned as to the whereabouts of the cigarettes that were missing, he said he had them in the bush. We asked him if he would take us to where they were and he said he would. He said it would be about a 15 minute walk to where they were, so we ordered a jeep from the M.T. and on arrival of the jeep we got in and I asked in which direction he wanted to go. We then started and he directed us to the post office. On going into the post office, Trooper Delorme told Trooper Bradford he had come for the cigarettes he had left with him. The cigarettes were taken by Cpl. Latta back to the guardroom, and these are the cigarettes here. (holding Exhibit No. 7). That is my evidence sir.

The Accused declines to cross-examine this witness.

[illegible]
Signature of the Witness

The accused was cautioned as follows: 'Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The Accused: I do not wish to make a statement or to give any evidence.

I certify that the foregoing summary of evidence, consisting of five pages, was taken down in my presence, and in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

C. McLachlan Lieut
Signature of Officer detailed to take the Summary.

Dettingen Barracks,
Blackdown Hants,
19 Oct 42.

SUMMARY OF EVIDENCE, In The Case Of H-63753 TROOPER DELORME, T.A. **on the strength of number 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.**

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION.

LIEUT. C. TODD, acting Officer Commanding, Postal Unit, C.R.U. an Officer of the Canadian Army Overseas, having been duly sworn states as follows:

I, Lieut. C. Todd, acting Officer Commanding, Postal Unit, C.R.U. made a postal inspection of No. 3 C.A.C.R.U Unit post office, at approximately 1500 hours. 13 October 42, at Dettingen Barracks, Blackdown, Hants. In the course of this inspection, I opened a cup-board in the letter room of the Unit post office, and noted that it contained a miscellaneous assortment of articles. I picked up a service writing kit with the name L-54832, Boland, T.D., 3 C.A.C.R.U. on it, and opened it for examination.

EXHIBIT NO. 1 - Service Writing Kit referred to.

It contained the wrappers from two packets of 300 Sweet Caporal Cigarettes, both addressed to L-54786 Private Lazor, S. No. 3 C.A.C.R.U., bearing cigarette order numbers A-u A-47317 and A-u A-46193. I asked my Sergeant Major, Q.M.S. Woods, to check the Unit records as to the whereabouts of Private Lazor. X Unit records showed that on Part II Order No. 65, dated 14 July 42, paragraph 5, Private Lazor was S.C.S. to N.E.T.D. with effect 14 July 42.

EXHIBIT NO. 2 - Copy of No. 3 C.A.C.R.U. Pt. II Order No. 65 dated 14 July, 1942.

I then instructed the Sergeant Major to look up the Unit cigarette register and find out who had signed for these two parcels. Unit cigarette register showed no signature for these cigarettes on page 115.

EXHIBIT NO. 3 - No. 3 C.A.C.R.U. Cigarette Register.

Lieut. C.E. Ferguson, Officer i/c Records, No. 3 C.A.C.R.U. was present with me, and I asked him to send for the Officer Commanding and the Unit Provost, so that the matter could be further investigated. That is my evidence.

The Accused declines to cross-examine this witness.

Signature of the Witness.

SECOND WITNESS FOR THE PROSECUTION.

C-97103 Q.M.S. Woods, C.A., on the strength of Postal Unit, C.R.U. being duly sworn states as follows:

I am C-97103 Q.M.S. Woods, C.A. on the strength of Postal Unit, C.R.U. On the 13 October 42, in company

with Lieut. Todd, I was making a routine inspection of the Unit postal affairs, at No. 3 C.A.C.R.U., Dettingen Barracks, Blackdown. On entering the post office in company with Lieut. Todd and the Records Officer, Lieut. Ferguson, I immediately began to check the registration records of the Unit, while Lieut. Todd began to check the room itself. A few minutes later Lieut. Todd asked me to check on two wrappers for cigarette parcels, which he handed me and which I checked through the records office. I found that the parcels had been addressed to Private Lazor, and on checking further regarding this man, I found that he had been S.O.S. to N.E.T.D. on 14 July 42. I checked the incoming receipts of parcels and found that they were both received on the 5 October 42. I then checked the cigarette register book and found that both items had been entered on page 115 on the 5-10-42, but that neither item had been signed for. The two entries in the book corresponded with the two numbers that were on the wrappers. These are the two wrappers, bearing order numbers A-u A-47317 and A-u A-46193.

EXHIBIT NO. 4 - Wrappers referred to.

I then brought this to the attention of Mr. Todd, that I had found the record of these parcels. That is my evidence sir.

The Accused declines to cross-examine this witness.

C.B. Todd Lieut
Signature of the Witness

THIRD WITNESS FOR THE PROSECUTION.

Lieut. C.B. Ferguson, Officer i/c Records, No. 3 C.A.C.R.U., on the Permanent Establishment of No. 3 C.A.C.R.U. being duly sworn states as follows:

I am Lieut. C.B. Ferguson, Officer i/c Records, No. 3 C.A.C.R.U. On the afternoon of the 13 October 42, Lieut. Todd, of the Postal Unit, C.R.U., called at the Records Office at approximately 1600 hours and stated that he wished me to accompany him to the post office in order that he could carry out his inspection of same. On arrival at the post office, Lieut. Todd proceeded to inspect the postal premises. On opening a cupboard in the letters office, he took down a writing kit and inquired who was the owner of same. Trooper Boland who was present, stated that the writing kit belonged to him. This is the writing kit in question. (holding Exhibit No. 1) Lieut. Todd removed from the writing kit, the outside wrappers from 2 cartons of cigarettes, and inquired what they were doing in Trooper Boland's writing kit. Trooper Boland stated that he did not know what they were doing there, nor how they came to be in his kit. I saw these wrappers myself, and these are the wrappers in question. (holding Exhibit No. 4). In view of the circumstances, I placed Trooper Boland under close arrest, and the remainder of the postal staff under open arrest. That is my evidence.

The Accused declines to cross-examine this witness.

C.B. Ferguson Lieut
Signature of the Witness.

FOURTH WITNESS FOR THE PROSECUTION.

A-11153 S/Sgt. Ferguson, W.G. staff P revost Sergeant, No. 3 C.A.C. R.U. on the permanent establishment of No. 3 C.A.C. R.U., being duly sworn states as follows:

I am A-11153 S/Sgt. Ferguson, W.G. staff Provost Sergeant of No. 3 C.A.C. R.U. On the 13 October 42, at approximately 1550 hours, I was instructed by the Commanding Officer, to proceed to the Unit post Office. On arriving there I met Lieut. Todd, O.C. Postal Unit, C.R.U., and he handed to me service writing kit bearing the number L-54832 Trooper Boland, T.D. 3 C.A.C.R.U., and in that kit I found 2 wrappers, bearing registration numbers A-u A-47317 and A-u A-46193; the wrappers covering 300 Sweet Caporal Cigarettes each, 600 in all. At 1650 hours, accompanied by Trooper Boland, I proceeded to his quarters, where his kit was seized and brought to the guardroom. On examining same, I found 15 packages of 20 Sweet Caporal Cigarettes, which I now produce.

EXHIBIT NO. 5 - Cigarettes referred to.

Each package is marked with my initials and by Cpl. Heigh who accompanied me. Trooper Boland was duly warned by me, the warning given being as follows: 'You are not bound to say anything, but whatever you do say may be taken down in writing and used in evidence against you.' Trooper Boland told me that those were the cigarettes he took from the post office belonging to Private Lazor, S. On examining the cigarette registration book, I found the 2 entries showing Lazor's name, which I marked, on page 115, dated 5 October 42. That is my evidence sir.

The Accused declines to cross-examine this witness:

W.G. Ferguson
Signature of the witness.

FIFTH WITNESS FOR THE PROSECUTION.

M-65836 A/Cpl. Heigh, L.L. Provost Corporal, No. 3 C.A.C. R.U., on the permanent establishment of No. 3 C.A.C.R.U., being duly sworn states as follows:

I am M-65836 A/Cpl. Heigh, L.L., Provost C orporal, on the permanent establishment of No. 3 C.A.C. R.U., and at the time and date in question sir, I was asked by Lieut. Ferguson the Records Officer, to go to the post office, and there instructed to place under close arrest, Trooper Boland Upon checking his kit in company with S/Sgt. Ferguson, these cigarettes were found, 300 Sweet Caporals, which we both have initialed on the outside of the packs. These are the cigarettes in question. (holding Exhibit No. 5) That is my evidence, sir.

The Accused declines to cross-examine this witness:

L.L. Heigh
Signature of the Witness.

SIXTH WITNESS FOR THE PROSECUTION.

G-45426 L/Cpl. Latta, R. on the strength of No. 9 Provost Company, attached to the D.A.P.M.s Office, C.R.U., being duly sworn states as follows:

I am G-45426 L/Cpl. Latta, R. on the strength of No. 9 Provost Company, attached to D.A.P.M., C.R.U. On the 14 October 42, I was notified by telephone that a theft of cigarettes had occurred here at No. 3 C.A.C. R.U, and the D.A.P.M. detailed me to come out here. When I arrived here, I contacted S/Sgt. Ferguson, and he explained to me the circumstances, and what had been done. He also told me that Trooper Boland was under arrest. After making a few preliminary investigations, Trooper Boland was brought to the R.S.M.s office and questioned. Later I obtained a statement from him in the presence of S/Sgt. Ferguson. This statement admits his part of the guilt and is contained in this book.

EXHIBIT 6 -- Book containing statement referred to.

Trooper Delorme was then taken to the R.S.M.s office and questioned. After the usual caution, a statement was taken from him, in which he admitted his part in the matter. He told me that he would take me to where the cigarettes were hidden, and in company with Cpl.McColl I went to the post office and Trooper Delorme handed over these twelve packages of cigarettes.

EXHIBIT 7 - Twelve packages of cigarettes referred to.

These were initialed by Cpl. McColl and myself in the presence of the Accused. After we took the cigarettes, Trooper Delorme was returned to the guardroom. That is my evidence, sir.

The Accused declines to cross-examine this witness:

R. Latta
Signature of the Witness

SEVENTH WITNESS FOR THE PROSECUTION.

L-2612 A/Cpl. McColl, D.R. Provost Corporal, No. 3 C.A.C. R.U. on the permanent establishment of No. 3 C.A.C. R.U., being duly sworn states as follows:

I am L-2612 A/Cpl. McColl, D.R., Provost Corporal, No. 3 C.A.C. R.U. On the 14th of October 1942, at approximately 1500 hours, S/Sgt. Ferguson came to the guardroom and ordered me to go to the post office with him. I went to the post office and took Trooper Delorme down to his sleeping quarters and there we looked through his kit. In the bottom of his kit bag, we found one package of Sweet Caporal Cigarettes, which were not opened. Trooper Delorme was then taken to the guardroom, and from there he was taken over to the office of the R.S.M. On being questioned as to the whereabouts of the cigarettes that were missing, he said he had them in the bush. We asked him if he would take us to where they were and he said he would. He said it would be about a 15 minute walk to where they were, so we ordered a jeep from the M.T. and on arrival of the jeep we got in and I asked in which direction he wanted to go. We then started and he directed us to the post office. On going into the post office, Trooper Delorme told Trooper Bradford he had come for the cigarettes he had left with him. The cigarettes were taken by Cpl. Latta back to the guardroom, and these are the cigarettes here. (holding Exhibit No. 7). That is my evidence sir.

The Accused declines to cross-examine this witness.

D. McColl
Signature of the Witness.

The accused was cautioned as follows: 'Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The Accused: I do not wish to make a statement or to give any evidence.

I certify that the foregoing summary of evidence, consisting of five pages, was taken down in my presence, and in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

D. McLachlan Lieut.
Signature of Officer detailed to take the Summary.

Dettingen Barracks,
Blackdown Hants,
19 Oct 42.

TRIAL OF : L.54832 Tpr Boland,
Thomas Duncan, No 3 C.A.C.R.U.

List of Exhibits

1. Service writing kit with name, L.54832 Boland, T.D.
2. Copy of No 3 CACRU Pt II Order No 65 dated 14 Jul 42
3. No 3 C.A.C.R.U. Cigarette Register
4. Wrappers for cigarette parcels bearing order numbers A-U-A-47317 and A-U-A-46193
5. 15 packages of 20 Sweet Caporal Cigarettes.
6. Book containing statement
7. 12 packages of cigarettes.

TRIAL OF : H.63753 Tpr Delorme, Thomas Alexander, No 3 C.A.C.R.U.

List of Exhibits

1. Service writing kit with name, L.54832 Boland, T.D.
2. Copy of No 3 CACRU Pt II Order No 65 dated 14 Jul 42.
3. No 3 C.A.C.R.U. Cigarette Register
4. Wrappers for cigarette parcels bearing order numbers A-U-A47317 and A-U-A46193
5. 15 packages of 20 Sweet Caporal Cigarettes.
6. Book containing statement.
7. 12 packages of cigarettes.

HEADQUARTERS "E" GROUP
CANADIAN REINFORCEMENT UNITS

In the case of H 63753 Tpr DELORME, T.A. -

This case has been submitted to the Deputy Judge Advocate General, Headquarters, C.R.U. in accordance with K.R. & O (Can.) 540

(S.H. Lee) Colonel,
Comd. "E" Gp., C.R.U.

Dated 24th October, 1942.

HEADQUARTERS "E" GROUP
CANADIAN REINFORCEMENT UNITS

In the case of L 54832 Tpr. BOLAND, T.D. -

This case has been submitted to the Deputy Judge Advocate General, Headquarters, C.R.U. in accordance with K.R. & O (Can.) 540

(S.A. Lee) Colonel,
Comd. "E" Gp., C.R.U.

Dated 24th October, 1942.

I, H.63753 Tpr Delorme, Thomas Alexander, desire to have an officer assigned to represent me at my trial by court martial.

T. A. Delorme.

22 Oct 42

I, L.54832 Tpr Boland, Thomas Duncan, desire to have an officer assigned to represent me at my trial by court martial.

I would like Capt-Campbell Line to represent me if available.

22 Oct 42

Thomas D Boland

Boland

Exhibit A — Medical Artificate

" B — Charge Sheet

" C } — 2 Wrappers addressed to Lagos
" D }

" E — Cigarette Books (Page 115)

" F — Service Writing Kit

" G — Pr II Order 3 CACRU, No. 65.

" H — 15 Packages of S.C. cigarettes (20's)

" I — 3 pages (Boland's Statement)

Exhibit "6"

L. 54832 - Tpr. Boland T.D. A Sq. No. 3 CACRU
Ct to Adm. Wing

C.S.M. Lochlan Lt

I have been warned by G 45426 Lt Cpl Latta R.R. D.A.P.M. office CRU that I am not obliged to say anything, but anything I do say may be taken down in writing and used as evidence. I fully understand the above warning.

Signed T D Boland

Tpr. Boland begins: On the 16 Aug 42 I started working in the Unit Post Office at No. 3 CA CRU. My main duties were concerned with sorting the parcel mail. On various occasions I have re-directed parcel mail to Field Units. On the 12 Oct 42 I was on duty at the Post Office till 1930 hrs along with Tpr Delorme. I was working in the parcel office and Delorme was in the letter office. After I finished I took two parcels of 30 each Sweet Caporal cigarettes addressed to L 46193 Pte Lazor S.L. across to the letter office where Delorme was working. We had talked with the taking of cigarette parcels earlier in the evening. When I entered the letter office ~~I said to Delorme~~ I handed the two parcels of cigarettes to Delorme and asked him what he intended to do with them. He replied "after taking

T D Boland

Taking the wrappers off "will you take care of the wrappers" He handed me the wrappers and I folded them up and put them in my writing case which was in the letter office. Delorme took 300 Sweet Caporal cigarettes out of the letter office when he left. I took about half of mine to my sleeping quarters that night and the following day I took the balance, placing them all in my haversack. The day after we took the cigarettes Delorme asked me if I had disposed ~~with~~ of the wrappers and I replied "I hadn't". He then told me I should do so at once. I said I would get rid of them the first chance I got. On the night of the 12 Oct 42 Delorme asked me to sign a name in the book kept for cigarettes, saying any name at all to cover up. On the 13 Oct 42 at 1800 hrs my kit was searched by St Prosper Sgt Ferguson and 15 pkgs of Sweet Caporal Cigarettes, recovered and they were initialed in my presence by Sgt Ferguson and Cpl Haigh.

At different times in the Post Office there was conversation between Wolfe Purchase, Bradford, Delorme, Kirkey, Bertrand and myself. This conversation dealt with cigarettes and parcels that were being returned from N. E. I. D. for distribution in the unit. There

T. B. [illegible]

there appears to be a doubt among the members of the postal staff how the parcels were disposed off. On every occasion of one such parcel being returned there was some talk of its disposal, but there was no definite plans made as far as I am concerned. This is the only incident that I have been implicated in since starting work in the Post Office. When I went to get my kit at my sleeping quarters on 13 Oct 42 I had a conversation with Delorme who asked me "if I would take the blame of the whole thing on myself and he would make it right with me. I replied to the effect that I would if I could. He did not explain how he would make it right with me

[illegible]

Above statement taken by Lt Capt [illegible] RR

[illegible] witnessed

14 Oct 42

"J"

[illegible]

H.Q. Orderly Room

This is Exhibit "2" referred to in the affidavit of [illegible] sworn before me at the City of Ottawa this 19th day of October 1942.

C. Sinclair Lt

CANADIAN ARMOURED CORPS REINFORCEMENT UNIT.

PART II ORDERS
by
Colonel G. M. LITTLE, M.V.O., M.C.

Last Order No. 64 Dated 13 July 42. This Order No. 65 Dated 14 July 42.

SECTION "A" OFFICERS.

1. COURSES:
The u/m officers proceeded on CRU Crse. 5 Ser. 1, at No. 1 CASCRU w.e.f. 12 July 42.
Lieut. J. COLEMAN
Lieut. J. G. MAC MURDO

2. HOSPITAL:
The u/m officers were discharged from hospitals as shown W.e.f. the dates as shown.
Lieut. W. J. STEVENSON, 5 Cdn. Gen. Hosp. 7 July 42
Lieut. D. F. HARVEY, 8 Cdn. Gen. Hosp. 29 June 42

3. QUALIFICATIONS:
The u/m officer attended CMHQ Crse. No. 857 Ser. 335, Wireless Instns. AFV at Wireless Wing, AFV School and Qualified "P2"
Lieut. M. A. STRACHAN.

SECTION "B" O/R's.

4. STRENGTH INCREASE:
(a) T.O.S. from H.Q. 2nd Cdn. Armd. Bde. w.e.f. 9 July 42 on adm. to 8 Cdn. Gen. Hosp. (Auth: 2nd Echn. Pt. II Order No. 31 d/18-7-42)
E-46919 Tpr. MATCHETT, S.

(b) T.O.S. from H.Q. 2nd Cdn. Armd. Bde. w.e.f. 10 June 42 on adm. to 15 Cdn. Gen. Hosp. (Auth: 2nd Echn. Pt. II Order No 26 d/16-6-42 as amended by No. 30 d/11-7-42) B-74428 Tpr. BENNETT, G. E.

(c) T.O.S. from H.Q. 5th C.A.D. on adm. to hospitals as shown w.e.f. dates as shown. (Auth: 2nd Echn. Pt. II Order No. 28 d/15-7-42)
B-4417 Cpl. VAN KOUGHNET, K. A. 8 Cdn. Gen. 8-7-42
B-4553 L/Sgt. SUTHERLAND, M. M. 1 Neuro. 8-7-42

(d) T.O.S. from 5th Armd. Regt. (SMSH) w.e.f. 7 June 42. (Auth: 2nd Echn. Part II Order No. 47 d/15-7-42) G-87 Tpr. KINNEAR, E. J.

(e) T.O.S. from 9th Armd. Regt. (BGD) w.e.f. dates shown on adm. to 8 Cdn. Gen. Hosp. (Auth: 2nd Echn. Part II Order No. 50 d/11-7-42)
K-57611 Tpr. CUNDY, H. B. 8-7-42. K-976 L/Cpl. SWANTON, E. A. 7-7-42

(f) T.O.S. from 10th Armd. Regt. (FCH) on adm. to 15 Cdn. Gen. Hosp. w.e.f. 8-7-42. (Auth: 2nd Echn. Part II Order No. 44 d/10-7-42)
H-26601 Tpr. LAWRENCE, R. H.

5. STRENGTH DECREASE:
The u/m O/R's are S.O.S. to No. 1 M.E.T.D. w.e.f. 14 July 42. (Auth: MED/CAT "E" d/8-7-42)
O-32244 Tpr. ARMSTRONG, A.
F-86770 Tpr. DEVEAU, J. B.
K-805 SSM. FILZ, C. A.
B-61351 Tpr. MAJOR, R. E.
D-122954 Tpr. PHILLIPS, W. J.
K-73082 Tpr. BARNETT, E. G.
B-4774 Tpr. DYKES, W. G.
L-54786 Tpr. LAZOR, S.
M-66269 Tpr. LAWRENCE, L. E.

6. ATTACHMENTS:
Cancellation: Part II Order No. 28 d/9-5-42, para 6(b) delete all reference to K-40 Tpr. WALKER, E. C.

OVER

7. HOSPITAL:

(a) The u/m O/R's were admitted to hospitals as shown w.e.f. dates as shown.

H-26529 Tpr. DANCHUK, N. Catterick Military 29-5-42
L-54630 Tpr. C. W. MACGREGOR, 8 Cdn. Gen. 10-7-42

(b) K-40 Tpr. WALKER, H. C.
D. O. No. 31, para 5, sub-para (c) & (d) d/13-5-42. Delete all reference to a/m.
The a/m was admitted to Movement Control, Glasgow w.e.f. 9-3-42
The a/m was transferred to Knightswood Hospital w.e.f. 9-3-42
The a/m was transferred to Hollybush Hospital w.e.f. 3-4-42
The a/m was discharged from Hollybush Hospital w.e.f. 24-4-42

(c) The u/m O/R's were discharged from hospitals as shown w.e.f. the dates as shown.

H-26529 Tpr. DANCHUK, N. Catterick Military 1-6-42
B-74428 Tpr. BENNETT, G. E. # 1 Special 28-6-42
B-62199 Cpl. REYNOLDS, J.J. 8 Cdn. Gen. 10-7-42

8. COURSES:

The u/m O/R proceeded on CRU Course #4 Ser. 5 Regtl. Water Duties w.e.f. 31-5-42. D-122954 Tpr. PHILLIPS, M. F.

9. APPOINTMENTS, PROMOTIONS, REVERSIONS:

(a) The u/m O/R's. are promoted to the rank of Acting Corporals w.e.f. 3 June 42.

M-66219 Tpr. LEADLEY, R. I. B-62328 Tpr. HANRAHAN, H. N.
K-67516 Tpr. MATWIV, G. L-58716 Tpr. WURMLINGER, P. A.
D-12221 Tpr. MCKIBBON, R.

(b) The u/m O/R's are promoted to the rank of Acting Lance Corporals w.e.f. 3 June 42.

M-26813 Tpr. CAMPBELL, W.J. F-88977 Tpr. COLWILL, V. E.
K-71236 Tpr. HARWOOD, G. A. B-62279 Tpr. HARPER, W.
H-95567 Tpr. NODRICK, A. G-27800 Tpr. WALKER, H. T.

(c) The u/m O/R is promoted to the rank of Acting Lance Corporal w.e.f. 3 July 42. H-64887 Tpr. SITAR, E. A.

(d) B-61351 A/Cpl. MAJOR, R. B. reverts to the permanent grade of trooper on being S.O.S. to #1 N.E.T.D. w.e.f. 14 July 42.

(e) B-102683 A/Sgt. BURMASTER, N. C. delete all reference Part II Order No. 39 d/3 June 42, para 9(a).

10. QUALIFICATIONS:

M-63915 Tpr. HEPTONSTALL, W. Vr. Mech. Crse. at No. 1 C.O.R.U, and qualified Group "C". Class II.

11. CHANGE OF ADDRESS:

K-98326 Tpr. KENWARD, H. F.
Change of address of next of kin, Wife.
Mrs. H. F. Kenward, 1149 Beach Ave, Vancouver B. C. Canada.
To:- C/O Bank of Montreal, Homer & Hastings St., Vancouver, B. C. Canada.

12. TRADESMENS RATES OF PAY:

K-976 L/Cpl. SWANTON, R. A. continues to draw tradesmens rates of pay Group "C" Dvr. Op. while in hospital for a period of 30 days w.e.f. 7 July 42 to 5 August 42.

13. RECATEGORIZATION:

B-62199 Cpl. REYNOLDS, J. J. is recatagorized, Category "E" w.e.f. 1 July 42.

14. REMISSION:

The u/m O/R is awarded 3 days remission of sentence under Rules 126 and 129, Rules for Military Detention Brks. and Military Prisons w.e.f. 8 July 42. B-62164 Tpr. ELLIS, O. M.

15. PUNISHMENTS:

(a) B-4798 Tpr. DEWOLFE, J.
Offence: A.A.15(1) A.W.L. from 2300 hrs 9-7-42 to 0800 hrs 10-7-42 (Absent 9 hours)

Awarded: 7 days C. B.
Forfeiture: 7 days pay F.R. & I. 149(1)(2)
1 days pay F.R. & I. 149(1)(a)
Total: 8 days pay.
Awarded 11 July 42.

(b) Amendment: Part II Order No. 50 d/25 June 42.

Insofar as it concerns K-32 Tpr. ANDERSON, W. R. &
K-1143 Tpr. ORENSON, L. D.

should read:
Held in civil custody from 0845 hrs 1 Apr 42 to 1000 hrs 19 May 42 (48 days 1 hr 15 mins). Forfeits 48 days pay F.R.&I. 149(1)(c)(i). Forfeits 184 days pay F.R.&I. 149(1)(b). Total forfeiture 232 days pay.

16. ABSENT WITHOUT LEAVE:

Delete all reference to the u/m other ranks.

Part II Order No. 35 d/25-5-42 Para 8 L-58716 Tpr. HYND, H. E.
Part II Order No. 38 d/ 1-6-42 Para 10 K-804 Tpr. HUMPHRIES, H. C.
Part II Order No. 38 d/ 1-6-42 Para 10 K-830 Tpr. OAKLAND, H.
Part II Order No. 38 d/ 1-6-42 Para 10 F-77811Tpr. DESROCHES, E.
Part II Order No. 38 d/ 1-6-42 Para 10 D123056Tpr. DAOUST, F.
Part II Order No. 42 d/10-6-42 Para 12 H-63925Tpr. STEVENSON, M.
Part II Order No. 42 d/10-6-42 Para 12 A-55550Tpr. HENDRICKS, A.
Part II Order No. 42 d/10-6-42 Para 12 B-61940Tpr. LAFRANIERE, R.

(C. L. NELSON) Lieut.
Acting Adjutant,
No. 3 Cdn. Armd. Corps. Reinforcement Unit.

Certified a True Copy.

C B Ferguson.
(C.B.Ferguson) Lieutenant,
Records Officer - No.3 C.A.C.R.U.



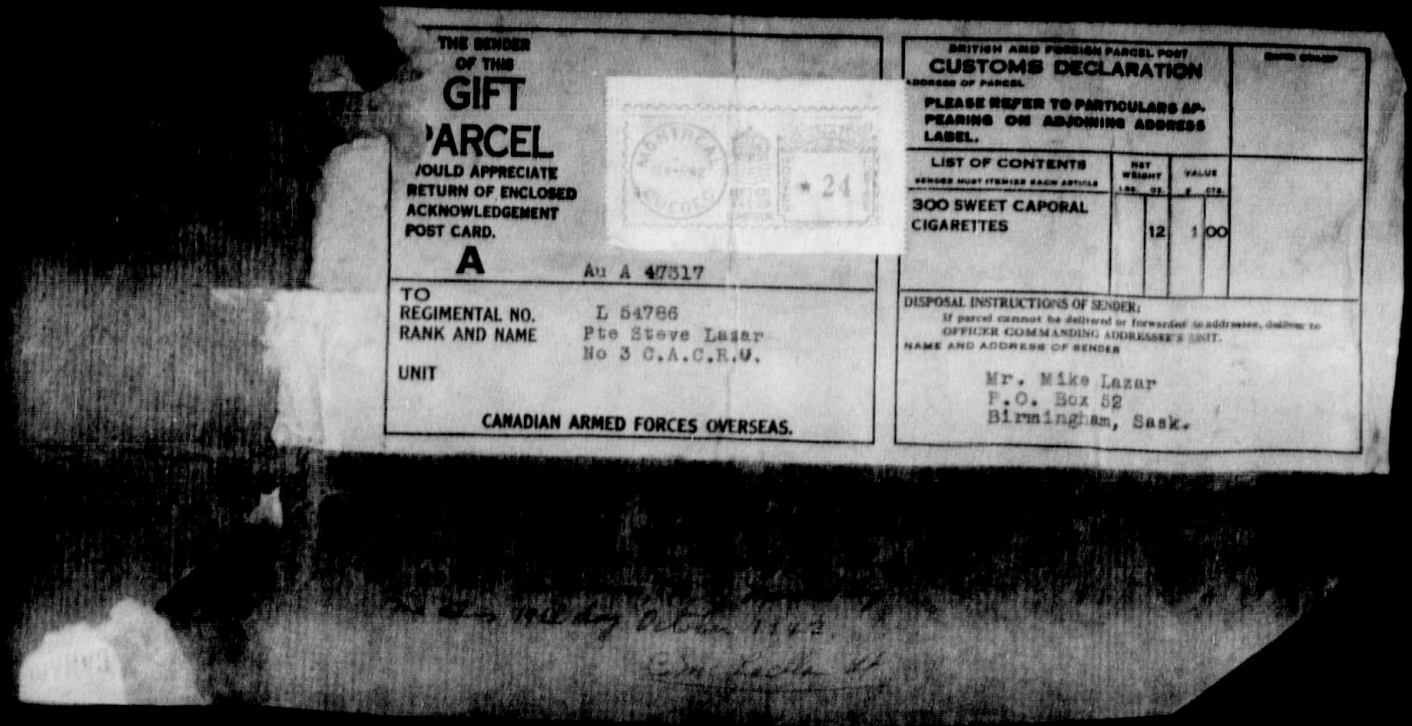
ON ACTIVE SERVICE

POST CARD.

Mrs. M. Marsh
Kamsack Cig. Committee
Kamsack, Sask.

CANADA.

AU.A.46193



THE SENDER OF THIS
GIFT
PARCEL
WOULD APPRECIATE
RETURN OF ENCLOSED
ACKNOWLEDGEMENT
POST CARD.

A

Au A 47317

TO
REGIMENTAL NO. L 54786
RANK AND NAME Pte Steve Lazar
UNIT Ho 3 C.A.C.R.U.

CANADIAN ARMED FORCES OVERSEAS.

BRITISH AND FOREIGN PARCEL POST
CUSTOMS DECLARATION
ADDRESS OF PARCEL

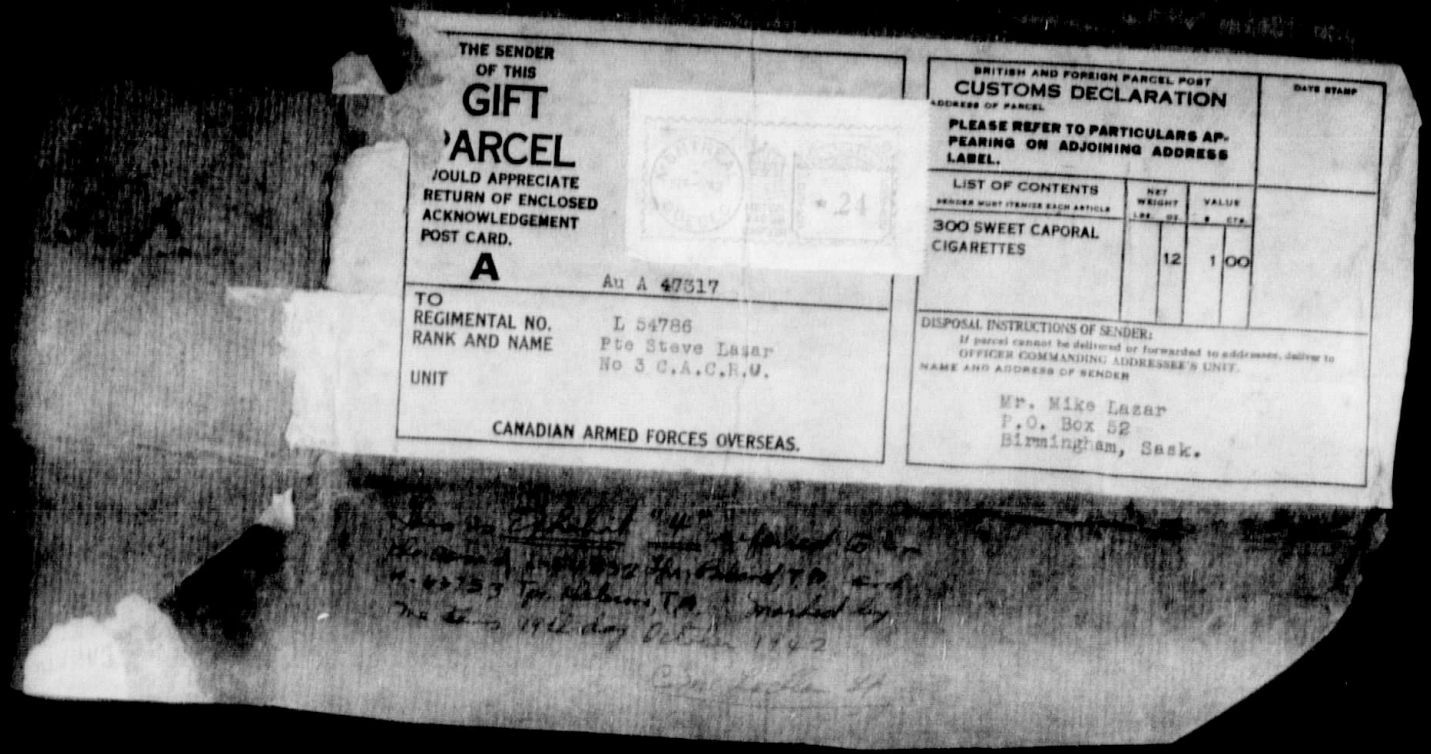
PLEASE REFER TO PARTICULARS APPEARING ON ADJOINING ADDRESS LABEL.

LIST OF CONTENTS (SENDER MUST ITEMIZE EACH ARTICLE)	NET WEIGHT LBS.	NET WEIGHT OZS.	VALUE £	VALUE STG.
300 SWEET CAPORAL CIGARETTES		12	1	00

DISPOSAL INSTRUCTIONS OF SENDER:
If parcel cannot be delivered or forwarded to addressee, deliver to OFFICER COMMANDING ADDRESSEE'S UNIT.

NAME AND ADDRESS OF SENDER

Mr. Mike Lazar
P.O. Box 32
Birmingham, Sask.



THE SENDER OF THIS
GIFT
PARCEL
WOULD APPRECIATE RETURN OF ENCLOSED ACKNOWLEDGEMENT POST CARD.
A

Au A 47517

TO
REGIMENTAL NO. L 54786
RANK AND NAME Pte Steve Lazar
UNIT No 3 C.A.C.R.U.

CANADIAN ARMED FORCES OVERSEAS.

BRITISH AND FOREIGN PARCEL POST
CUSTOMS DECLARATION
ADDRESS OF PARCEL

PLEASE REFER TO PARTICULARS APPEARING ON ADJOINING ADDRESS LABEL.

DATE STAMP

LIST OF CONTENTS (SENDER MUST ITEMIZE EACH ARTICLE)	NET WEIGHT LBS	NET WEIGHT OZS	VALUE $	VALUE CTS
300 SWEET CAPORAL CIGARETTES		12	1	00

DISPOSAL INSTRUCTIONS OF SENDER:
If parcel cannot be delivered or forwarded to addressee, deliver to OFFICER COMMANDING ADDRESSEE'S UNIT.

NAME AND ADDRESS OF SENDER

Mr. Mike Lazar
P.O. Box 52
Birmingham, Sask.

OF THIS

GIFT PARCEL

WOULD APPRECIATE RETURN OF ENCLOSED ACKNOWLEDGEMENT POST CARD.

A

AU-A-46193

TO

REGIMENTAL NO. L-54786

RANK AND NAME PTE LAZOR S.

UNIT NO.3 C.A.C.R.U. C.A.O.

CANADIAN ARMED FORCES OVERSEAS.

BRITISH AND FOREIGN PARCEL POST

CUSTOMS DECLARATION

ADDRESS OF PARCEL

PLEASE REFER TO PARTICULARS APPEARING ON ADJOINING ADDRESS LABEL.

DATE STAMP

LIST OF CONTENTS (SENDER MUST ITEMIZE EACH ARTICLE)	NET WEIGHT (OZS.)	VALUE ($ CTS.)
300 SWEET CAPORAL CIGARETTES	12	1 00

DISPOSAL INSTRUCTIONS OF SENDER:

If parcel cannot be delivered or forwarded to addressee, deliver to OFFICER COMMANDING ADDRESSEE'S UNIT.

NAME AND ADDRESS OF SENDER

KAMSACK CIGARETTES COMMITTEE
PER MRS. M. MARSH,
KAMSACK, SASK.

NOTICE TO ARMY POSTAL SERVICE IN CANADA

DO NOT DELIVER TO ADDRESSEE IN CANADA

This package is for EXPORT ONLY.

If not forwarded for export from Canada, package is to be returned to the Collector of Customs and Excise at point of mailing.

E. 113 DEPARTMENT OF NATIONAL REVENUE
EXCISE DIVISION

OF THIS

GIFT PARCEL

WOULD APPRECIATE RETURN OF ENCLOSED ACKNOWLEDGEMENT POST CARD.

A

AU-A-16193

TO

REGIMENTAL NO. L-54786

RANK AND NAME PTE LAZOR S.

UNIT NO.3 C.A.C.R.U. C.A.O.

CANADIAN ARMED FORCES OVERSEAS.

BRITISH AND FOREIGN PARCEL POST

CUSTOMS DECLARATION

ADDRESS OF PARCEL

PLEASE REFER TO PARTICULARS APPEARING ON ADJOINING ADDRESS LABEL.

DATE STAMP

LIST OF CONTENTS (Sender must itemize each article)	NET WEIGHT lbs.	oz.	VALUE $	cts.
300 SWEET CAPORAL CIGARETTES		12	1	00

DISPOSAL INSTRUCTIONS OF SENDER:

If parcel cannot be delivered or forwarded to addressee, deliver to OFFICER COMMANDING ADDRESSEE'S UNIT.

NAME AND ADDRESS OF SENDER

KAMSACK CIGARETTES COMMITTEE
PER MRS. M. MARSH,
KAMSACK, SASK.

NOTICE TO ARMY POSTAL SERVICE IN CANADA

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K. 133 DEPARTMENT OF NATIONAL REVENUE EXCISE DIVISION

DD-66
GNR DE MARCO. M.E.

B-18577 Gnr DeMARCO, M.E.
6 Cdn LAA Regt

10-10-66

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this sixteenth day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A., 2nd Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint :—

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

~~for the following reasons, namely :—~~]

Proceedings Reviewed

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.		
Rank.	Name.	Regiment.
Major	A.L Morris	54 Cdn Corps Tps Coy RCASC
Members.		
Rank.	Name.	Regiment.
Capt.	J.E.Seybold	2 Cdn CBO Staff
Lieut.	H.E.Gilbert	2 Cdn Corps Sigs.
Lieut.	G.M.Campbell (Waiting Member)	18 Armd C Regt.

*Must be signed personally by the officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (A.E.D. Tremain) Brig.,
Commanding CCRA, 2 Cdn Corps.
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-18577 Gnr DeMARCO, M.E. 6 Cdn LAA Regt	A.A. Sec 40 (See charge sheet attached)	Not Guilty	Guilty To suffer Field Punishment for Forty Two Days ~~19 April 43~~ ~~A L Morrow~~ ~~Major~~ ~~President~~ and to forfeit all ordinary pay for a period of Forty Two Days. 19 April 43 A L Morrow Major President.	I confirm the finding and sentence of the Court but remit fourteen days of field punishment and fourteen days forfeiture of pay. AB.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :— No

(Signed) [signature] (A.E.D. Tremain) Brig CCRA, Commanding 2 Cdn Corps

(Signed) A. L. Morrow Major

Concerning Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

THE ACCUSED HAS ELECTED TRIAL BY FIELD GENERAL COURT MARTIAL

CHARGE SHEET

CHARGE SEC 40 A.A.

The accused B-18577 Gunner Mario Earl DeMarco, 6th Cdn. Lt.A.A.Regiment,R.C.A., a soldier of the Canadian Army Overseas, is charged with :-

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 13 Apr 43 did fail to stand guard in a proper manner, neglecting to maintain an alert attitude during his tour of duty as sentry, with the result that the Bren gun in his charge was removed without his knowledge.

In the Field
14 April 1943

H.M. Dow

(H.M.Dow) Lieut-Col
Commanding,
6th.Cdn Lt.A.A.Regt.,RCA
Canadian army, England.

To be tried by Field General Court Martial.

A.E.D. Tremain

16 Apr 43.

(A.E.D. Tremain) Brig,
CCRA, 2 Cdn Corps.

A. L. Morrison Major.

MEDICAL OFFICER'S REPORT

I certify that No. B.18577 Gnr. DeMarco, M.E.
of 30th Cdn. LAA Bty / 6th Cdn. LAA Regts in a fit & good state of health,
and able to undergo Trial by Court martial.

[signature] Capt
Medical Officer

Station C.A.O.

Date 19 April 1943

A. L. Marmaton

M. F. B. 246
25M—9-41 (1743)
H.Q. 1779-39 480

Accused B-18577 Gunner Mario Earl DeMarco 6th Bde LAA Regt RA
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in Essex on 19 April 43
(Country) (Date)

	RANK	NAME	UNIT
PRESIDENT:	Major	A.L. Morris	3d Bde Corps Tps Coy RCASC
MEMBERS:	Capt.	J.E. Leybold	2 Cdn CBO Staff
	Lieut.	W.E. Gilbert	2 Cdn Corps Signals
Waiting Member	Lieut.	G.M. Campbell	18 Armd C Regt.

PROSECUTING OFFICER: Major J.D. Watt 6 Can LAA Reg Lawyer? Ans Yes.

DEFENDING OFFICER: Capt. B.N. Howard 6 Can Lndry Lawyer? Ans Yes.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49;R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is ~~(are)~~ brought before the Court, and at 11 00 hrs. hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is ~~(are)~~ fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

~~President to accused:~~
~~Do you object to _____ as interpreter? Ans~~

~~The interpreter is duly sworn.~~

~~Do you object to _____ as shorthand writer? Ans~~

~~The shorthand writer is duly sworn.~~ (Forms of Oath on Page "D".

✓ The Convening Order is read in the hearing of the accused.

✓ The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans No

The President, Members, ~~Judge Advocate and Officers under Instruction~~ are duly sworn (R.P.26-27 (Forms of Oath on Page "D")

The Charge Sheet(s) is (are) initialled by the President.

A.L. Morris Maj

The Prosecuting Officer informs the Court that the accused has ~~has not~~ elected trial by Court Martial (A.A.46(8)).

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62 (E), 108) or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130, R.P.37), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the Proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge NOT GUILTY.

Second Charge

Third Charge

Fourth Charge

Fifth Charge

Sixth Charge

Seventh Charge

Eighth Charge

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

PAGE "B"

(For use when accused pleads "Not Guilty" to all Charges)

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(1)). Ans NO.

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page "D")

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans NO
Q. Do you intend to call any other witness in your defence? Ans NO
Q. Is he a witness as to character only? (R.P.40(B)) Ans NO

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117) (Record Finding on Page 2 of A.F....3)

9. The Court being re-opened, the accused is again brought before it, and the findings of "Not Guilty" (if any) are pronounced and (if findings of "Not Guilty" on all charges) the accused is released. (R.P. 117(B)

10. Statement of Character and Service (A.F.B.296 and Field Conduct Sheet (N.F.W.6) signed in the manner required by .....165(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the Proceedings. (R.P.46; Overseas R.O.8181).

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans Yes No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F....3)
(Punishments, A....44, K.R.(Can)563-566; one sentence only awarded, (R.P.46); sentence should be dated.

The sentence is not announced to the accused by the Court.

A. L. Thorpe
(Signature of President)

Trial of B18577 Gnr DeMarco M.E.
6 Cdn Lt A.A Regt.

Prosecuting Officer major J.D. Watt 6 Cdn LAA Regt.

Defending Officer Capt. B.W. Howard 6 Cdn Lt AA Regt.

Prosecution

FIRST WITNESS

B18510 Sgt Black
N.A. 6 Cdn Lt AA Regt.

Sworn states: I am B18510 Sgt Black N.A. of E Troop 6 Cdn Lt AA Regt. at approximately 1230 hrs Tuesday 13 April 43 I instructed gunner DeMarco, who I now recognize as the accused to relieve gunner LeBlanc on air and ground defence duties as soon as he (DeMarco) had finished his meal

Cross examined

Q. Does Demarco drive the Ration Truck
A. Yes
Q. How far was it from your barracks to the location of the scheme
A. 12 miles aprox.
Q. Was DeMarco alone
A. Yes.

Questioned by the court

Q. Did you explain in detail to DeMarco his duties as a sentry
A. Yes.

A Chorney

SECOND WITNESS

Lieut J.M. GUNN
6 LHAA Regt.

Sworn states: On Tuesday 13 April 43 I was acting Troop Cmdr "E" Troop and at about 1300 hrs I decided to inspect the ground and general disposition of troop Headquarter which are normally laid out by troop Sgt. I called Sgt. Walker 6H. B18556 the acting troop leader and we went out together - We came on Gunner DeMarco post and he was found sleeping. The weather was warm and the grass soft. I decided to take the Bren Gun from him and then come back and wake him (DeMarco) up, so he would find his weapon missing. A little later I then asked to see Gnr DeMarco and questioned him as to excuse for sleeping and loosing his weapon. He said he didnt think he should be on guard as he had been working too hard. I then decided to think the matter over and at 1600 hrs 13 April 43 I placed DeMarco under Open Arrest.

Witness examined

Q Did DeMarco appear normal at the time you saw him sleeping

A. Yes - absolutely normal and later he only complained of being tired

A.L. Moore Capt

Q How did you assume he was asleep
A. In my own mind I was satisfied

Q. did you attempt to wake him
A. No

Questioned by the Court

Q. What was the distance Gunner D'Arco drove that morning
A. Between eight and ten miles

THIRD WITNESS
B18556 Sgt Walker G.H.
6 Coy L.A.A. Regt.

Sworn states: On Tuesday 13 April 43 while acting Troop Leader "E" Troop 30 L.A.A. Battery Scheme I accompanied Lieut J.M. Bluck to Gunner D'Arco post. On arriving there we found Gr D'Arco asleep lying down beside his Bren Gun. The Bren was moved to another position where I assumed it until relieved

Cross Examined

Q. Did you try to awaken D'Arco
A. No.

FOURTH
WITNESS

B18545 Bdr Pitman H.

Sworn states: I am Troop H.Q. Motor mechanic - on 13 april 43 at aprox 1310 hrs Lieut Gunn instructed me to go to Gunner DeMarco's post and awaken him. I went to DeMarco post and awakened him by shaking his hand - he awakened startled and I took him to Mr Gunn. Bdr DeMarco did not appear sick but was normal in all facilities.

Cross Examined

Q. Is Gnr DeMarco under your control and what duties had he done that morning.

A. He started at 0600 hrs in his vehicle and did regimental duties until 1030 and then he drove to scheme area, he then camouflaged his vehicle and proceeded to do maintenance on his vehicle. - He was taken off his maintenance job and put on guard duty

Q. Did the vehicle DeMarco was driving have a spare ~~[illegible]~~ driver.

A. No

Q. Is it normal for Troop HQ drivers to do guard duties.

A. Yes.

A L Morrison

Statement by the Accused:
B18577 Gunner DeMarco M.E.
6 Cdn L&AA Regt.

Sworn states: On the 13 april Tuesday I reported at 0600 hrs and then went to QM Stores, I had to do this work myself as I had no second driver - by the time these duties finished it was time to start on the scheme. We drove to our destination arriving there about 1030 hrs - I then camouflaged my truck, unloaded the equipment inside, and then started to do maintenance on my vehicle. Before I finished my maintenance I went to dinner and was told to go and do sentry duty - I rushed through my dinner and I relieved Gunner LeBlanc who was on duty at that time - he told me my duties and the position I was to take up. A short time later a plane came over and I blew a long blast on my whistle this could not be heard at Troop H.Q. as the distance was too far - I just finished blowing the all clear when everything went black I was brought too by Bdr Pitman who had been sent out to tell me to report to Lieut Gunn

A L Morgan

after I had reported to Mr Gunn I returned to the sentry post and stayed there until we moved off.

Cross Examined

Q. Did you have any breakfast this morning (13 April)

A. Hardly any I didnt have time

Q. were there any other trucks on this move

A. No I was the only one

Q. Did you identify that plane

A. Yes it was British

Q. Did you have any trouble with this type of Blackout before.

A. I did have some experience before in Canada - Lately it has not bothered me

Q. what time did you go to bed on monday 12 april 43

A. 1030 (2230 hrs)

Q. Did you dine at all on 12 april 43

A. NO

Q. What time did you get up on 13 april 43

A. 0530 hrs

Q. What did you load on your trucks
A. 9 tea chests, 3 tea chests, and Bread

Q. Could it have been loaded in ten minutes

A. Yes

Q. Did the cooks help you load

A. Yes one cook did help.

Q. Were you feeling tired by that time

A. yes and one worked

Q. Had you been on resting duty before

A. No

Q. Did you have a headache

A. Yes

Q. When did it start.

A. When I was camouflaging my trucks

Q. You say you were not asleep just unconscious

A. Yes.

Q. Did you have any afterattacks

A. When you were awakened

A. No

Accused

Questioned by the Court

Q. Do you think it was the sun that caused you to blackout.

A. Yes.

Q. Were you wearing a steel helmet

A. Yes. with the chin strap under my chin.

A. L. Brown
Major

Closing Address by Prosecuting Officer.

In the 6th L.A.A. Regiment we have been stressing alertness of all our personnel on all of our many schemes. He knew his duties I wish to deal with the suggestion that persons had done too much work during that short time and that air sentry is a necessary job

As to being asleep the witnesses swear he was asleep. I submit that the accused cannot be protected by his story of blackout he has not substantial backing for his story of blackout, furthermore his medical category is sound.

In closing state that there is ample evidence that the accused is guilty as charged.

A Thomson
Major

Closing Address by Defending Officer.

I think the evidence tends to brevity. I wish to point out the accused activity that day, every minute of this mans time was taken up and not spent in foolish activity - Evidence shows he had worked steadily and had done lots of work especially so before the scheme started (0900hrs) I think there was neglect on the part of the Sgt in putting this man on sentry duty - of course it gives NO excuse for the mans neglect. Gunner DeMarco states under oath that similar blackouts had occurred in Canada and he also complained of a headache - this should be given a bit of credit for not quitting work and reporting to the medical officer - He says that up to a point he remembers everything and advances his own theory for the blackout - I also submit that previous experience stated by DeMarco that he might be subject to the effects of Sun and in view of the hours already spent on duty that he is telling the

A L Morrison

truth. All the witnesses made no attempt at investigation but took it for granted he was asleep when discovered. I realize that all we have here is Serrero's word he blacked out, and on the other side only assumptions that he was asleep, and due to some conflicting evidence given by the witnesses therefore there is no concrete evidence that he was asleep and resting case.

A. L. Thompson

Address by Defending Officer
on the Statements of Character Service
and Conduct.

It does not appear that there
are any other than documents
submitted. This man I believe
has performed his duty reasonably
well up to this time, and I feel that
there were extenuating circumstances
leading up to this time and consideration
should be taken and only a reasonable
penalty given.

Place	Date of offence	Rank	Cause of detention/ arrest	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Pt. Alberni B.C.	4 Jul 42	Gnr.		Without leave, before being relieved going from the place of rendezvous appointed by his commanding officer (A.A. 15(2))	Sgt. Ridley Gnr. Rattray	15 days detention	7 Jul 42	C. Smythe Major OC 30 Bty.	Frfts 15 days P&A FR&I 14P.
Obrien Military Barracks	16 Nov 42	Gnr		An act to the prejudice to good order and military discipline A.A. 40	A/Bdr. Houle	2 dys P&A 6 dys C.B.	17 Nov 42	C. Smythe Major	

CERTIFIED A TRUE COPY FROM THE REGIMENTAL RECORDS IN MY CUSTODY

(M.C.C. Ross) Capt. & Adjt.

for O.C. 6th. Cdn. Lt.A.A. Regiment, R.C.A., CAC

M.F.M. 6
(A.F.B. 122)
[illegible]M—11-40 (8025)
H.Q. 1772-45-18

B-18577 No. Name DeMARCO, Mario Earl

Date of last entry in Company Conduct Sheet

30th Bty

No. and date of last drunk

Son, Battery, or Company: 30th L.A.A. Battery

Corps R.C.A. (A.F.)

Period not reckoning towards freedom from extra fine

Date of enlistment: 22.9.41

Sheet No. 1.

G.C. Badges

Signature O.C. Company, etc.: (Signed) Conn Smythe

Service or Proficiency Pay

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				ENTRIES NIL ----------	17-10-41		(Signed)	Conn Smythe	
Brantford	20-12-41	Gnr.		ABSENTING HIMSELF WITHOUT LEAVE in that he at Brantford, Ontario absented himself without leave from 2359 hrs. 28-12-41 until 2235 hrs. 2-1-42 (Absent 4 days 23 hrs. 24 mins) A.A. Sec. 15(1)	Cpl. Hammond Pte. Sloan	3 days C.B. Frfts. 5 dys pay A.A. 46 (2)(d)	3-1-42	Maj. A.J. McCausland	Frts 5 days FR&I

[illegible signature]

M.F.B. 355
TM—1-40 (6600-1)
H.Q. 1772-25-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-18577	Gunner	DeMARCO, M.E.	6 Cdn. LAA Regt., RCA

1. The following is a fair and true summary of the entries in the Regimental and Battery Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For	Absence without leave, one time		absence without leave, two times
For	Conduct to the prejudice etc. one time		Conduct to the prejudice etc. one time
For		times	times
For		times	times

Note.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and one 6 days in military custody, making a total of one 6 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 20 years 1 month

6. The date of his attestation specified in his record of service is 22 Sep 1941

9. The accused is in possession of or entitled to no military decoration, or military reward

A. L. Montague

11. [redacted] Permanent Force unit dated , and in his regiment (or corps), the rank of dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number Rank Air Force Unit Regiment

Name of

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of April, 1943.

(M.C.C. Hosp) Capt. & Adjt.
6th. Can. Lt. A.A. Regiment, RCA., C&O

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of April 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

~~*(3. The Interpreter)~~

~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 19th day of April 1943

A. L. Mann
Major

President of the Court Martial.

C.

Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ ~~19~~

A L Mann

~~President of the Court Martial.~~

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 22nd day of April 1943.

A Bentley Lt. Col.
Comd. 2 Cdn Corps Tpt Coln
R.C.A.S.C.

Confirming Officer.

Promulgated and extracts taken in the case of B. 18577, Gnr Demarco M.E

(a) (Dated) 2 May 43 (Signed) [illegible] Capt
6th Cdn. Lt. A.A. Regt. R.C.A.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) Wt.47520/242 25,000 2/42 A.& E.W.Ltd. Gp.499
(21785) Wt.59086/1320 40,000 7/42 " "

109R

Pte. Demark. D.

O. H. M. S.

M. F. B. 370

120/DEMARK D/1/J
HQ, First Cdn Army
11 Nov 42

109R

REVIEW SHEET

C.M. PROCEEDINGS - Dated 4 Nov 42
416 Pte Demark D
Tpt Coy RCASC, Att 2 Bn RCE

1. Passed for confirmation under R.P. 56.

2. The following irregularities have been noted and should be brought to the attention of the President and Members of the Court and those concerned with the proceedings.

(a) Number of accused altered on A.F.A.3, p.2 and on Charge Sheet - not in proceedings. Initialled by "WEG" This is irregular. The amendment should have been made by the Court and carried throughout (R.P.33.)

(b) The accused should have been given an opportunity to challenge the short-hand writer. (R.P.72(c).

(c) The accused should not have been sworn or cross-examined on his statement in reference to the charges. MML 644 - 646.

NOTE - Delay in bringing this man to trial has been dealt with by CRE, Army Troops.

(T.G. Norris) Major,
D.J.A.,
First Cdn Army

TGN/WJC

Distribution:
Confirming Authority: Col A.T. MacLean, MC CRE, Army Troops
President: Major T.S. Graham, 1 Cdn Pd Const Coy RCE
and to be communicated to the other members of the court.
O.C. Unit: Officer Commanding, 2 Bn, R.C.E.
Proceedings:
File: 120/Demark D/1/J

109R

A1.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this fourth day of November, 1942.

Whereas it appears to me, the undersigned, an officer in Command of R.C.E., First Cdn Army Troops, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~ [illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*(I am unable to appoint:~~ [illegible]

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~[or the following reasons, namely:]~~ [illegible]

I hereby certify that there are no irregularities in the proceedings which would warrant withholding confirmation.

Frank Major
Dy. J.C.
1 Cdn Army
6 Nov 42.

PROCEEDINGS REVIEWED

[illegible]
26 Nov 42

President.

Rank.	Name.	Regiment.
Major.	T. S. Graham.	1 Cdn Fd Court Coy.

Members.

Rank.	Name.	Regiment.
Capt.	G. J. Cole	3 Bn. R.C.E.

One lieut. to be detailed by O.C. 2 Bn. R.C.E.
Waiting Members or Officers under instruction.
One Capt & 2 lieuts to be detailed by O.C. 3 Bn. R.C.E.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed A. L. Mackay Colonel.

~~Commanding~~ CRE, First Cdn Army Trs.

Convening Officer.

[illegible] Major
Pres. [illegible]

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B. 83316. Pte. D. Demarb. / Tpt. Coy. R. C.A.S.C. attd 2 Bn. R.C.E.	First Charge AA. 151. 1. A&B. from 1630 hrs 16 Sep 42 till 1500 hrs. 3 Oct 42.	Guilty	Guilty	I confirm the finding and sentence of the court, but remit seventy eight days detention
	Second Charge AA. 40 - An act to the prejudice of good order & military discipline	Guilty	To undergo detention for 88 days and To be put under stoppages of pay until he has made good Three pounds eighteen shilling and twopence. (£3-18-2) cost of apprehension. F. F. Graham, Major Pres. R.C.A. 4/11/42.	A. F. M. Nov. 6/42.
	Third Charge AA. 24 - Losing by neglect his regt'l necessaries	Guilty.		

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— ~~No~~ Fyf.

(Signed) A. F. MacLean Colonel (Signed) F. F. Graham Major
~~Commanding~~ CAE, First Cdn. Army Tps. Convening Officer (e) *1 Rd. Court-n-Coy R.C.E. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the fourth day of November 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses, The shorthand writer.
*~~(3. The interpreter)~~ Fyf.
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this fourth day of November 1942

F. F. Graham Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ Fyf.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this sixth day of November 1942.

A. F. MacLean Colonel.
CAE, First Cdn. Army Tps.
Confirming Officer

Promulgated and extracts taken in the case of B-84416 Pte Demarb D.

(a) (Dated) NOV 7 1942 (Signed) W. B. Graham Capt. R.C.E. Adjt. 2 Bn. R.C.E.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2

F. F. Graham
Major
President R.G.C.A.

CHARGE SHEET

The accused, B.[redacted] 24416 Pte. Demark, D., No. 1 Transport Coy., R.C.A.S.C., (Attached 2 Bn., R.C.E.), a soldier of the Canadian Army, is charged with:

First Charge
Army Act
Section 15 (1)

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

absented himself without leave from his quarters and duties from 0630 hours 16 Sep 42 till 1500 hours 3 Oct 42 when he was apprehended by the Canadian Provost Corps in Glasgow.

Time Absent - 17 days 8 hours 30 minutes.

Cost of Apprehension - Three Pounds, Eighteen Shillings and Two Pence.

Second Charge
Army Act
Section 40

WHEN ON ACTIVE SERVICE,
AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at Glasgow on the 3 Oct 42 was in possession of a document purporting to be a genuine pass signed by Major L.J. Tanner, R.C.A.M.C., well knowing that it was not genuine.

Third Charge
Army Act
Section 24 (2) [illegible]

WHEN ON ACTIVE SERVICE,
LOSING BY NEGLECT HIS REGIMENTAL NECESSITIES,

in that he,

on the 17 Oct 42 was found to be deficient articles of his kit to the value of £2-12-6½d, shown on the attached A.F.G.998.

S W Archibald

(S.W. ARCHIBALD) Lieut-Col.,
Commanding Officer,
2 Bn., R.C.E., C.A.

To be tried by Field General Court Martial.

A. L. MacKay Colonel.
CRE, First Cdn Army Tps.

4 Nov 42.

MEDICAL OFFICER'S CERTIFICATE.

I certify that I have this morning examined No. B 84416 Rank. ~~Sgt~~ Pte

Name. Demark D of # 1 Transp. Coy RCASC ~~Coy 2Bn. R.C.E.~~ and in my opinion

he is fit ~~unfit~~ to undergo trial by Court Martial.

CC 1 — J. H. Graham Major Pres. RCM.

A Searle Capt. RCEM.
R.M.O. 2 Bn. R.C.E.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the Field

on the 4th day of November 1942 by order of

Col. A. F. MacLean

Commanding R.C.E. First, Cdn. Army Troops

dated the 4 day of November 1942

President.

Major T. S. Graham - 1 Cdn. Rd. Consln. Coy. R.C.E.

Members.

Capt. J. G. Coté 3 Bn. R.C.E.

Lieut. R. B. Logie 2 Bn. R.C.E.

, ~~Judge Advocate~~.

Trial of*

B-83316 Pte. D. Demark

1 Tpt. Coy. R.C.A.S.C. att'd 2 Bn. R.C.E.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. D. C. Douglas - 2 R.C.E.

~~Counsel,‡ or~~ defending officer† Capt. J. F. McDougall.

At 1500 o'clock the Trial commences.

The order convening the Court is read, and is marked A 1, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q6274. Wt. W16638/78. 35,000 sets. 6/40. R. & H. Ltd. G657/11. Forms A 9/20.

T. S. Graham Major
Pres. A.G.C.M.

B

The President, members ~~and judge advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Capt. C.V. Bourbonnais - 3 Bn. R.C.E.
Lieut. J.M. Jordan "
Lieut. A.E. Dowden "
Court Stenographer — R.P. 72 B.C. Complied with - 2nd Bn. R.C.E.
M 39114 Corpl. Fatsock E.J.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

GUILTY *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

GUILTY. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

GUILTY. *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to 1st - 2nd & 3rd charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

J.F. Graham
Major.
Pres. A.G.C.M.

C

PROCEEDINGS OF PLEA OF GUILTY.

R.P. 35(b) is complied with.

President to the Accused.

Q. Do you wish to make any statement in reference to the charges?

A. The accused duly sworn, states:-

Back in Canada, I hung around with my pal for years then I joined the Army. We were both under age and I was in Canada for 18 months, so was my friend. Then I turned of age and went overseas but my frient stayed back and when I turned of age I went to the Holding Unit and then my friend came over. We got in the Transport and the first thing we knew they split us up. We were stationed together for two weeks. I was soldiering and was happy and was quite tickled with the Army. Then they split us and I think that is a mistake of the officer. For over a year I had tried to be attached to my friend or my friend attached to me and while together we would be happy. I tried several times but it did not work. I got no satisfaction whatsoever. I joined when I was 16½ and I always heard that they put a man where he was best suited. I thought that was the best place for me and if they stationed us together I could still make a good soldier.

Cross-examined by the Defence.

Q. Did you get paraded to any officer to be put with your friend, Pte. Megeritus?

A. Yes, Sir, several times. I got the answer we were busy, we will see about it, etc.

Q. Where was Megeritus when you were A.W.L.?

A. 5th. General Hospital.

Q. He was with you?

A. He was A.W.L. with me.

Q. Were you both picked up the same date?

A. Yes, Sir.

Q. Where did those passes originate?

"A"

A. 5th. General Hospital.

Q. How old are you now - your real age?

A. 19.

Cross-examined by the Prosecutor.

Q. Do you say your friend was stationed at, or was he a patient at the Hospital?

A. Stationed.

Q. You, where were you stationed?

A. I was stationed at Dunsfold.

Q. And he was at the Hospital?

A. Yes, Sir.

The summary is read, signed by the President and attached to the proceedings. Appendix C-2.

President to The accused.

Q. Do you wish to make any statement in mitigation of punishment?

A. No, Sir.

President to the Accused.

Q. Do you wish to give evidence yourself as to character or to call any witnesses as to character?

A. Yes, Sir.

First Witness for the Defence.

Sgt. Walton, No.1 Transport Coy., R.C.A.S.C. being called and duly sworn, is examined by the defence.

Q. You know the accused?

A. I have known him for three years.

Q. Tell the Court what you know about the accused's character, how he has behaved, troubles, everything concerning him?

A. Sir, three years ago at the outbreak of war on joining the M.T.V.R.D., I was made a Section Sergeant. Pte Demark was posted to my section. On the Unit proceeding Overseas, Pte. Demark was not allowed to go on account of age. In April 1940, Pte. Demark was transferred to No.1 Transport Coy, the unit to which I now belong. Since that time, I have worked very closely with Pte. Demark and one of his troubles in the Transport Coy was that he was separated from his friend Pte. Megeritus who is in another section and he was anxious to transfer to that Section so he could be with him. I paraded him to his Section Officer on two occasions to see if a transfer could be arranged. While I had been connected with Pte. Demark I have found him an especially good worker straight forward and very reliable.

No cross-examination.

The prosecutor submitted A.F.B. 296 and M.F.M. 6. a statement as to character and particulars of service of the accused, B-83316, Pte. D. Demark. See Appendix C-3 and C-4.

Question by the President to the Prosecutor.

Q. Is the accused the person named in the statement which you have just read?

A. Yes.

Q. Have you compared the contents of the above statement with the regimental books?

A. Yes.

Q. Are they true extracts from the regimental books and is the statement of entries in the conduct sheets a fair and true summary of the entries?

A. Yes.

The defence counsel examined documents produced by the prosecutor.

No cross-examination.

President to the Accused.

Q. Do you wish to address the Court?

A- The Defence Counsel states:-

May it please the Court, I believe this is a clear case of trouble that can be caused by the lack of sympathy of Officers to their men. Demark and Megeritus have been friends for seven years. They joined up together and came overseas and it might have been better for some allowance to be made to allow two friends to be together. Pte. Demark paraded and asked to be together. It strikes me that a unit that treats men like that can expect nothing but crime. He has soldiered for 12 months. He's really worked for this intersection transfer so that he could be put with his friend, however no effort has been made to fix that up and it would be quite the thing for two friends to go on leave together, and being in different sections it is sometimes impossible to obtain. Demark is only 19 although his army age is 20 and it has preyed on his mind to such an extent that he got fed up and that was the cause of it more that anything else. As far as the pass is concerned, I don't think Demark is so much to blame as Megeritus as you can see the pass came from 5th General Hospital. I can't prove it without getting Megeritus here but it was Megeritus who supplied the pass. Another thing is that Pte. Demark has been 32 days under close arrest awaiting trial and that is in itself hardly fair to keep a man so long. I know it was not pleasant being kept under close arrest in Dunsfold.

The Court is closed to consider the sentence.

D

SENTENCE.

The Court sentence the accused.—

To undergo detention for
28 days and
To be put under stoppage
of payment he has made good.
Three pound - eighteen
shilling & two pence cost of apprehension.
(A 3/18/2).

F. F. Graham
Major
Pres. R.G.C.M.

4/11/42

Summary of Evidence in the case of B-84416 Pte. Demark Daniel, No. 1 Transport Coy. R.C.A.S.C. attached to 2 Bn. R.C.E.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness B-39754 Sgt. Gardiner S.G.

The statement of this witness is marked "A", read to the accused, and appended to the Summary.

I certify that in my opinion, the attendance of B-39754 Sgt. Gardiner S.G. is, owing to his being on command on a Military Duties Course, not readily procurable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto, as exhibit "A"

W. J. McNish Lieut.
(Officer detailed to take the summary)

I do not require the attendance of this witness for the purpose of cross-examination. D. Demark

B-84416 Pte. Demark, D.

Second Witness

Lieut. C.F. Bruce, having been duly sworn, states

I am Lieut. C.F. Bruce, Assistant Adjutant 2 Bn. R.C.E. C.F. Bruce Pers 79017

I hereby submit:

Army Form B252 purporting to be signed by B-76252 Cpl. Hinn C.D. No 6 Canadian Provost Coy. which gives evidence that the accused was apprehended at 1500 hrs. 3 Oct 1942 and that he was in possession of a pass. (read by the accused and attached as exhibit "B")

A certificate in accordance with Army Act Section 163 (1) (j) purporting to be signed by Lieut. H.W. Cowling (read by the accused and attached as exhibit "C")

Two Expense Vouchers purporting to be signed by Lieut. H.W. Cowling giving evidence that the cost of apprehension of the accused was £3-18s-2d (read by the accused and attached as exhibits "D" and "E")

A pass, Army Form B295, purporting to be signed by Major L.J. Tanner RCAMC and endorsed by Cpl. C.D. Hinn on 3 Oct. 1942 (read by the accused and attached as exhibit "F") This pass has the Orderly Room stamp of No. 5 General Hospital RCAMC and the documents of No 6 Canadian Provost Coy. refer to the accused as being attached to No. 5 General Hospital RCAMC.

A letter to the Commanding Officer 5th Canadian General Hospital Cdn. Army Overseas dated 6 Oct 1942

C-W H Graham Maj-Pres. RCM

(3) C-R F. Graham Maj. Pres. N.G.C.M.

and purporting to be signed by Capt. H. B. Guihan, Adjutant, for Commanding Officer 2 Bn. R.C.E., inquiring into the genuineness of the pass found in the possession of the accused. (read by the accused and attached as exhibit "G")

A letter to Officer Commanding 2 Bn. R.C.E. purporting to be signed by Major A. R. Tanner R.C.A.M.C. which is in reply to the aforementioned letter. This letter gives evidence that the pass found in the possession of the accused was not a genuine pass (read by the accused and attached as exhibit "H")

On his evidence being read to him the witness desires to make the following additions -

? a) that he was in possession of a pass at that time

b) that the aforementioned pass was the one received from No. 6 Canadian Provost Coy.

c) I hereby submit a letter to the Adjutant 2 Bn. R.C.E. purporting to be signed by Lieut A.E. Hisking of No. 1 Transport Coy. R.C.A.S.C. which gives evidence that the accused had at one time a complete issue of kit. (read by the accused and attached as exhibit "I")

C. G. Bruce
2 Bn R.C.E.

I do not require the attendance of any of the witnesses mentioned in the above evidence for the purpose of cross-examination. D. Denark

B-84416 Pte. Denark, D.

The accused declines to cross-examine this witness.

Third Witness

B-39752 L/Cpl. Bruce R.W., having been duly sworn, states,

I am B-39752 L/Cpl. Bruce R.W. 2 Bn. RCE Storeman in the Bn. Q.M. Stores

On the 20 Sep. 1942 I received the kit of B-84416 Pte Demark D. when it was turned in to Q.M. Stores.

On the 5 Oct. 1942 I checked the kit of Pte Demark D. in his presence. He told me that he had left some articles belonging to his kit at the No 6 Canadian Provost Coy in London

I received the above mentioned articles on the 17 Oct. 1942 when they were turned in to my stores I re-checked the kit and found that B-84416 Pte. Demark D. was deficient the articles of kit detailed on Army Form G998 which I hereby submit (read by the accused and attached as exhibit "J.")

Since that time Pte Demark D. has purchased on repayment on MFM 513

Drawers Woollen (prs) 1 ——— s. d. 5 3

and is not now deficient that article.

R.W. Bruce
B-39752 L/Cpl. Bruce R.W.

The accused declines to cross-examine this witness

C-2- [signature] Major Pres. R.G.C.M.

Fourth Witness

G-15059 Cpl. Pitt. H.W., having been duly sworn states,

I am G-15059 Cpl. Pitt H.W. 2 Bn. R.C.E. and at the time of this case I was Orderly Room Cpl. in the Transport Office

I received instructions from B-39754 Sgt. Gardiner S.G. As a result of these instructions I showed B-84416 Pte Demark D. as being absent, on the Absentee Report for 17 Sep 1942, with effect from 0630 hrs 16 Sep 1942

I continued to show him as being absent on the daily Absentee Report until the time of his apprehension.

H W Pitt
G15059 Cpl. Pte. H.W.

The accused declines to cross-examine this witness

The accused was cautioned as follows in accordance with Rule of Procedure 4 (E)

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

I do not wish to make any statement
I do not require to call any witnesses

C-2
[illegible] Major
Pres. [illegible]

[illegible]
B-84416 Pte. Demark, D.

I certify that the foregoing summary of evidence, consisting of six (6) pages, was taken down by me in writing in the presence of the accused and Rules of Procedure 4 (c), (D), (E), (F), and (G) have been complied with.

M. A. McNish
(M A McNish) Lieut.
2 Bn. R.C.E. C.M.
(officer detailed to take the summary)

Date - 29 Oct. 1942
Place - In the Field.

Exhibits "A", "B", "C", "D", "E", F, G, H, I, and "J" are attached to this summary

C-2 Lt Colonel Maj
Pres. R.C.A.

C-2 F F Graham Mayo "A" 24/10/42

Statement in the case of B 84416 Pte Demarch. D
No 1 Tpt Coy. R.C.A.S.C

By: B 39754 Sgt Gardiner. S.G 2nd Btn R.C.E

At the time of this case I was Transport Sgt 2nd Btn R.C.E and as such was N.C.O in charge of all unit and attached vehicles, under the Btn Transport Officer.

At 0630 hrs on the 16 Sept 1942 Pte Demarch D failed to appear on parade at his place of duty. It was his duty to be present on this parade to pick up his Transport Work Ticket which detailed his work for the day

Upon finding that Pte Demarch D was absent from parade I investigated and found that he was not in his quarters and was nowhere in the camp area.

I instructed Cpl Pitt who was orderly corporal

(OVER)

in the Transport Office, that Pte Demark D. was to be shown absent on the Absentee Report with effect from 0630 hrs 16 Sept 1942 and to be so reported daily until his return or apprehension

S G Gardiner

A/SGT S G GARDINER

C 2 - [illegible] Maj
President
DCA.

B

CHARGE C-W Hanlan Mgr. Pres. P.R.O.

Army Form B 252
(Section 20 of Regulations)

No.1 Transport Company. R.C.A.S.C. Regiment

Att'd #5 Cdn.General Hospital. Battery / Squadron / Troop or Company

CHARGE against No. B-84416 Rank Pte.

Name Demark D.

Place Date of Offence

OFFENCE W.O.A.S. was A.W.L.from 11...? until apprehended by the Canadian Provost Corps at 1500 hrs on the 3-Oct-42 at the Allied Seaman's Club,Argyle St., Glasgow,Scotland.

[signature] CAPT.

O.C. No. 6 COMPANY.

Names of Witnesses:— CANADIAN PROVOST CORPS

Cpl.Winn C.D. Canadian Provost Corps.#6.Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

20005 Wt.W34670/1406 1,500,000 10/41 K & H., Ltd. G657/47

Statement of **EVIDENCE** in the case of;
B-84416 Pte Demark D.
#1.Transport Coy. R.C.A.SC.
Att'd. #5 General Hospital

Sir,

At Glasgow at about 1500 hrs. while on duty on Argyle Str. I stopped the a/m soldier to check his pass. He produced a pass(attached) and stated that it was in order. I escorted him to Detachment H.Q. and on contacting his unit it was found that he was A.W.L. I placed him under arrest and detained him awaiting escort to London,

Glasgow,
3-Oct.1942

C.D. Winn ------Cpl.
B-76252 Winn C.D.

REMARKS

C. D. F. F. Gerhard Major
Pres.
M.G.C.M.

"C"

Certificate in accordance with the Army Act Section 163 (1) (jj)

I certify that REG'T.NO.B-84416....RANK..Pte...NAME.DEMARK D.....

UNIT.RCASC.Att.No.5 Cdn.General Hospital was arrested at PLACE.Argyle Str.....

Glasgow at HOUR...1500....on DATE.3-Oct.1942.....and that at the time of his

arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken in arrest.....N. W. Cowling Lt.

C-W F F Graham Major
Pres. NGCM.

"D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg! No. B 84416 Rank Pte. Name Demark, D Unit RCASC-ATT 5 Gen Hosp

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ ~~Unit From~~ London from Glasgow

Date	Particulars	Amount		
4 Oct 42	Escorts return fare from LONDON To Glasgow (1/5 portion	1	17	0
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (1/5 portion		3	5
	Total £	3	11	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

N A Cowling Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
40/P & S/483

C-2 H. Graham Maj
DGCM

"E"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B84416 Rank Pte. Name Demark, Unit 2 Btn. RCE

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
4 Oct 42	Escorts return fare from LONDON To Guildford		4	7
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Guildford		2	4
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		6	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

H. W. Cowling Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

C-2 & H Headard Maj
Pres. P.G.C.M.

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 73 Regiment No. 5 General Hospital R.C.A.M.C.

PASS

Army Form 1295
(In pads of 100)

No. B.84416 (Rank) PTE (Name) DEMARK D.

has permission to be absent from his †quarters/duty, from 12.00HRS. 1/10/42 to 12.00HRS. 8/10/42

for the purpose of proceeding to* GLASGOW.

(Station) TAPLOW

(Date) 30/9/42

L. J. Jones Major
R.C.A.M.C.
Commanding

* Destination not required unless absence is to exceed [illegible] hours, unless [illegible] owing to local conditions or [illegible] to obtain purchase of a [illegible]

† Delete whichever is not practicable.

C. W.

Cpl. C. D. Wenn
3-10-42

[illegible] RESERVED

Pres. P.G.C.P.

Wt. 29434 900. 550m. 10/41. D.P.W. 51-7952.

BF ~~10~~ 15

"G"

2 Battalion, Royal Canadian Engineers,
Canadian Army, England.

2B/5-4-0
6 Oct 42

Commanding Officer,
5 Cdn Gen Hospital,
Cdn Army Overseas.

Disciplinary Action
B 84416 Pte. Demark, D.

1. The marginally named of No. 1 Transport Coy., R.C.A.S.C. attached this unit, was apprehended in Glasgow in possession of a pass purported to be signed by Major L.J. Tanner, R.C.A.M.C., of the unit under your command.

2. It is believed that this document is a forgery but we would like definite information re this. Please advise if such is the case.

3. Please note that this pass bears the R.S.M's stamp of your unit. This may be of interest to you. Pte. Demark claims he received the pass from a friend of his in your unit but will not disclose his identity.

4. The pass may be retained for your investigation as long as we receive information as to its authenticity.

(W.B.GUIHAM) CAPT. Adjt.,
for Commanding Officer,
2 Bn., R.C.E., C.A.

/EJF
POST
Encls.

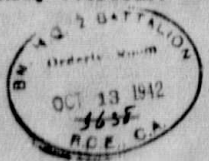
C-2
Lt Lieutenant Major
Pres. N.G.C.M.

"H"

No.5 Canadian General Hospital, R.C.A.M.C.
Canadian Army Overseas.

5GH/1 Disc.I.R./1.
9 Oct 42.

Officer Commanding,
#2 Btn., R.C.E.
Cdn. Army Overseas.



B-84416 Pte. Demark,D.

Reference your letter 2B/5-4-0 of 6 Oct 42. May we advise that the pass attached to your letter made out for the marginally noted is not a genuine Pass. Pte. Demark was never issued a pass from this unit and the signature shown on the pass is not that of any Officer on strength of this unit. We return herewith the above mentioned pass.

(A.R.Tanner) Major, RCAMC
Registrar.
for Officer Commanding.

Encl.

ART/GW.

NO. 1 TRANSPORT COMPANY R.C.A.S.C. C.A.(O) 9-3 "I"

24 Oct 42

Adjutant
2nd Bn. R.C.E.
Cdn. Army

B-84416 PTE DEMARK, D.

1. Reference telephone conversation (Officer taking summary of evidence - Lieut Wisking) this date.

2. The marginally named man has at one time been fully equipped. Any kit shortages are his own fault and therefore he must be held responsible for their loss.

A. E. Wisking
Lieut A/Adjt.,
for J.W.Watmore Capt
Officer Commanding
No.1 Transport Coy
R.C.A.S.C. C.A.(O)

AEW/ws
DRLS/POST

SY. HQ. 2 BATTALION
Ordering Room
OCT 27 1942
4269
R.C.E. C.A.

C-W H. Goodwin Major
Pres. P.G.C.A.

"J" Army Form G 998
(in pads of 100)

LIST of ~~ARMS,~~ (a) ~~PERSONAL EQUIPMENT~~, (a) ~~CLOTHING~~, (a) ~~STORES~~, (a) belonging to the above, reported lost, damaged or destroyed. (Unit or Department). No 1 TRANSPORT Coy RCASC ~~SHAFTS SPR DE MARK II~~

(a) Strike out headings inapplicable. A separate form to be used for each of above.

Station FIELD Date 17 Oct 1942

CAT. of PART No.	ARTICLES Designation (Registered numbers to be quoted where such exist.)	No.	RATE	New Value at Vocabulary rates of (b) actual cost of repair. £	s.	d.	(c) Value at 75% or actual value if greater or less. £	s.	d.	REMARKS It must be certified that the amount chargeable, when it is less than the Vocabulary rate, is the actual value at date of loss or damage beyond repair; the nature of the evidence on which the valuation is based must be indicated.	Decision of the Superior Authority
	BRUSHES BUTTON	1	.8			8			6		
	BRASSES CLEANING	1	.2			2			1½	(AUTHY)	
CC0030	BRUSHES BOOT BLACKING	1	.8			8			6	OVERSEAS R.O	
CC0046	" " POLISHING	1	.9			9			7	1757	
CC0047	" CLOTH	1	1.1		1	1			10		
CC0043	DISCS IDENTITY	2	- - -	—	- -	—	-	- -	-		
	DRAWERS WOOLLEN PRS	1	5.3		5	3		3	11		
CC0131-37	GLOVES KNITTED DRAB	1	2.1½		2	1½		1	11½		
CC0234-74	HOUSEWIVE	1	3.3		2	3		1	8		
CC0480	KNIVES CLASP	1	5.3½		5	3½		3	11	C W V. Graham Major Pres 4 CA.	
CC0532	DRAWERS CELLULAR SHORT PRS	1	2.0½		2	0½		1	6½		
CC0071-98	SHIRTS UNDER COTTON	2	2.4		4	8		3	6		

(b) Where the amount refers to cost of repair it must be so stated. (c) In the case of articles damaged beyond repair the residual value must be deducted.

Signature of the officer in whose charge the articles are left — Submitted — Signature of C.O.O. or D.A.D.O.S. — Signature of the Superior Authority

8/42. W.W.2/963/1158. 10,000 Pads. 9/41. K. & H., Ltd. 1057/96. Forms G 998/40

ARMS, (a)
PERSONAL EQUIPMENT, (a) NO1 TRANSPORT RCASC **(Unit or Department).**
CLOTHING, (a)
STORES, (a)

Army Form G 998
(in pads of 100)

belonging to the above, reported lost, damaged or destroyed.

(a) Strike out headings inapplicable. A separate form to be used for each of above. Station FIELD Date 17 Oct 1942

CAT. or PART No.	ARTICLES: Designation. (Registered numbers to be quoted where such exist.)	No.	RATE	New Value at Vocabulary rates or (b) actual cost of repair. £	s.	d.	(c) Value at 75% or acting value if greater or less. £	s.	d.	REMARKS. It must be certified that the amount chargeable, when it is less than the Vocabulary rate, is the actual value at date of loss or damage beyond repair; the nature of the evidence on which the valuation is based must be mentioned.	Decision of the Superior Authority
	SHORTS G.S.M. P.T. PRS	2	1.11		3	10		2	10½	(AUTHY.)	
M1701-06	BAGS RATION MK IV	1	1/1½			1½			1	OVERSEAS R.O.	
SEC A-1	BOTTLES WATER MK VI	1	2.11		2	11		2	2	1959	
"	CARRIERS WATER BOTTLE	1	3.3		3	3		2	5		
"	PACKS	1	10.6½		10	6½		7	11		
"	STRAPS SHOULDER H/SACK	2	3.4		6	8		5	0		
"	" WEB SUPPORTING	2	1.1		2	2		1	7½		
SEC J-1	SHEETS GROUND MK VIII	1	10.9		10	9		8	1		
SEC A-2	EYE SHIELDS A/C PKG	1	2.3		2	3		1	8	C-in-C Northumd'land Area Pers. A & Q.	
	OINTMENT A/C TINS	1	9½			9½			7		
	WALLET A/C	1	1/5½		1	5½		1	1		

(b) Where the amount refers to cost of repair, it must be so stated. (c) In the case of articles damaged beyond repair the residual value must be deducted.

Submitted

Signature of the officer in whose charge the articles are held — Signature of C.O.O. or D.A.D.O.S. — Signature of the Superior Authority

Maj Lyo Lieut A/QM 2 Div RCE

(1952) Wt.W.27901/1138. 10,000 Pads. 9/41. K. & H., Ltd. G627/96. Forms/G 998/40

Certified a true copy.

(W.B. Quihan) Capt Adjt

No. B 84416 Name Demark, D. Sqn., Battery or Company No 1 Transport Coy RCASC Corps Date of enlistment 18-9-39 Badges Signature O.C. Company, etc. J.H. Clare Lieut Character

Date of last entry in Company Conduct Sheet . . No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	29-5-40	Pte	Nil	Sect.15(1) A.A. A.W.L.Time absent 8 hrs 20 mins. Sect 15(2)A.A. Failing to appear place of parade	Sgt Hemphrey C.S.M.Alger	4 days C.B.	30-5-40	O.C.	
Camp Borden	2-6-40	Pte	Nil	Sect 15(1)A.A. AWL.Time absent 8 hrs	L/C Hutton Sgt McJannett	3 days C.B.	3-6-40	O.C.	
Camp Borden	10-6-40	Pte	Nil	Sect 15(1)A.A. AWL.0200 hrs 10-6-40 until 0200 hrs 11-6-40 Time absent 24 hrs.	Sgt Fudge	3 days C.B.	11-6-40	O.C.	
Camp Borden	13-6-40	Pte	Nil	Failing to appear at place of parade appointed by his superior officer	Sgt Fudge	3 days C.B.	13-6-41	O).C.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	15-6-40	Pte	Nil	Section 15(1)AWL.from 1400 hrs 15-6-40 until 2100 hrs 15-6-40 Sect 10(4)Breaking Barracks whilst a defaulter.	Sgt Fudge	120 hrs Detn	16-6-40	O.C.	
Camp Borden	2-7-40	Pte		Section 9(2) Disobeying a lawful command given by his Superior Officer		7 days C.B.	3-7-40	O.C.	
Camp Borden	8-8-40	Pte		Section 9(2) A.A. Disobeying a lawful command given by his Superior Officer	Sgt Fudge	5 days detention	8-8-40	O.C.	
England	4-3-41	Pte		Sect 15(3) A.A.Being beyond fixed bounds.(Found at P.of W.Pub)	L/C Isherwood	8 days detention	4-3-41	Major A.T.Dixon	
England	11-7-41	Pte		Sect 40 A.A.Conduct to the prejudice,etc.(Failed to get up at reveille after being wakened)	C.S.M.Johnson	3 days C.B.	11-7-41	Capt J.H.W. Shiles	

C-2 [illegible] Pres. R.C.R.

No B 84416 Name Demark, D

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Sqn., Battery or Company: No 1 Transport Coy. R.C.A.S.C.

Corps

Period not reckoning towards freedom from extra fine

Date of enlistment: 18-9-39

Sheet No. 2

G.C. Badges

Signature O.C. Company, etc.

Service or Proficiency Pay: Signed J.H.Clare, Lieut.

MFM 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
England	17-8	Pte	nil	Section 15(1)AA AWL from 0600 hrs 17-8-41 until apprehended at 0030 hrs 20-8-41. Time absent 2 days 18 hrs. 30 mins.	Cpl Marshall	14 days C.B. Forfeits 7 days pay	25-8-41	Major C.E.Bulmer	Forfeits 3 days pay.
England	20-9-41	Pte	nil	Section 15(1)A.A.WOAS.A.W.L. from 2359 hrs 20-9-41 until apprehended at No 5 Cdn Gen Hospital at 1730 hrs. 29-9-41. Time absent 8 days 17 hrs. 31 mins. Under close arrest at Taplow from 1730 hrs 29-9-41 until 1700 hrs 30-9-41	Cpl Thompson Sgt Clark, W Cpl Seath, J	28 days Fd Punishment Forfeiture 28 days pay	30-9-41	Major C.E.Bulmer	Forfeits 10 days pay [illegible]
								Total	forfeiture 38 days p pay

C-2 [illegible] Major Pres. P.G.C.M.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

I hereby certify that the foregoing schedule of offences and dispensations with trial is a true extract from the regimental books in my custody.

W.B. Guihan

(W.B. Guihan) Capt Adjt.
for Commanding Officer
2Dn. R.C.E. C.A.

C-2- [illegible] Maj
Pres. A.G.C.M.

C-3 [illegible]

Army Form B.296.

Pres. [illegible]

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B.84416	Pte	Demark, D.	No. 1 Transport Coy. R.C.A.S.C. (Att'd 2 Bn., R.C.E.)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the next conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 427, R.R., 1940.

* The numbers herein stated should correspond with the number of entries of the conduct sheets, preliminary being given to the most serious offence in each entry, and to any unregistered special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the number for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absence without leave (A.A. 15 (1))	Nil times	6 times.
For Failing to appear place of Parade (A.A. 15 (2))	Nil times	2 times.
For Being beyond Fixed Bounds (A.A. 15 (3))	Nil times	1 times.
For Breaking Barracks whilst a defaulter (A.A. 10 (4))	Nil times	1 times.
For Disobeying a lawful Command (A.A. 9 (2))	Nil times	2 times.
For Conduct to the prejudice (A.A. 40)	Nil times	1 times

2. The accused has not been previously convicted, or

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 32 with 4 days in military custody, making a total of 32 with 4 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs

6. The date of his attestation specified in his record of service is 18 Sep 39

7. [illegible]

8. [illegible]

9. [illegible]

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or reward)).

11. [illegible]

12. [illegible]

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.84416 Rank Pte Name Demark, D. of No.1 Tpt Coy RCASC (Att'd 2 Bn RCE) Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which trial, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 day of ~~October, 1942~~ November 1942

C-2 [illegible] Capt. adjt 2 Bn RCE.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

[illegible]

[illegible]

[illegible]

[illegible]

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

338 A

10/2/1911

Gunner, R. Demarre
No. 1 Arty Holding Unit.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 15th day of April, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[I am unable to appoint —
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.)
*(3. Three Officers having more than one year's service.)
[redacted]]

President.

Rank.	Name.	Regiment.
Major	G.J. Graham	No.3 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	T.R. Grey	No.1 Cdn Inf Hldg Unit
Lieutenant	J.R. Kent	No.1 Cdn Inf Hldg Unit
Lieutenant	A.D. Anderson	No.1 Cdn (NS)Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed L. F. Page, Brigadier

Commanding Cdn Base Units, Cdn Army.
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M-2077 GNR. DEMARRE, R. (8th Cdn Army Fd Regiment) No.1 Cdn Arty Hldg Unit.	First Charge A.A. Sec 15 (1) as per charge sheet	GUILTY	GUILTY TO UNDERGO DETENTION FOR A PERIOD OF FOUR MONTHS.	I vary the sentence so that it shall be as follows:- To undergo detention for 120 days. I confirm the finding & sentence as so varied but remit 40 days of the sentence L

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) L. J. Rue, Brigadier — (Signed) A. J. Isaacson Maj
Commanding Cdn Base Units Cdn Army. *Convening Officer* (*e*) — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of April, 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The ~~interpreter~~) Court Stenographer
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 19th day of April 1941.

A. J. Isaacson Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ L

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 22nd day of April 1941

L. J. Rue Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of M-2077 - Gnr. DEMARRE, R.

(*a*) (Dated) 28 April 1941 (Signed) A. J. Isaacson Lt-Col A/Cdr 1 Cdn. Arty. Holding Unit.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, M-2077 Gunner ROBERT DEMARRE, Royal Canadian Artillery, No. 1 Canadian Artillery Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
SEC 18 (1)
ARMY ACT.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he, at Cobham, Surrey, illegally absented himself without leave on the 11th day of February 1941 until he surrendered himself to Bdr. J.H.Phair of the 8th Canadian Army Field Regiment, R.C.A. in the Field at 1630 hours on the 1st day of April 1941. (Absent 48 days, 16 hours 30 minutes)

Dated at Bordon,
Hants, this 8th
day of April 1941.

(J.Roberts) Lieut. Col.
Commanding Officer,
No. 1 Cdn. Arty. Holding Unit.

To be tried by Field General Court Martial

.....Brigadier
Commanding Cdn Base Units.

Bordon, Hants
This 15 day of April 41.

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MFB 246

MEDICAL OFFICER'S CERTIFICATE

K.R.(CAN) PARA 557

I certify that I have, this morning, examined

No M 2077 DeMarre R.

of No. 1 Cdn. Arty. Holding Unit, and in my opinion

he is fit to undergo Trial by Court Martial.

Station Bordon

Date 19-4-41

Adrian Latt - Capt - RCAMC

Medical Officer
No. 1 Cdn. Arty. Holding Unit.

M-2077, Gnr. Demarre, R., 8th Cdn. Army Fd. Regt. No. 1 Arty. Holding Unit, tried by Field General Court-Martial at Bordon, Hants., on the 19th day of April, 1941.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

Prosecutor - Lieut. W.B. Bate.
The accused declines the services of a defending officer.

At 1000 hours the Trial commences.

The names of the President and members of the Court are read over in the hearing of the accused and they severally answer to their names.

Q1 - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A1 - No, sir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?
A2 - No, sir.

The Court Stenographer is duly sworn.

The charge-sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Q3 - Are you guilty or not guilty of the charge against you, which you have heard read?
A3 - Guilty, sir.

R.P. 35(B) is complied with by the Court.

Q4 - Do you wish to make any statement in mitigation of punishment?
A4 - No, sir.
Q5 - Do you wish to give evidence yourself or to call any witnesses as to character?
A5 - No, sir.

Lieut. W.B. Bate, No. 1 Cdn. Arty. Holding Unit, is duly sworn.

Q6 - Have you any evidence to produce as to the character and particulars of service of the accused?
A6 - Yes, sir, I produce A.F.B. 296 and M.F.M. 6.
Q7 - Is the accused the person named in the statement which you have heard read?
A7 - Yes, sir.
Q8 - Have you compared the contents of the above statement with the regimental books?
A8 - Yes, sir.
Q9 - Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A9 - Yes, sir.

The accused declines to cross-examine.

Q10 - Do you wish to address the Court?
A10 - I have nothing to say except that I will do right and soldier as I should when I get out. This is my first serious crime.

The Court is closed for the consideration of the sentence.

5/5

Summary of Evidence in the case of M-2077 Gunner ROBERT DEMARRE, Royal Canadian Artillery, No. 1 Canadian Artillery Holding Unit, a soldier of the Canadian Army (Overseas).

Statement of 1st Witness:

LIEUTENANT F.J.CROSS, Royal Canadian Artillery, having been duly sworn, deposed as follows:

I am Assistant Adjutant and Records Officer of No. 1 Canadian Artillery Holding Unit, located at Bordon "ents. I produce in evidence a document concerning the accused, M-2077 Gnr. DeMarre, R. This document is a certified True Copy of an entry in the M.B.68 of the 8th Cdn. Army Field Regiment, R.C.A., being the record of the Declaration of a Court of Inquiry assembled in the field on 10 March 1941 and shows that the accused illegally absented himself without leave at Cobham, Surrey on 11 Feb 41. This document purports to be signed by Lieut. John A. Pringle, Adjutant of the 8th Cdn. Army Field Regiment, R.C.A.

I also produce in evidence, a document being a Certificate under Army Act Section 163 (1)(j) concerning the accused. This document shows that the accused surrendered himself to Bdr. J.H.Phair of the 8th Cdn. Army Field Regiment, R.C.A., in the field, at 1630 hours on 1 April 1941. This document purports to be signed by Lieut. Col. E.C.Plow, Commanding Officer 8th Cdn. Army Field Regiment, R.C.A.

I further produce in evidence, a document dated 1 April 1941, concerning the accused, being a statement of evidence, purporting to be signed by Bdr. J.H.Phair, "R" Battery, 8th Cdn. Army Field Regiment, R.C.A.

The accused declined to cross examine this witness:.

F.J.Cross Lt.

The accused, having been duly cautioned in accordance with R.F. 4 (e), declined to make a statement.

Certified that R.P. 4 (c) (d) & (e) have been complied with.

Taken down at Bordon, Hants in the presence and hearing of the accused this 7th day of April 1941.

W. B. Bate.

(W.B.Bate) Lieut. R.C.A.
No. 1 Cdn. Arty. Holding Unit.

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M.F.M. 6
(A.F.B. 122)
5001—8-39 (1783)
H.Q. 1772-45-18

No. M-2077 Name DeMarre, R. Sqn., Battery, or Company 61/107 Field Battery R.C.A. Corps C.A.S.F. Date of enlistment 7/9/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature O.C. Company, etc. L.P.L.Humph[illegible] Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tandridge	24/8/40	Gnr.		A.W.L. from 2300 hrs 24/8/40 to 2030 hrs 25/8/40 (1 day) Sec. 15 A.A.	Lieut. R.H.Mewburn	14 days C.B.	28/8/40	Major F.A.Ford	Forfeits 1 days pay 149 FR&I. W.B.Bate (sgd).Lt.
Bordon Hants	4 Apr 1941	Gnr		Losing by neglect his clothing equipment and regimental necessaries. Total value £1-17-2. A.A.Sec. 24 (2)	Lt.Pringle (Sec) Bdr.Larter	Stoppage of pay of £1-17-2 cost of equipment.	5 Apr 41	Lt.Col.J. Roberts, O.C.#1CAHU	

(CERTIFIED TRUE COPY)

(F.J.Cross) Lieut. & Asst. Adjutent,
Officer i/c Records for C.O.
No. 1 Cdn. Artillery Holding Unit.

(P.T.O.)

LIST OF EXHIBITS

1. Certified True Copy of Record of Declaration of a Court of Inquiry held on 10 March 1941.
2. Certificate under A.A.Sec. 163 (1) (g)
3. Statement of Evidence of Bdr. J.H.Phair

LIST OF WITNESSES

FOR THE PROSECUTION:

1. Lieut. F.J.Cross, R.C.A. - No. 1 Cdn. Arty. Holding Unit.

FOR THE DEFENCE:

Nil.

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted
		Nil		

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of April 1941

(F.J.Cross) Lieut.& Asst.Adj.
Officer i/c Records,
for O.C., No. 1 C.A.H.U.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

M-2077 Gnr, Demarre, R. of the No. 1 Cdn. Arty. Holding Unit.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.W.L.	1	times	1	times.
For Losing by neglect his kit	1	times	1	times.
For		times		times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

or,

~~Previous convictions of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act and dispensations with trial under Section 79 of the Army Act are set out in the Schedule annexed to this statement.~~

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 664, K.R. 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in such entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

96

3. The accused is not under sentence at the present time,

or,

4. The accused has been in confinement, awaiting trial on the present charges

for nil days in Civil Custody,

and 6 days in Military Custody.

Total 6 days.

Of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 25 yrs

6. The date of his attestation specified in his record of service is 7th Sept. 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 8 mos.

8. The accused is entitled to deferred pay or gratuity in respect of 1 & 2/3 years' service.

9. The accused is entitled to reckon 1&2/3 years' service for the purpose of determining his pension &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward

11. (*In the case of an officer.*) The accused holds in the army the rank of , and in his regiment (*or corps or department*) the rank of , dated

12. The accused has served as non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years,

(*Instructions—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name M-2077 GUNNER DEMARRE, Robert of the R.C.A., No. 1 Canadian Artillery Holding Unit.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
		Nil		

(Continued overleaf.

F. Pte Demmans E.J.

O. H. M. S.

M. F. B. 270

Demmans' D

89 F

Army Form A.8.

Correspondence to be PINNED here.

THE ESSEX SCOTTISH REGT. CANADIAN ARMY (O/S) 8 MAR. 1942

Form for Assembly and Proceedings of Field General Court Martial on Active Service.



PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Twenty-Third day of February, 1942,

Whereas it appears to me, the undersigned, an officer in Command of Fourth Canadian Infantry Brigade, Cdn. Army (Active Force), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[I am unable to appoint:—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication and other difficulties, render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed schedule.

PROCEEDINGS REVIEWED.

Gordon Lamb Capt
Reviewing Officer (Rev) 6/12/42
17 Mar 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.M. Young	R. Regt. C.

Members.

Rank.	Name.	Regiment.
One Captain to be detailed by O.C., Essex Scot.		
One Lieut. to be detailed by O.C., R.H.L.I.		
Waiting Member - One Lieut. to be detailed by O.C., Essex Scot.		

*Signed [signature]

Commanding 4 CDN. INF. BDE.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.28020 Private DEMMANS, Elwood, Vernon. 1st Battalion, Essex Scottish Regiment.	FIRST CHARGE:- A.A.Rec. 41 - Committing a civil offence, that is to say, shopbreaking, contrary to Larceny Act, 1916, Section 26(1). (See Charge Sheet attached).	Not guilty	Guilty. I To undergo detention for a period of (45) Forty-five days.	Confirmed [illegible]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) [illegible] (C.B. TOPP) Brigadier (Signed) [illegible] Major
Commanding 4 CDN. INF. BDE. 1st Bn. The Royal Regt. of Canada
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of February 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Cancel.
*(4. The officers under instruction)

were duly sworn.

Signed this 25th day of February 1942.

[illegible] Major
President of the Court Martial.

* Omit if not applicable.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this 25th day of February 1942

[illegible] Major
President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 3 day of Mar 1942.

[illegible]
Confirming Officer
A/Commanding 4 Cdn Inf Bde.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of

(a) (Dated) 9 Mar 42 (Signed) [illegible] Capt + Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A/11

MEDICAL OFFICER'S REPORT

I certify that No. A22020 Pte Demmans E.V.

of Essex Scottish Regt is in a good state of health,

and fit to undergo Trial by Court Martial.

H B Hough
Medical Officer Maj. R CAMC

Station In the field

Date 25-2-42.

M.F.B. 246
40T A 8371

Quell.

CHARGE SHEET

The accused, No. A-22020 Private Demmans, Elwood Vernon, 1st Battalion, Essex Scottish Regiment, a soldier of the Canadian Army Overseas, is charged with:-

First Charge, Army Act, Sec. 41

Committing a civil offense, that is to say, shop-breaking, contrary to Larceny Act, 1916, Section 26 (1)--

in that he,

at Rye, Sussex, between 1930 and 2230 hours 1 February 1942, did unlawfully enter the premises of the Woolworth Store, High Street, Rye, Sussex, and remove therefrom articles together valued at Fifteen Shillings; said articles being the property of the Woolworth Company.

In the Field,
22 February 1942.

.....Lt.-Col.
(F.W. ATHERTON) Commanding,
The Essex Scottish Regiment,
Canadian Army Overseas.

TO BE TRIED BY A FIELD GENERAL COURT MARTIAL.

.....Brigadi
Commanding,
4 Canadian Infantry Brigade.

In the Field,
___ February 1942.

I request the services of Lieut. J.K. Hunter as defending Officer at my Field General Court Martial.

.....Pte.
A-22020 Pte. Demmans, E.V.
The Essex Scottish Regt.

1. Trial of A22020 Pte. Demmons, Edward Vernon, 1st Battalion, Essex Scottish Regiment.
Held at Strathmore House, St. Leonards, Essex on the 25th February 1942.

2. ACTUAL COURT

President: Major G. M. Young
1st Bn. The Royal Regiment of Canada.

Members:
Capt. D. A. Dagil
1st Bn. Essex Scottish Regt.

Lieut. J. B. Counsel
1st Bn. Royal Hamilton Light Infantry.

Prosecuting:
Lt. D. MacKenzie
1st Bn Essex Scottish Regt.
(Lawyer)

Lt. J. K. Hunter
1st Bn. Essex Scottish Regt.
(Lawyer)

Pte. Demmons.

3. The accused is arraigned and pleads "Not Guilty" to the following Charges.

First Charge

Army Act Sec. 4, Committing a civil offence, that is to say, Shopbreaking, contrary to the Larceny Act, 1916, Section 26(1)

in that he at Rye, Sussex, between 1930 and 2230 hours, 1 February 1942, did unlawfully enter the premises of the Woolworth Store, High Street Rye, Sx, and remove therefrom articles together valued at fifteen shillings, said articles being the property of the Woolworth Company.

4. The accused is asked:
"Do you wish to apply for adjournment on the ground that any of the rules relating to procedure before the trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
The accused answers "No".

5. Prosecution Evidence

The first witness, No. PW.R.505, Constable Murrell, Henry Robert, East Sussex Constabulary, Rye, Sussex, having been duly sworn, states:-

Having made his last call at the Railway Call box was returning to the Police Station. It is his custom, while returning to the police station after the conclusion of his tour of duty,

Direct witness Continued

to check all store premises on his way. He explains that Market Street and High Street run at right angles to each other, and that the F.W. Woolworth store is located on High Street. There is access to the rear of the Woolworth store from Market Street through a yard. This yard is fenced off from Market St., and the gates in this fence are locked at night. He went to investigate a noise at the rear of the Woolworth store, and saw somebody with a white shirt standing on the fire escape. He heard some one say "Ah ha - here comes somebody". He found a place where the pickets had been torn away, making a hole in the fence large enough to allow a man to enter. Entering the yard he met two Canadian soldiers one of whom was the accused, who

First witness Continued

who told him that they were looking for the entrance to a "speakeasy". One of the soldiers, who the witness stated was the accused was buttoning up the tunic of his battle dress. The two soldiers moved on in the direction of the Railway Hotel. The witness inspected the premises and found a small window broken. Lying on the ground he also found a serpentine web belt with bayonet scabbard and frog and bayonet, which was out of the scabbard. The witness took the above mentioned articles to the police station and returning to the Broadwater Store met P.C. Ditcher who was passing on his rounds. They again went to the rear of the premises where they found on the ground a small Carton Containing shaving soap and tooth paste. (Carton and Contents produced in Court and admitted as evidence)

First Witness Continued

The witness decided to watch the premises and in a short while the accused in company of the other Canadian Soldier returned. The accused entered the yard and the witness heard him say "oh time gone" "the police must have taken them" He accosted the accused, who was carrying the above mentioned carton - He said to the accused - "Where did you get this box - I think you know something about this broken window - I am going to take you to the police station". The accused answered "O.K. we'll come along". At the police station the accused identified the respirator - webb belt and bayonet as his own.

6. Cross Examined by the Defending Officer

The witness states that the small window referred to was barred, and that while a man could not

Trial witness Continued

Get through it, it was possible to reach through and pick articles off the shelf inside. He admits that he did not examine the accused or his Companion to see if they were wearing white shirts. He states that the accused was wearing a great coat which was open, and that when he first saw the accused, the accused was not wearing a hat, and that as the two soldiers walked away towards the Railway Hotel he saw the accused pull his hat from his pocket. The witness asked the accused's Companion for his identification but not the accused. The witness states that he did not hear the accused saying "I returned for my suspenders".

1. Prosecution
The second witness No. — Police Sgt. Frederick Balcombe - East Sussex Constabulary, Rye, Sussex, having been duly sworn states,-

On returning to Rye Police Station at 0010 hours 2 February 1942 he first saw the accused, who had been detained there. He was not there when the accused was brought in. The carton of articles was on a table in the outside room and there were a few sticks of shaving soap on a bench in the inside room. He asked the accused if he knew anything about the carton and the accused made no reply. the accused made no statement at any time. The witness inspected the Woolworth premises the following morning, where Miss. Cutting, an employee of Woolworths identified the carton and contents and valued them at fifteen shillings. This

2nd witness continued

employee also reported that articles to the value of one pound light shillings were missing from a room at the rear of the store. The witness saw the accused again at 1215 hours 28 February 1942, and charged him with breaking and stealing.

8. Cross examined by Defending Officer, the witness states that the accused was remanded for one week in Lewes Prison. He states that the fence which 1st witness says was broken was all right a week before the offence. He states that the accused's companion stated "we might as well get it off our chest - we took what was there" pointing to the carton.

9. The Third witness Miss Freda May Cutting, 3 St. Margaret Stairs, Rye, Sussex - having been duly sworn states, -

Pte. Dennison

3rd witness Continued

She is employed by Woolworths store in Rye as a window trimmer. She is in charge of a small room at the rear of the premises where she keeps her stock for window dressing. This room has a small barred window opening on to a fire escape. This is always closed. On leaving the store Saturday at 1430 hrs - everything was in order. On returning to the store Monday morning 2 February 1942. found the 17/6. window broken and articles missing valued at one pound eight shillings. The witness identified the carton and its contents as some of the articles missing from the room.

10 Cross examined by Defending Officer

The witness states that a person putting their arm through the window could reach articles on shelf.

4th witness

11. 4th witness Miss. Oline Grace Belsher, 4 Victoria Cottages Rye, Sussex, having been duly sworn, states.

She is a clerk at the Woolworth Store Rye, Sussex and that on entering the store at about 0900 hours 1st February 1942 to turn off the lights that everything appeared in order. She had been fire watching at the store on the nights of 30th January 1st - 2nd and that at this time was no unusual occurance during this time.

12. The First witness for the Defence Lieut Bryant Wilson 15th Bn. Essex Scottish Regiment having been duly sworn States;

He has been commander of #18 Platoon 15th Bn. Essex Scottish Regiment since 1940. The accused was his batman until September 1941. He had had no trouble with him and had always found him trustworthy.

13. 2nd witness for the defence, No- Pte. Wingfield J. H., 1st Bn. Essex Scottish Regiment, having been duly sworn states:-

That on 1st February 1942 he and the accused went to Rue Sussex on a spree. They went to the Cinque Ports Hotel where an English soldier directed them to a laneway on Market Street and told them if they went up a stairway and asked for Mrs. Brown they would be able to get a drink after hours. They went to Market Steps and going through a hole in the fence. Accused hung his bayonet on the fence as they did not want "Mrs Brown" to mistake them for M. P.'s. They had some small bottles and cartons on the steps and decided to take some which they put in their pockets. They left the carton on the steps but did

Defence 2nd witness Continued

touch it. He states that he did not remove his outer clothing. He states that after leaving the Constable to proceed to the Station accused remembered is respirator and they returned for it. He was not searched, but at the police station admitted to the articles in his pocket and said that he had picked them up off the Ground. He states that they did not try the gate.

14. Cross Examined by the Prosecutor

He could not explain why or how the bayonet was found on the ground out of its scabbard.

15. 3rd witness for the defence - the accused, having been duly sworn states:

That he left billets at about 1806 hours 1st February 1942 to go on leave - that he went to Rye for a spree. ~~The~~ Wch Pte. Wingfield. They stayed in the

Defence 3rd Witness Continued

Cingne Port Hotel untill closing time when they asked an English Soldier where they could find a speakeasy. Following his directions they went to a back lane where they were to go up a stairway to a door and ask for Mr Brown. On the way up the stairs he noticed the carton and some loose articles. There was no answer at the door and on the way down he picked up some of the articles. After speaking to the policeman and starting for the station he noticed that he had lost his respirator and returned to look for it.

16. Cross Examined by the Prosecutor

Witness ~~the~~ army states that he knew where his Bayonet was but did not know where is respirator was. He could not tell how it got out of the Scabbard on the ground.

17. The Court is cleared for finding.
18. The Court is opened.
19. The Prosecutor files substitute for A.F.B. 196 and Certified Copy of M.F.M. 6.
20. The defending officer, in mitigation of Sentence states;

He suggests that the Court take into consideration the character of the accused, and the time he has spent in the Lewis Prison.

Certified that the foregoing pages, Nos 1 to 15 is a true record of this trial.

25th day of February 1942

A.M. Jones Major
President

Brrovo Pte. Dimmons E.V.

Exhibit

Carton (Labelled; F. W. Woolworth & Co. Ltd).	1.
Easy Soap — Sticks	14.
Shaving Soap - Sticks	5.
"Odal" tooth Paste large	1.
"Odal" tooth Paste Small	3.

The above articles were kept in possession of Police Sgt. Frederick Balcombe.
East Sussex Constabulary
Rye - Sx.

[signature]

No. A-22020 Name Demmans, E.V. Sqn., Battery, or Company D Corps Essex Scottish Date of enlistment 16-1-40 G.C. Badges — Service or Proficiency Pay —

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 Signature O.C. Company, etc. E.H. Williams Maj. Character

M.F.M. 6 (A.F.B. 111)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified that there are no entries on the original M.F.M. 6 of A-22020 Pte. Demmans, E.V.					
				.....Capt. (K.W. MacIntyre) Adjutant, Essex Scottish Regiment.					

(Substitute for A.F.B. 206)
or H.F.B.355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. A-22020 NAME Pte. Demmans, Elwood Vernon UNIT ESSEX SCOTTISH REGT.
Cdn Army (Overseas)

AGE 23 MARRIED OR SINGLE single NO. OF DEPENDENTS none

DATE OF ATTESTATION 16 January 1940.

NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL 7 days MILITARY 16 days HOSPITAL TOTAL 23 days

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK, IF ANY

NIL

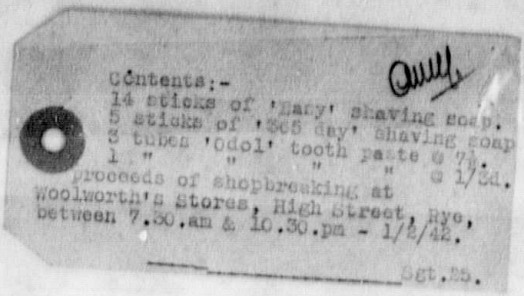
A CERTIFIED TRUE COPY OF H.F.B. 6 MUST ACCOMPANY THIS FORM.

[signature] Capt.,
Adjutant,
ESSEX SCOTTISH REGIMENT, C.A.(O's)

Dated at

This 25th day of Feb. 1942

(To be dated and signed as of date of trial)



Contents:-
14 sticks of 'Mary' shaving soap.
5 sticks of '365 day' shaving soap
3 tubes 'Odol' tooth paste @ 7½.
1 " " " " @ 1/2d.
proceeds of shopbreaking at
Woolworth's Stores, High Street, Rye,
between 7.30.am & 10.30.pm - 1/2/42.

Sgt.25.

FFF-26

PTE DEMELLO M

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-56968 Pte. Manuel DEMELLO - 6 CIRU - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec 40	Not guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 83 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for eighteen (18) months.

or

(Sgd) ..... 7th May 44 (Sgd) F D Tweedie Lt Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

~~(In the case of a sentence of death.)~~

(Sgd) W.H. Greene Col

Date 11 May 44 Commanding A/GOC CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
D56968 Pte Manuel DeMello 6 CIRU - CIC	11 May 44	CAPT. ADJT., 6 CDN INF. BDE. H.Q.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.H. FFF 20

FIELD GENERAL COURT-MARTIAL

CFA96 (To Issue of AF B31) 40-1-P.R. 67-1606 (2864)

Convened by Order of Col W.K. Greene A/ Comd "A" Gp, CRU dated 6 Mar 44.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-56968	Pte	Manuel	DEMELLO	6 CIRU (CIC)

PROCEEDINGS REVIEWED
1C Lunenburg
28 Mar 44
REVIEWING OFFICER, JAG BRANCH, O.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the [illegible] on (date(s)) 8 May 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

President to accused: ~~Do you object to~~ ~~as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to Sgt J.F. Hultz as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A5. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187 MML p 742.)

A6. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	F.D. Tweedie	HQ CRU
Member	Capt	D. F. Storey	2 CIRU
Member	Lt	J. Cadieux	2 CIRU
Waiting Member	Lt		
~~Judge-Advocate~~			
Prosecutor	Capt	J. Payette	6 CIRU.
Defending Offr	Lieut	J.J.M.R. Allard	6 CIRU.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs' names instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2d p 2.)

A8. The accused D-56968 Pte. Manuel DEMELLO before arraignment make(s) (no) ~~all~~ plea(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 128), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB mark and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 90(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

~~B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning~~ of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or parts not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..... initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to that Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~his~~ (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), ~~and allowed on the .....~~ charge(s), and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I do neither. Do you intend to call witnesses on your behalf? Ans No. Are they witnesses as to character only? Ans .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).) See Note to D-6.

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith.~~

~~and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(*3*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*3*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB* 255 *or AFB* 256. 2. *See fn* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*5*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 43, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. As to sentences see AA* 44, 136, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas NO* 309, 2323, *RP* 48. *

CHARGE SHEET

The accused, No D-56968, Private Manuel DE MELLO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE WHILST ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER
Sec 40 AA AND MILITARY DISCIPLINE

in that he

in the Field, while on leave pass for Constantine - Algiers - was improperly in the United Kingdom on or about the 24th day of October, 1943.

(W.E. Morgan) Colonel
Officer Commanding
6 Cdn Inf Rft Unit

Witley, Surrey
4 Mar 44

To be tried by Field General Court Martial

(H.K. Greene) Col
A/Comd
"A" Gp Cdn Rft Units
CA (O)

Witley, Surrey
6 Mar 44

FIELD GENERAL COURT-MARTIAL

CFA80 (In lieu of AFA3)
40/PAS/1697 (2643)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-56968	Pte	Manuel	DEMELLO	6 CIRU (CIC)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ~~(have)~~ committed the offence set forth in the Charge Sheet attached and on (*date*) 6 Mar 44, endorsed by me, ~~(or by an offr of my comd for such)~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person and to consist of the Offrs appointed or detailed hereunder.

4. ~~From eligible to appoint (c) Mess Offrs to form the Court, (d) a Fd Offr as President, for the reasons I have stated herein.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereinafter.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	F. D. Tweedie		H.C.C.R.U.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO 2 CIRU		
Lt	to be detailed by CO 2 CIRU		

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	to be detailed by CO 2 CIRU		

~~JUDGE ADVOCATE~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 6 Mar 44

(H.K. Greene) (Signs personally. RP 105 fn 2.)

A/ Commanding "A" Gp Cdn Rft Units, C.A.(O). Convening Officer.

Col. (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 95(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jun 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (or, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. *(RP 95 fn 1.)* If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. *(RP 66(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused *(not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 1(b)),* or evidence by accused, as to facts or his character or both. *(See RP 41 fn 3, 46 fn 1, 80.)*

(iii) Evidence of witnesses for accused as to facts or his character or both. *(See RP 46 fn 1.)*

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court *(RP 86(B))*, or to prove previous convictions when accused has called witnesses as to character. *(RP 86(C).)*

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. *(See RP 40 fns 8-12, 87(C), 92(C) (D).)* But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. *(When accused charged jointly see RP 61.)*

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).)*

(vii) Summing up by JA, if any. *(RP 42.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. *(On top.)*

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). *(KR Can 567.)*

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting in evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (h).)*

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of forbidding on p 4 after minute of sentence awarded. *(AA 53(3), RP 118(C), MML p 759.)*

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. H36768 Pte Vermette E.M.
(Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit to undergo
~~unfit~~
trial by Court Martial.

Station

Date March-8-1944

Sgd [signature]
(Medical Officer)

F.C.C.M. IN THE CASE OF

D 56968 Pte DEMELLO, M., 6 CIRU, (CIC) 8 Mar 44.

EVIDENCE FOR THE PROSECUTION NOTE: D 3.

1st WITNESS FOR THE PROSECUTION

C-41986 Sgt. CARRIERE, J.M., of the Special Investigation Section, Canadian Provost Corps, having been duly sworn, is examined by the Prosecutor:

Q.1 Can you identify the accused?
A.1 Yes (pointing to him) that is Pte DeMello wearing the ribbons.

Q.2 Can you explain to us in your own words what you know of the case of Pte DeMello?
A.2 On the 28th October, 1943, I saw Pte DeMello at the office where I work in London. I cautioned him and told him he need not say anything unless he wished to do so, and told him it would be taken down in writing and used as evidence.

QUESTION BY THE COURT

Q.3 Did you tell him who you were?
A.3 I did. I told him I was the Investigation Sergeant. I asked him if he wished to explain in any form of statement how he came from North Africa to this Country, and he made a statement; I took it down in writing. He signed it in my presence, and I wish to produce the statement.

Statement offered and received as evidence and marked Exhibit "A". Statement read by the witness.

Q.4 Did Pte DeMello have any documents in his possession?
A.4 He did, a pass as stated in the statement.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.5 Before Pte DeMello made a statement did you promise him anything?
A.5 I did not.

Q.6 Before Pte DeMello made a statement did you tell him that if he made a good statement that you would give him a good meal?
A.6 I did not.

Q.7 When you asked Pte DeMello to make a statement did you tell him that if he made a good statement that right away you would get him a good meal, and at the same time did you give him some cigarettes?
A.7 No, I did not.

Q.8 You did not promise him anything?
A.8 I did not promise him anything and explained the warning to him in both languages. He preferred to speak in English.

QUESTION BY THE COURT

Q.9 You say you found a pass on him?
A.9 Yes Sir.

QUESTION BY THE COURT

Q.10 What did you do with it?
A.10 I attached it to my report and handed it to my C.O.

421.

PROSECUTOR STATES THAT HE HAS NOTHING FURTHER TO ADD TO HIS PREVIOUS ARGUMENT.

DEFENDING OFFICER STATES THAT HE HAS NOTHING FURTHER TO ADD TO HIS SUBMISSION.

COURT IS CLOSED TO CONSIDER ITS FINDINGS.

COURT IS RE-OPENED. F.O.Y.

~~PUBLICATION BY THE PRESIDING OFFICER IS DEALT~~

CHARACTER WITNESSES:

1st CHARACTER WITNESS FOR THE DEFENCE

Lieut. PARISEAU, A., 6 CIRU, having been duly sworn, is examined by the Defence:

Q.19 In your own words will you tell what you know about the character of Pte DeMello.

A.19 I have known Pte DeMello for over 4 years. He was in my platoon when I was a sergeant. He is a reliable soldier, always performed his duty to the best of his ability and we could count on him in anything we asked of him.

2nd CHARACTER WITNESS FOR THE DEFENCE

F-16966 RSM FOSLER, C.M., 6 CIRU, having been duly sworn, is examined by the Defence:

Q.20 Do you know Pte DeMello?

A.20 Yes, I know him.

Q.21 Will you give the Court in your own words your opinion of Pte DeMello?

A.21 Sir, prior to June 12, this year, I did not know Pte DeMello; I had met Pte DeMello about 2 years ago. He came here about 17th December, 1943, Sir, and was released under open arrest from close confinement on about January 12, and placed under my charge by A/Col. Morgan of 6 CIRU. Whilst in my charge I have had Pte DeMello working at a number of jobs mainly in and out the Commander's office, and in my own room and in the rooms of other Sergeant Majors and he has proven to me to be a man absolutely trustworthy, competent and very keen to obey all orders and instructions given to him. Were I a field soldier or a field NCO, Sir, I would be very happy to have men of Pte DeMello's character under my command. He is a splendid type of man.

3rd CHARACTER WITNESS FOR THE DEFENCE

Lt/Col. GAVEL, C.C. RAF Wing, 6 CIRU, having been duly sworn, is examined by the Defence:

Q.22 Do you know Pte DeMello sitting on my left?

A.22 I do.

Q.23 Will you tell the Court in your own words what you think and know about Pte DeMello?

A.23 Pte DeMello has been under my command for a period of approximately 8 weeks, in that period of time he has been employed as an orderly; looking after the office of the Commander of 6 CIRU, my own office and a number of offices belonging to the superior officers of this camp. Throughout this time he has shown himself to be devoted to his duty, he takes a great pride in his work and is a conscientious soldier.

COURT IS CLOSED TO CONSIDER SENTENCE.

7

F.G.C.M. IN THE CASE OF

D 56968 Pte DEMELLO, M., 6 CIRU, (CIC) 8 Mar 44.

EVIDENCE FOR THE PROSECUTION NOTE: D 3.

1st WITNESS FOR THE PROSECUTION

C-41986 Sgt. CARRIERE, J.R., of the Special Investigation Section, Canadian Provost Corps, having been duly sworn, is examined by the Prosecutor:

Q.1 Can you identify the accused?
A.1 Yes (pointing to him) that is Pte DeMello wearing the ribbons.

Q.2 Can you explain to us in your own words what you know of the case of Pte DeMello?
A.2 On the 26th October, 1943, I saw Pte DeMello at the office where I work in London. I cautioned him and told him he need not say anything unless he wished to do so, and told him it would be taken down in writing and used as evidence.

QUESTION BY THE COURT

Q.3 Did you tell him who you were?
A.3 I did. I told him I was the Investigation Sergeant. I asked him if he wished to explain in any form of statement how he came from North Africa to this Country, and he made a statement; I took it down in writing. He signed it in my presence, and I wish to produce the statement.

Statement offered and received as evidence and marked Exhibit "A". Statement read by the witness.

Q.4 Did Pte DeMello have any documents in his possession?
A.4 He did, a pass as steted in the statement.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.5 Before Pte DeMello made a statement did you promise him anything?
A.5 I did not.

Q.6 Before Pte DeMello made a statement did you tell him that if he made a good statement that you would give him a good meal?
A.6 I did not.

Q.7 When you asked Pte DeMello to make a statement did you tell him that if he made a good statement that right away you would get him a good meal, and at the same time did you give him some cigarettes?
A.7 No, I did not.

Q.8 You did not promise him anything?
A.8 I did not promise him anything and explained the warning to him in both languages. He preferred to speak in English.

QUESTION BY THE COURT

Q.9 You say you found a pass on him?
A.9 Yes Sir.

QUESTION BY THE COURT

Q.10 What did you do with it?
A.10 I attached it to my report and handed it to my C.O.

421.

1st WITNESS BY THE PROSECUTION (CONT'D)

CROSS-EXAMINATION BY THE DEFENDING OFFICER (CONT'D)

QUESTION BY THE COURT

Q.11 Did Pte DeMello give you a return ticket with his pass?
A.11 There was a pass and other documents but no return ticket.

IN THE OPINION OF THE COURT IS IS UNNECESSARY TO COMPLY WITH R.P. 83 B.

2nd WITNESS FOR PROSECUTION

F/LT. SPENCE, P.A., Reception Officer, AD & RU, RAF Station, St.Mawgan, Cornwall, having been duly sworn, is examined by the Prosecutor:

Q.12 F/Lt. Spence, can you identify the accused?
A.12 Yes, (pointing to Pte DeMello) that is him.

Q.13 Can you tell the Court in your own words what you know about the case?
A.13 On 24th October, 1943, my duty as Reception Officer, RAF Station, St.Mawgan, Cornwall, I met aircraft B-24 number 3078. On board I found a soldier who upon investigation gave his name as Pte DeMello, R., and his number as D 56988. He was in possession of a leave pass but without written authority to proceed to this Country. I contacted CMHQ and upon instructions Pte DeMello was placed under close arrest on a charge of being out of bounds. On the 26th October, an escort arrived from London and took Pte DeMello away. I think that is all I have to say for evidence.

CROSS-EXAMINED BY THE DEFENDING OFFICER

Q.14 Did Pte DeMello give you some documents?
A.14 He showed me a leave pass.

Q.15 Did he have some other papers?
A.15 He had a lot of papers with him but I paid no attention to them.

Q.16 Did Pte DeMello show you his return ticket?
A.16 No.

Q.17 Did Pte DeMello hand you his return ticket?
A.17 He had no ticket at all.

Q.18 Had he some authority given by American officers to travel in that plane?
A.18 Not to my knowledge.

IN THE OPINION OF THE COURT IS IS UNNECESSARY TO COMPLY WITH R.P. 83 B.

PROSECUTION IS CLOSED.

SUBMISSION BY THE DEFENDING OFFICER THAT PRIMA FACIE CASE HAS NOT BEEN MADE.

REPLY TO THE SUBMISSION OF THE DEFENDING OFFICER THAT A PRIMA FACIE CASE HAS NOT BEEN PROVEN BY THE PROSECUTOR.

Proof that the accused was definitely in the United Kingdom without authorization from October 24, 1943, which was the time that Sgt. Carriere, J.R., interviewed him.
F/Lt. Spence, P.A., says that a plane arrived from North Africa, and while performing his duty met a Canadian soldier who was in that plane and identified Pte DeMello to be that soldier and furthermore states that this soldier of the Canadian Army had a pass.
Furthermore, Sgt. Carriere, J.R., states that the accused had a pass and he took the pass and all the rest of the documents and handed them over to his C.O., and it is definitely established that the accused travelled by plane and was arrested by F/Lt. Spence, at RAF Station, St.Mawgan, Cornwall, and turned over to Canadian Military Authorities. That is all.

Note II-6. - 3 -

PROSECUTOR STATES THAT HE HAS NOTHING FURTHER TO ADD TO HIS PREVIOUS ARGUMENT.

DEFENDING OFFICER STATES THAT HE HAS NOTHING FURTHER TO ADD TO HIS SUBMISSION.

COURT IS CLOSED TO CONSIDER ITS FINDINGS.

COURT IS RE-OPENED.

~~SUBMISSION BY THE DEFENDING OFFICER IS DISALLOWED.~~ F.O.T.

CHARACTER WITNESSES:

1st CHARACTER WITNESS FOR THE DEFENCE
Lieut. PARISEAU, A., 6 CIRU, having been duly sworn, is examined by the Defence:

Q.19 In your own words will you tell what you know about the character of Pte DeMello.
A.19 I have known Pte DeMello for over 4 years. He was in my platoon when I was a sergeant. He is a reliable soldier, always performed his duty to the best of his ability and we could count on him in anything we asked of him.

2nd CHARACTER WITNESS FOR THE DEFENCE
F-12966 RSM FOSLER, C.M., 6 CIRU, having been duly sworn, is examined by the Defence:

Q.20 Do you know Pte DeMello?
A.20 Yes, I know him.

Q.21 Will you give the Court in your own words your opinion of Pte DeMello?
A.21 Sir, prior to June 12, this year, I did not know Pte DeMello; I had met Pte DeMello about 2 years ago. He came here about 17th December, 1943, Sir, and was released under open arrest from close confinement on about January 12, and placed under my charge by A/Col. Morgan of 6 CIRU. Whilst in my charge I have had Pte DeMello working at a number of jobs mainly in and out the Commander's office, and in my own room and in the rooms of other Sergeant Majors and he has proven to me to be a man absolutely trustworthy, competent and very keen to obey all orders and instructions given to him. Were I a field soldier or a Field NCO, Sir, I would be very happy to have men of Pte DeMello's character under my command. He is a splendid type of man.

3rd CHARACTER WITNESS FOR THE DEFENCE
Lt/Col. J. CAVEN, ~~6 Power~~ O.C. "A" Wing, 6 CIRU, having been duly sworn, is examined by the Defence:

Q.22 Do you know Pte DeMello sitting on my left?
A.22 I do.

Q.23 Will you tell the Court in your own words what you think and know about Pte DeMello?
A.23 Pte DeMello has been under my command for a period of approximately 8 weeks, in that period of time he has been employed as an orderly; looking after the office of the Commander of 6 CIRU, my own office and a number of offices belonging to the superior officers of this camp. Throughout this time he has shown himself to be devoted to his duty, he takes a great pride in his work and is a conscientious soldier.

COURT IS CLOSED TO CONSIDER SENTENCE.

Exhibit "A"

26 Oct. 43.

Statement of L. 56968 Pte De Mello. M. M.
No 1 Cdn. Convalescent Depot. Cdn.
Army. B. N. A. F.

I have been cautioned by Sgt. Carrier M.P. Special Investigation Section, Canadian Provost Corps, that I need not say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence.

M. de Mello

I will be 48 years of age in January 1944. I joined the Canadian Army in 1939 Sept. 1939. I served in the last war with the Canadian Forces for two years. I came to England in 1940.

In June 1943 I left the United Kingdom with 1 Bn. 1 C.B.R.D. Later I landed in North Africa. About 5 or 6 weeks ago I was transfered to 1 Cdn. Convalescent Depot. B.N.A.F. as a fatigue man. Since I've been in N. Africa I reported sick on different occasions with pains in my legs and back.

On 20 October 1943, I was given a pass to [illegible] to Algers via Constantine until 0800 hrs. 27 Oct. 1943. For some time I had been receiving letters from my fiancee in England telling

M. de Mello

me that she was sick and had had an operation. I myself had not been feeling well since my arrival in N. Africa. I then decided that I would try to return to England where I thought my health would improve. I had heard that one could travel by plane in N. Africa if one had a pass.

So on the 20 October 1943, I went to an American airport and there asked for transportation to Algers. This was at Telergma. They had a look at my pass and told me I could travel. This was on 21 Oct. 43. I then travelled to Algers. There at Algers airport I told some of the boys I met that I would like to get back to England. Different people told me that if I got to Maroketch I might be able to get a plane back to England. I then flew in another American plane from Algers to Oran. Then from Oran to Casablanca, then to Maroketch. I arrived there on Friday 22 Oct 43.

At Maroketch I saw some American officers in the operation room. I told them I wanted to get back to England and showed them my pass and the travelling authorities which had been given to me at other American airports. I told them that my fiancée was sick in England and that I wanted to reach England. They told me that when they had room they would take me to England

M F De Mello

So at about midnight 23/24 Oct. 4[illegible]
I left Maroketch by plane and later
landed in England.

The americans made no arrangements
to take me back to N. Africa and I
did not ask them if they would take
me. I intended to report to C. M. H. I.
as soon as possible as I thought they
might give me an extension of leave,
or retain me here or send me back
to Canada. I had been told that men
of my age were often sent back to Canada.

I had no intention of deserting and
only wanted to get back to England as
I felt I should never have gone to
N. Africa. M F. de Mello D56468

JDT.

1. . . I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been servedwith a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

.....Capt. Jean Major R. de Mais.....

if he is available.

M. F. De Mello.....

Algonquin Camp,
Witley, Surrey,
3rd Day of March 1944

0900 hrs.

JDT

SUMMARY OF EVIDENCE

In the case of No D-56968, Private Manuel DE MELLO, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for the Prosecution.

C-41986 Sgt Carriere, J.R., of the Special Investigation Section, Canadian Provost Corps, having been duly sworn, states as follows:

On 26 Oct 43, acting upon instructions received, I interviewed the accused, whom I now recognise, at the Office of the SIS in London. I told him that I had been informed that he had just arrived from North Africa by plane, and having cautioned him, I asked him if he wished to explain how he got to England from North Africa. He volunteered a statement which I took down and which he signed in my presence after reading it. I hereby produce this statement as Exhibit "A" (The statement is read to the accused). Pte De Mello was in possession of a Leave Pass purporting to have been issued by No 1 Cdn Convalescent Depot, Canadian Army, BNAF, to D-56968 Pte De Mello, F.M., permitting him to be absent from his quarters from 0800 hrs 20 Oct 43 to 0800 hrs 27 Oct 43 for the purpose of proceeding to CONSTANTINE - ALGIERS. This pass was dated 20 Oct 43 and signed by Capt S. King for Lt-Col F.F. Northup. I took possession of this pass and a few other documents which De Mello had on his person and turned them over to my OC.

The accused declines to cross-examine this witness.

J.R. Carriere.....Sgt.

Second Witness for the Prosecution.

Lt A.M. Dubois, CIC, on the strength of No 6 CIRU, having been duly sworn, states as follows:

I hereby produce a statement purporting to be signed by F/Lt P.A. SPENCE, Reception Officer, AD & HU, RAF Station, St-Mawgan, Cornwall. This statement, relating to the accused, is marked "Exhibit 'B'" and is attached to the Summary of Evidence.

The accused declines to cross-examine this witness.

.....Lt

Third Witness for the Prosecution Documentary

F/Lt P.A. Spence, Reception Officer, AD & HU, RAF Station, St-Mawgan, Cornwall. A statement of this witness's evidence, purporting to be signed by him has been read to the accused. This statement is marked Exhibit "B" and is attached to the Summary of Evidence. Owing to expenses and loss of time involved, the attendance of this witness can not, in my opinion, be readily procured.

.....
Officer detailed to take the Summary of Evidence.

The accused does not require the presence of this witness for cross-examination.

The accused is then cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

.....Lt
Officer detailed to take the Summary of Evidence.

Witley, Surrey,
3 Mar 44

MFM 6 (AFB 122) 40/PAS/135 (5438)

No D-56968 Name De Mello, M. | Sqn, Battery, or Company | Corps CIC | Date of enlistment 27 Jan 40 | GC Badges N/A | Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc E. Barnes, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26 Jan 41	Pte		AA 15-1 AWL from 1500 to 2145 hrs 26 Jan 41 (6 hrs 45 mins)		Admonished	27 Jan 41	DO 10 29 Jan 41	Forf 1 days pay for AWL
Field	20 Jul 41	Pte		AA 15-1 AWL from 2359 hrs 20 Jul 41 to 1200 hrs 21 Jul 41 (12 hrs 1 min)		4 Days FP 4 days pay	23 Jul 41	Major Brosseau	Forf 1 days pay for AWL
Field	8 Dec 41	Pte		AA 40 Conduct to the prejudice of good order and military discipline	Sgt Pariseau	4 days pay	9 Dec 41	Capt Lapien	
Field	17 Jan 42	Pte		AA 15-1 AWL 6 hrs 45 mins	RSM Pariseau	6 days pay	19 Jan 42	Major Brosseau	Forf 1 days pay for AWL
Field	16 Mar 42	Pte		AA 15-1 AWL 4 hrs 30 mins, having to be replaced on his tour of duty	Cpl Curod	5 days pay	18 Mar 42	Major Brosseau	Forf 1 days pay for AWL
Field	7 Apr 42	Pte		AA 15-1 AWL 5 hrs	CSM Barbeau	7 days pay	8 Apr 42	Major Brosseau	

Certified true copy [signature] Maj

officer having custody of original documents

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Sep 42	Pte		AA 15-1 AWL from 2300 to 2255 hrs 20 Sep 42 (55 mins)	Cpl Matte	5 days CB	21 Sep 42	Capt Barnes	
Field	30 Dec 42	Pte		AA 40 Conduct to the prejudice of good order and military discipline (Failing to stand at Tattoo roll call)	Cpl Matte	3 days CB	31 Dec 42	Capt Barnes	
Field	2 Feb 43	Pte		AA 11 Disobeying unit Part I orders (Posting letter through civilian PO)	Capt Stein	7 days CB	3 Feb 43	Capt Barnes	
Field	20 Apr 43	Pte		AA 15-1 AWL from duty at 1800 hrs	Cpl Clark	3 days pay	21 Apr 43	Capt Barnes	
Field	1 Jul 43	Pte		AA 15-1 AWL from OC's parade	Sgt Bailley	7 days CB	1 Jul 43	Capt Derton	
Field	8 Aug 43	Pte		1/AA 15-1 AWL from 2130 hrs 8 Aug 43 to 0820 hrs 9 Aug 43 (9 hrs 50 mins) 2/AA 40 Conduct to prejudice of good order and military discipline (Leaving his place of duty without permission)	Sgt De Villier	14 days CB	9 Aug 43	Lt Col Bristowe	Forf 1 days pay for AWL

Certified true copy consisting of one sheet.

.....

Offr having custody of original

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D-56968	Private	DE MELLO, M.	Cdn Inf Corps, 6 CIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preminently being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For AA 15 (1)	3	times	9	times.
For AA 40	3	times	4	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, or

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time ~~for. The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 83 days in military custody, making a total of 83 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper 48

Ex B. JDY. 6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27 Jan 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 291 dys

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 291 days service.

9. The accused is entitled to reckon 3 years 291 days service for the purpose of determining his pension, etc.

10. The accused is in possession of ~~or entitled to, no military decoration or military award (or is in possession of or entitled to state any military decoration or award)~~ CDN. VOL. MED. & CLASP.

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of dated~~

~~held in his regiment (or corps or department) the rank of dated~~

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-54968 Rank Private Name DE MELLO, M. of CIC, 6 CIRU Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NOT APPLICABLE		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of March, 1944

Officer having custody of original documents

~~The accused has served as a non-commissioned officer continuously without reduction to the present date~~

In the rank of ..... years,

In the rank of ..... years,

In the rank of ..... years,

Date of Promotion.

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected accordingly.)

JOINT TRIP

YY-56 PTE DEMENUK G.

YY-57 PTE CAHAREL R.

VV-56
VV-57

FIELD GENERAL COURT-MARTIAL

CFA86 (1st Iss. of SFA37)
AG/P & S/1658 (2004)

Convened by Order of Brig. R.O.N. Brownfield Comd CCRA HQ 1 Cdn Corps dated 29 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-7690	Pte	René	Cabarel	41 Cdn Gen Tpt Coy RCASC.
L-12404	Pte	George	Denmark	41 Cdn Gen Tpt Coy RCASC.

Proceedings Reviewed
7 Jan 44
Reviewing Officer (JAG) CMHQ.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Sicily on (*date(s)*) 4 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for FGCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused are (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused are (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (1).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Lt~~ as interpreter ? Ans —

The Interpreter is sworn.(1) Do you object to ~~Lt~~ as shorthand writer ? Ans —

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	HAMILTON W.	43 Con Corps Tpt Coy RCASC
Member	CAPT.	Foley A.J.	31 Con Corps Tpt Coy RCASC
Member	Lieut	WILLIAMS T.G.	41 Con Gen Tpt Coy RCASC
Judge-Advocate	CAPT.	DesRosiers A.	AJA. 1 Con Corps.
Prosecutor	Lieut	BURGER J.T.	41 Con Tpt Coy.
Defending Offr	CAPT.	BEAUPRE T.N.	31 Con Corps Tpt Coy RCASC
	CAPT.	STEWART J.W.	1 Corps Tpt Coy RCASC

Questions by President: Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See fn 7 p 21.)

A8. The accused before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused are (are) arraigned (separately) on all charges in the charge sheet.(1) The accused deny (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-7690 Pte René Cabarel and L-12404 Pte George Denmark

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 41 A.A.	Not Guilty	Guilty	Both accused are found guilty.
2nd	Sec 18 (4) alternative.	Not Guilty	Not Guilty	Both accused are found not guilty.
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; "findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present ~~awards sentence as~~ ~~awarding no~~ (sentence).(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which 0 days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: TO EACH ACCUSED (1).

To undergo detention for nine months.

(Sgd) Alain Bro DesRosiers Capt (Judge-Advocate, if any.) 4 Dec 43. (Date awarded.) (Sgd) T. Hamilton Maj (President) (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 56, 57, RP 37(D) fn 6.66(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court in the case of both accused but remit five (5) months detention in the case of both accused.

~~I direct that the accused be released or committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) T. Hamilton Lt. Col.

Date 8 Dec 43. Commanding Comd REME 1 Cdn Corps Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
L7690 Pte R Cabarel R L12404 Pte Denmark, G	10 Dec 43	OC 41 Cdn Gen Tpt Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any pleas standing as Guilty, Court will advise accused to change such pleas and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded Guilty are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof as a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed ~~on the~~ charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is duly found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes Do you intend to call witnesses on your behalf ? Ans Yes Are they witnesses as to character only ? Ans No
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AFP5. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1ST charge, being subject to confirmation, will be promulgated later.(1) ~~(or The President announces that the Court has found Not Guilty on all charges and is to be released forthwith, and that this accused is accordingly discharged.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 - V and Ex U - W respectively.(3)
(*1. AFB 255 or AFB 256. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to serve on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) ~~The sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be promulgated to cover all charges in all charge sheets on which accused found guilty.~~ *RP 42. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 120(A), KR Can 308, 336, 563-564, Overseas AO 309, 2323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 138. When accused already under sentence of imprisonment or detention see AA 44(18), 68(3), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of records after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Charges & Summary of Evidence re Dewed and approved
Hans Dorkum Capt. 29 Nov 43
A.D.J.A. CDN. CORPS.

CHARGE SHEET

The accused, L-7690 Pte. Rene Caharel, and L-12404 Pte. George Demenuk, both of 41 Cdn Gen Tpt Coy., R.C.A.S.C. and both soldiers of the Canadian Army Overseas, are jointly charged with, WHILE ON ACTIVE SERVICE

FIRST CHARGE
SECTION 41
ARMY ACT

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, HOUSE-BREAKING AND LARCENY contrary to section 26 of the Larceny Act 1916

in that they

in the Field, on 11 November 1943 at approximately 2240 hrs. did break and enter the dwelling house of Staff Nurse M. Hingston, Royal Army Medical Corps, and did steal therein-

1. Leather identification card wallet, containing, Identification Card in name of Staff Nurse M. Hingston, two 2/6d B.M.A. Notes, one shilling B.M.A. Note, One pound B.M.A. Note, three 10 Lire Notes and two 5 Lire Notes.

1. Box "Coty" Powder.

1. Small metal chromium plated box.

1. Small chiffon handkerchief.

1. white silk handkercheif, marked M. Hingston.

1. bottle "Revlon" Nail Varnish.

1. hair brush.

1. Nursing Sister's shoulder Epaulette.

1. bottle "Revlon" Oily Remover.

1. small mirror.

1. pkt. "Ardath" cigarettes.

1. envelope, containing correspondence, addressed to Miss M. Hingston.

2. grey ties (Nursing Sisters' Uniform pattern).

1. pr. of Surgical scissors.

The property of Staff Nurse M. Hingston, Royal Army Medical Corps.

ALTERNATIVE CHARGE
SECTION 18 (4)
ARMY ACT

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

in that they

in the Field on Nov 11-43 at approximately 2240 hrs did steal:-

1. Leather identification card wallet, containing, Identification Card in the name of Staff Nurse M. Hingston, two 2/6d B.M.A. Notes, one shilling B.M.A. Note, One pound B.M.A. Note, three 10 Lire Notes and two 5 Lire notes.

1. Box " COTY" Powder.

----------2

SHEET 11

1. small metal chromium plated box.

1. small chiffon handkercheif.

1. white silk handkercheif, marked M.Hingston.

1. bottle "Revlon" Nail Varnish.

1. hair brush.

1. Nursing Sister's shoulder epaulette.

1. bottle "Revlon" Oily Remover.

1. small mirror.

1. pkt. "Ardath" cigarettes.

1. Envelope, containing correspondence, addressed to Miss M. Hingston.

2. grey ties (Nursing Sisters' Uniform Pattern).

1.pr. of Surgical scissors.

The property of Staff Nurse M. Hingston, Royal Army Medical Corps, a person subject to Military Law.

A.W.Searle

(A.W.Searle) Major
41 Cdn Gen Tpt Coy.,
R.C.A.S.C. - C.M.F.

O.C.

To be tried by Field General Court Martial.

H.N.Brownfield

(H.N. Brownfield) Brigadier
C.C.R.A. 1 Cdn Corps.

In the Field
29 Nov 43.

MEDICAL CERTIFICATE (C.R.(Can) 557)

I certify that I have this morning examined No L-12404 Pte Demenuk W.
of 41 Cdn Gen Tpt Coy and in my opinion,
is fit to undergo trial by Court-Martial.

Station Field

Date 4 Dec 43

W. Lauman Capt RCAMC
Medical Officer

MEDICAL CERTIFICATE (F.R.(Can) 557)

I certify that I have this morning examined No L7690 Pte Cabarel R.

_____ of 41 Cdn Gen Tpt Coy and in my opinion,

is fit to undergo trial by Court-Martial.

Station Field

Date 4 Dec 43

M Kaiman Capt RCAMC
Medical Officer

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L- 7690	Private	Rene	CAHAREL	41 Cdn Gen Tpt Coy RCASC
L-12404	Private	Georg6	DEMENUK	41 Cdn Gen Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, ~~had~~ committed the offence~~s~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 29 Nov 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (*Rank.*) W. Hamilton (*Must be named. RP 106.*) 43 Cdn Gen Tpt Coy RCASC (*Unit.*)

MEMBERS.

Captain To be detailed by OC 31 Cdn Corps Tps Coy, RCASC

Captain or Lieutenant (*Rank.*) To be detailed by OC 44 Cdn Gen Tpt Coy, RCASC (*Unit.*)

(*Named or detailed. RP 106.*)

WAITING MEMBER.

Captain or Lieutenant (*Rank.*) To be detailed by OC 41 Cdn Gen Tpt Coy, RCASC (*Unit.*)

(*Named or detailed, if any. RP 106.*)

JUDGE-ADVOCATE.

Captain (*Rank.*) A. DesRosiers (*Must be named, if any. RP 106.*) A.D.J.A. 1 Cdn Corps (*Unit.*)

On Active Service in the Fd

in Sicily (*Country.*)

H.W. Brownfield

(H.W. Brownfield) (*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

Date 29 Nov 43 Commanding CCRA 1 Cdn Corps. (*Convening Officer.*)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for words and notes for use on trial.*)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 98(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or, None.*)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 85(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 118 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP 90(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 3(b)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in *rebuttal* or on *new matter, if allowed* by Court (*RP 96(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Con 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*Own top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Con 360. As to certified copies of represented books see AA 163 (1) (g) (ii).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 758.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

Prosecution.
1st Witness.

S. 4198027 Cpl N.B. Morgan, C.M.P. H.Q. 56 area.
having been duly sworn, states:
I recognize the two accused. At approx. 2245 hrs on 11 Nov 43 I was on duty in A.P.M's office, H.Q. 56 area. On instructions received, I went to H.Q. 41 Cdn Gen. Tpt Coy. where I saw ~~some fuss~~ Sgt. Patterson, to whom I explained my mission.
I asked him to assist me in tracing two soldiers of his unit. He then accompanied be to the billet of Pte. Cahorel, one of the acc. He was standing by a bed dressed in pair of cellulose shorts only. He was instructed to get dressed. At the time I noticed that he had white powder on his face and smelled of perfume. He got dressed & was taken outside the billet. In company with Sgt Patterson, I found on Cahorel's blankets a sheet which contained:

1. leather wallet containing an identity card bearing name of N/S. Hingston, B.M.A. money; 1 pound note, ~~[illegible]~~ 2/6 notes, 1 shilling note - 40 lire in notes.
~~2. The top half of a Coty powder box~~
I cannot swear wether there were 1 or 2 2/6 B.M.A. note. I produce this wallet as exhibit "E".
2. The top half of a Coty powder box. produced as ex: "A"
3. 1 Pk. of Ardath cigarettes exh. "J"
4. 1 empty metal box. ex: "K"
5. 1 N/S. apaulette. ex: "L"
6. 1 handkerchief. mnd. M. Hingston - ex. "F"
7. 2 Grey ties - (N/S. uniform). ex: "H"
8. 2 Brushes - one being a hair brush - exh. N. and the other - a clothes brush. Exh. "O"
~~9. Part of a chocolate bar - exh. P.~~
9. A number of letters now enclosed in an envelope addressed to Miss M. Hingston T.A. N.S. Ex. "P".

10. a small chiffon handkerchief. Ex. Q
11. 1 broken mirror. ex. "R."
12. 1 bottle of nail varnish which is not here.
13. 1 bottle of Reolon Oily Remover, which is not here

When Caharel started to get dressed he went to another bed and picked up a battle dress, blouse and trousers. I noticed that the sleeve of the blouse had a needle and cotton hanging from a flash which was 3/4 sewn on.

After taking possession of articles mentioned above I went outside.

Also on bed pointed out to me as being Pte Caharel's bed, I found, before I went outside a battle dress blouse and trousers, both covered with powder. filed as exhibits "C" and "D".

In pocket of ex. "C" I found an army pay-book bearing name of Pte Caharel. filed as exh. "G".

I took possession of exhibits "C" and "D" and pay-book exh. 6. which was left in the pocket, & went outside as stated above. Once outside Pte Demenuk, whom I now recognize as one of the ass. was brought to me.

I noticed he had a certain amount of powder on the bottom of his trousers. I ordered Pte Clarke to search Demenuk. Pte Clarke cut from a lanyard hanging from Demenuk's waist, a clasp knife, British army style. exh. "S". I also took from Demenuk a pair of surgical scissors, which were in his pocket, the one for the field dressing. filed as ex "B".

I noticed ex "B" had a cross scratched on it. Both accused were then put under arrest. On way to guard room, the truck stopped outside the sister's billet of 11 Gen. Hosp. Sister Hingston came close to

truck and pointing to Demeunk said: "Good Gracious that's one of the men." the truck then drove on to the Garrison Guard Room.

A clasp. knife, canadian army model, was found by Sgt. Wainwright in my presence in the inside pocket of Caharel's blouse. This happened in the S.I.B. office on the 12 Nov. 43 at approx. 2000 hrs. Filed as ex. "H".

The lower half of a Cty powder box is filed by witness as exhibit "A1" It was handed to me by a batman, Pte Baker. I later compared exhibit A1 with exh. "A" and it appeared that both halves were part of the same box.

Cross examined by capt Stewart on behalf of Demeunk

The witness points out acc. Demeunk as the man he recognises as Demeunk. He identifies Caharel by pointing at him.

The truck stopped outside of the N/Sisters Quarters because of some misunderstanding. Pte Clarke was driving. My intention was to convey the men directly to the guard room. I was the senior N.C.O. present. As I can remember, a batman brought Sister Kingston out saying there a dril Phos. truck outside.

When sister Kingston said the words mentioned above, there were five in the truck. The two accused and three or four members of the Provost were in the truck at that time. It was fairly dark. The light of my torch was ~~used~~. I flashed on all the persons in the back of the truck and not on any one in particular. I placed the two acc. under arrest myself.

they did not resist arrest, except that they were argumentive. They were not drunk in my opinion. I could not smell any alcoholic drink on them.

Acc. Caharel declines to cross-examine.

On reading over of testimony, witness adds:

When Caharel was getting dressed I asked Sgt Patterson if it was Caharel's bed, by which he, Caharel, was standing, the answer was yes. It was the same bed as that on which the exhibits contained on the sheet were found.

R.P. 83 (B) complied with.

2nd Witness. Miss Marguerite Hingston, T.A.N.S. at #11 Gen. Hosp.

having been duly sworn states.

I recognize Ex "E" as my wallet. I also recog. exhibits "H", "A1", "F", "N" which is a hair brush. ex: "O", a clothes brush, "B", "I", "P", "K", "L", "J", "Q", "R" as being my property.

I recognize both accused. At about 22 40 hrs on 11 Nov. 43. I was reading in bed with a hand lamp. I heard footsteps on the stairs and the passage outside & promptly put the light out. About 1/2 min. later, my bedroom door which was shut but not locked, was opened and a voice said to me: "Put that light on". I did not do so. I just said: "Get out of here". There were two of them & they did not go. They tried to put light on but could not find the switch.

I got out of bed with intention of shutting door on them. They stepped backward a bit. I took the key from outside the door in my hand and put it on the inside of the door. They still watched me. The light was on in the corridor. I tried to shut the door and lock it, but one or both of them pushed on the other side.

and they just pushed the door wide open. While they were ~~doing~~ pushing that door, I got out into the passage + by-passed them. One of them was in my room, the other one still in the passage. I turned around and saw the one in the passage holding a knife + I went to the nearest room and locked the door. While I was in there I put some clothes on but could not get out as the key was stuck in the lock. I could hear them shuffling about in my room but could not do anything about it. I went out through the French windows unto the balcony but could not get into the next room as its window was locked. After about 5 mins, a soldier passed down the road. I called to him that there were 2 soldiers in my room, would he do something about it.

He disappeared + went off on the road. Another sister, sister Cooper came into the corridor into the empty room next door and let me in through the French window.

I went in my room + put the light on. The drawer of my dressing table was opened and empty, I knew the letters + 2 ties were in the drawer + I knew that my wallet which was on the dressing table, was missing. I put some clothes on + went downstairs unto the street, walked up the road + met some one who said: "They've gone". I hung about a bit and after some time some one came down + handed me the bottom of a powder box, empty - exhibit A I

The seemed are the two men who were in my room that night.

Cross examined on behalf of acc. Cabarel:

The light was still out in my room when the acc. pushed their way into my room. The one who was holding the knife was holding it with his hand raised. It was a very bright shiny knife. All I could see was a big shiny blade. ~~the~~ I recognize the man who held the knife as Pte Cabarel, the shorter of the two. Later on, when I went to the truck of the M.P. I identified Demenuk, by the light of the torch which was flashed in the back of the truck.

I identify the scissors. They have a cross which was on them 18 months ago when they were given to me.

I would say that both acc. had been drinking.

By J. A.

It was the shorter and shock headed hair without a cap who held the knife in his hand. It was this man in the middle witness points to Cabarel.

No cross examination on behalf of acc. Demenuk

R.P. 83 (a) complied with

3rd Witness Pte. 7384019 Pte A. E. Baker. #11 Gen. Hosp. R.A.M.C.

having been duly sworn states:

On the 11 Nov. 43 at approx. 2315 hrs. I was walking with Col. Higgs behind two soldiers, ~~whom I~~ one of them ~~through~~ threw a box away. I identify ex A1 as being that box. Col. Higgs picked it up and showed it to me and we followed these soldiers to their billets, which I now know are the billets of the 41 Gen Transp. Coy. The box ex A1 was given to me later on by the matron and I handed it to the Police.

C.A.V.

Cross examined on behalf of Donnelly.

I can not swear that Ex A. is the same box which Colonel Griffo showed me.

I identify Ex A. as the box I received from the matron which I gave to the police.

We kept a distance of about 40 to 45 yards behind the accused. It was dark.

I knew these were Cdn soldiers by the blue patch on their shoulder. They both had the blue patch. We did not try to apprehend them.

No cross-examination on behalf of Cabarel.

By the Court:

As we got to the billets, the A/C talked to a Sgt. about arresting these two soldiers. ~~One of the two soldiers was present.~~ They went in the gate about 12 yards, and one of them came out again. This soldier had not left my sight. He had powder on his trousers.

There was a sentry at the gate & he did not challenge the 2 soldiers.

We followed these men, because of what Sister Hingston told us.

Cross examined on behalf of Cabarel.

These men were staggering about. I could not say if they were drunk.

R.P. 83 (B) complied with.

On evidence being read to him, witness says they were 4 to 5 yards behind the two soldiers.

The prosecution is closed.

Submission is made on behalf of the two accused that not enough evidence has been brought to justify them making a

8A

Contention of non Prima Facia case.

Sir, if the accused are found guilty as charged, under section 41 of the Army Act, they are liable to severe punishment. It therefor behooves us to study the charge very carefully.

(Read Charge)

(Read def "larceny" as in Sect 50 Chap VII, M.M.L.)

I contend that the evidence brought out by the witnesses has not proven "intent". On the contrary, it suggests actions that are the result of a drunken spree, without any malicious aforethought.

[redacted]

It is reasonable to believe that if these men had been allowed to get over drunkeness without interference, they would have returned the articles belonging to Staff Nurse Hingston, with their apologies for their ungentlemanly behaviour. After all Gentlemen, most of the articles found on their possession would be of very little value to a man on active service.

I therefor contend that the evidence, given for the prosecution, has not established a prima facia case against the accused and [redacted] I therefor contend that the case should be thrown out by the court.

defense. Written plea is submitted and initialled by pres. & added hereto as page 8A.

Defence.

1st Witness. The accused L. 7690 Pte Rene Caharel. 41 Cdn. Gen Tpt Coy. having been duly sworn states.

We arrived in Catania at 0430 approx. on 11 Nov. 43. We were brought to our billets. We were all C.B. until approx 1800 hrs. at approximately which time I went to a place where they sell wine & had a few drinks of vino. We went to another place & had some more vino, cognac & marsala. After that I do not remember anything of what happened until the next morning when I woke up in the garrison jail. We were not warned of the curfew for 2100 hrs. I had never been told of the potency of these wines. We were not told of any out of bounds areas. When I woke up and was told of the charges by the Provost I realized the seriousness of them.

I never had any military law read to me since I have been in the Army, since 1940. On the night I went out I had on the suit ex: "C" & "D".

Cross examined.

I never heard anything about lectures at Palermo. I did not know till the morning that I had the wrong uniform on.

R.P. 83 (B) complied with

2nd Witness. L. 12404 Pte George Demenuk. 41 Gen Trpt Coy.

Being duly sworn states.

On 11 Nov 43, we arrived in Catania at approx. 0430 hrs. At night I was sewing on patches on my tunic when C.B. was lifted at about 1800 hrs. I went downtown, and on the way entered a wine shop and had a few drinks then crossed the road & went to another one and was drinking there till my memory gave out & do not remember how I got back. When I woke up I realized I was in the garrison jail.

I did not leave the billets with Pte Caharel. I met him as I entered the first wine shop.

I had not been told that there was a 2100 hrs curfew in Catania. I had not been warned as to the dangers of the wine in this country, nor of the out of bounds areas in town.

When told of the charge laid against me I realized the seriousness of it. Sect. 4 to 44 Army Act have not been read to me in the last year. I saw the uniform on which I had sown patches on, the next morning when I noticed Pte Caharel was wearing it.

I recognize the scissors ex "B" as my own by the cross filed in by a 3-corner file. I recognize these pliers as my own. I ~~file~~ produce them as exhibit. D-1. I recognize them by a cross I made on them. I produce a lock & holder as ex: D-2. I recognize them as mine by a mark in form of a cross.

Cross examined.

~~Where~~ I got the scissors from a nurse in England.

By the Court:

I got the pliers a year ago from the workshop. I marked them about 11 months ago. I got the scissors in Aug. 1942.

The marks have been put on by the same file on the scissors, pliers and padlock. I now have on the uniform on which I was sowing patches. The H.C.O. Section N.C.O. told me the C.B. had been lifted. He warned the platoon the section of the fact. R.P. 33 (B) complied with.

3rd Witness D.91298 Pte. F.G. Dussault, #41 Cdn Gen Tpt. Coy.

having been duly sworn, states:

On the night of Nov 11/43 I met the two acc. in a wine shop on the main street in Catania and had a drink with them, they were quite drunk at the time. It was about 2030 hrs. As we came out of the shop. Pte Caharel became involved in an argument with another soldier and I interfered & stopped it. I asked

him what he was fighting about and he did not know.

I saw the 2 acc. when they came back from the Carrison Jail. I spoke to them and they did not remember meeting me, or Cabarel having been in this argument with a soldier.

Cross examined. By drunk I mean that they did not know what they were doing. They did not recognize me except as being another soldier.

By the Court.

They became involved in this argument about 10 minus after I met them. R.P. 83 (B) complied with.

4th Witness L. 7098. G. J. Ryder. C.S.M. 41 Cdn Sen Tpt Coy having been duly sworn states.

On the eve of Nov. 11/43 ~~aft~~ I saw the 2 acc. at about 2400 hrs. I would say that they were definitely drunk.

There was an incident connected with Cabarel. About that time, I was asleep in my room. Acting on information, I came downstairs and met Cpl Morgan of the C.M.P's. and went to "D" pltn billets with him. There were several persons around Pte Cabarel there. He was dressed in his shorts. I approached Cabarel and told him he was wanted by the Military Police. He seemed stupefied, could not understand what was being said to him, he was creating quite a disturbance.

No cross examination.

By the Court.

While this was going on, there were the Cdn Provost, the British Police and also somebody from the hospital.

The corporal of the guard was there also.

I looked through the billets for Pte Demiaux. I found him in

the M.T. lines being taken to the police by one of my sergeants. I spoke to him about being wanted by the police and he did not seem to understand. R.P. 83 (B) complied with.

the defence is closed.

The defending officer for the Cabarel hands in a written plea for both the accused persons which is marked "X" and initialed by the president.

The prosecuting officer hands in a written ~~plea for~~ summing-up which is read marked "Y" and initialed by the president.

The J.A. ~~points~~ sums up and explains points of law regarding Sec 41 A.A. Sec 18 (4) A.A. + Larceny Act 1916 Sect. 26.

Plea in mitigation for both accused handed by def. off. mkd. 2. and signed by president.

The 2 accused left their billets and got drunk. They decided to see the town. They were not advised of curfew hours and of out of bounds area. They were not in a dangerous mood when in N/S Hingston room. They did not attempt to hide their acts.

Not many offences - small ones. Cabarel good conduct stripe. In view of previous record established by good conduct sheets - also they are good category "A" fighting men.

Both accused then personally asked for mercy of the Court stating they were sorry for the events of the 11 Nov 43.

Summary of Evidence "1" at Court Martial

Statement by the Defending Officer:

I would like to take this opportunity of reviewing the evidence given to this court to-day.

The first witness Cpl Morgan, C.M.P., supposedly trained in police work states on oath that although he personally put the accused under arrest, did have them in his custody, for a considerable length of time, that he did not smell alcohol on their breath nor did he believe that they were anything but sober. This statement should be examined in the light of the references to the condition of the accused made by every one of the witnesses & the accused's own statements. This to my mind suggests a predudiced witness & discredits the remainder of his testimony.

The second witness nursing sister Hingstons. She states that in semi-darkness she can. She identifies a common issue jackknife to be the one held by Pte Cakarel. Although she admits that she only saw the blade of this knife in semi-darkness, for a fleeting moment under conditions which

were certainly not conducive to careful observations.

She stated that she left the room turned around and then saw the knife and yet ~~they~~ he was supposed to be threatning her.

Her futile attempts at identification were made obvious when she based it on the height of the men & on the type of haircut. A glance at the accused proves this. They are of the same heights & have the same type haircut.

Pte Baker

This man recognizes the accused to be Canadians because he saw their RCASC flashes. And yet Exhibit C (P.D. Blouse) has no RCASC flashes attached.

He further claims that on a dark night (36°) one of the accused walked twelve yards thru an archway without his loosing sight of him.

~~This type of evidence does~~

He swore that the powder box (exhibit was that ~~given~~ shown to him by the colonel & yet on cross examination had to admit that he could not swear that it was the same box.

This type of evidence makes it impossible to put any faith in such a witness' testimony.

CAHAREL.

His statements that he had not been warned of curfew, out of bounds areas, dangers of local wine ~~for had he had~~ is easy to believe. No part II orders were published until Nov 12 and it is easy to understand that in the hurly-burly of settling in an NCO detailed to do this job might easily have slipped up.

The story that he went blotto must be believed. It is a sworn statement and is a story that we know to be possible from personal observation & can be substantiated by medical evidence.

Demenuk As above.

+ His claim to ownership of the scissors can not be easily thrown out. He identified them immediately (vide summary of evidence 1st witness Sgt Wainford) ~~If he had been~~ Upon being put under close arrest it is supposed that he was only given essential bit & therefore

had no time to mark other but at the time of his ~~[illegible]~~ leaving billets he was sewing & presumably using his scissors. I contend that the appearance of the scissors would lead one to suspect that they are the property of an RCASC driver & not a RAMC N/S.

~~Pte Dussault — } Both prove blotto~~
~~CSM Ryder — } & drunk as opposed to statement made by Cpl. Morgan~~

~~Pte Dussault~~
The evidence given by this witness makes it clear that even at 2030 his the accused were drunk and that they had no idea what they were doing.

C.S.M Ryder — was called to disprove the statement made by Cpl Morgan the first witness for the prosecution.

This gentlemen is the type of contradictory, incoherent, evidence produced by the prosecution.

~~I contend the~~

Our plea of prima facia was unfortunately disallowed by the court. [illegible] I still contend that intent [illegible] presence of this at

The prosecution did not at any time prove intent - the defence on the other hand submitted, and I believe proved, that at the time of the incidents the two accused were not of a sound mind - the medical profession calls it ~~alcohol~~ alcoholic amnesia:

We realize that a misdemeanour has been committed but submit that the charges should have been laid under section 40AA and also sec 15AA if they were out after hours. However gentlemen, there is no evidence that warrants a conviction of these men as charged and I respectfully ask the court to acquit ~~the~~ both the accused men on both charges.

Ex. X. [illegible]

Closing address - Prosecution

The Nursing Sister has definitely identified the two accused as the two soldiers who broke into her quarters and stole the various articles which she identified as being hers. Therefore all elements of the charge have been proven. The two accused broke and entered a dwelling place and stole various articles. Moreover these articles were all found in their possession subsequently by Cpl. Morgan, all that is other than 1/2 the powder box which Pte. Baker saw them throw away.

The defence of drunkenness which has been offered must fail, firstly because the defence has not proved drunkenness and secondly because drunkenness is not an excuse for a crime. At most it may lessen the sentence. (M.M.L. Page 25 Sec 48).

There was intent to steal and intent to permanently deprive the owner of her possessions. A plea of a "drunken escapade" may ~~appeal~~ apply to some of the articles stolen, but not to the wallet which contained amongst other things money to the extent of £1:7:6. When one steals money one does not intend to return it.

Both accused, in a foreign ~~quarters~~ country, broke into the quarters of [illegible] Nursing Sister and stole from that room. They should therefore be found guilty and sentenced accordingly.

PLEA OF MITIGATION OF SENTENCE OF

(1) L-7690 Pte Rene Caharel
(2) L-12404 Pte George ~~Denmak~~ Demenuk

Mr President, gemtlemen of the court.

As both the accused are jointly charged and since individual pleas by Capt Stewart and myself would of necessity be repitious, I ask the permission of the court to make a joint plea for both the accused.

Reviewing the evidence given to this court today, I would like to make the following observations:

Ptes Caharel and Demenuk undoubtedly left their billet area on the evening of 11th Nov and got drunk. There is very little doubt that they were the men that entered the nurses' residence and acquired sundry articles from Sister Hingston's room. All this the defence admits.

Earlier in the case Capt Stewart went on record as contending that the prosecution hadnot given evidence that there was any malicious intent involved in the actions of these men; and therefore he asked that the men be acquited since a prima facia case had not been established. This request, unfortunatly, was not granted by the court.

Let me briefly review the case. These two men, after a rather miserable journey, arrived in Catania at approximatly 0500 hrs 11 Nov 43. They slept until noon, had lunch, spent the afternoon cleaning up their kit. After supper, the C.B. which had been in effect until that time was lifted. Caharel and Demenuk, with most of the other boys of the unit decided to see the town. Now there is sworn evidence that these men had not been warned as to the dangers of the local wines & liquors, that they had not been warned of the out-of-bounds areas, that they had not been told about the local curfew laws, indeed that they have not had sections 4 to 44 of the A.A.explained to them in the last year or more.

These men went out, began drinking the local insidious brew and by 2030 hrs, as proven by Pte Dumont they were properly drunk and did not know what they were doing.

Somewhat later in the evening we find them in the nurses' room. Not in a very dangerous mood I would contend, otherwise I find it difficult to believe that Sister Hingston would have been successful in pushing them out of her room or later in pushing past them, particularily if the SHORTER one (whichever that might be) was allegedly doing commando stuff with his Jack knife. There is no evidence to show that these men made any great effort to camouflage their activities, to elude possible captors or to conceal the fruits of their foil. This was not a malicious robbery.

Gentlemen these men are category A fighting men, they have a combined record of nearly eight years on active service, during this time they have never been charged with a serious crime and only two or three minor offences. ~~Therefore I contend that these accused, although undoubtedly guilty of a misdemeanour should be acquited as charged.~~ should be

If the court cannot see fit to absolve them of all responsibility for contravening the section of the Army Act under which they are charged then I respectfully request that (1) Because of their ignorence of the potency of the local wines due to lack of experience and training, (2)

(2) because of the length of their active service record.

(3) because of their good military record which may be proven by their M.Fs.M. 6.

(4) because, at this critical stage of the war, these men would be of much more value to the Canadian Army if they were allowed to soldier with their unit rather tham to stagnate in a detention camp

(over)

(5) because I honestly believe that these men have learnt a lesson and are sincerely sorry for their misbehaviour particularly as it involved Sister Hingston, a member of a corps which is respected by all.

I ask the court to look at this case objectively and to be as lenient as possible when passing sentence.

J N Beaupré CAPT
Defending Officer

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L 7690	Pte.	Caharel, R.	41 Cdn.Gen.Tpt.Coy. R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Service and General/Regimental and Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	3 times	3	times
For	Beyond Billet Area	times	1	times
For	Did not wear respirator	times	1	times
For	Not in possession of paybook	times	1	times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ____ beginning on the ____ day of ____~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 24 days in ~~Air Force~~ military custody, making a total of 24 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper no.~~ 23 yrs.

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 12 Jan, 40.

7. ~~The service which the accused is allowed to reckon towards discharge~~ is

8. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward military military ~~or is in possession of or entitled to. State any air force decoration or reward~~ military

10. ~~(If the accused is a warrant officer:) The accused before he was made a warrant officer~~ Air Force ~~had held the regimental rank of ____~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

dated ....., and in his regiment (or corps), the rank of

dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~(If convictions by a court-martial or civil court, of summary awards under Section 47 of the Army~~ Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit ..... Regiment ..... of .....

Name .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of December 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

M.F.B. 355
22M—5-41 (573-5)
H.Q. 1772-39-62)
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L 12404	Pte.	Demenuk, G.	41 Cdn.Gen.Tpt. Coy., R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act (and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.W.L.	2 times	2	times
For	Attempting to escape unit guard room	1 times	1	times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 72 Section 47 of the Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in ~~Air Force~~ civil custody, and 24 days in military custody, making a total of 24 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service is attestation paper~~ is 27 yrs.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service is attestation paper~~ is 17 Oct. 41.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no air force decoration, or air force reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~ military military

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer had held Air Force the regimental rank of~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit, and in his regiment (or corps), the rank of ..... dated .....

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Of convictions by a court-martial or civil court, of summary awards under Section 47 of the~~ Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit ..... Regiment ..... Air Force

Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of December 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. 12404 Name DEMENUK, C. Sqn., Battery or Company 41 CGTC Corps RCASC Date of enlistment 17.10.41 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet 20.1.42 No. and date of last drunk NIL Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with R.O. 2084 upon completion of 6 months service, old sheet destroyed 10.6.42									
Field	1.10.43	Pte		AA Sec 15(1) Absenting himself without leave from 1330 hrs 1.10.43. to 1337 hrs 1.10.43. Total Time Absent 7 minutes.	Cpl Adams	7 days C.B.	1.10.43	Major A.W. Searle.	
Field	23.10.43	Pte		Sec 15(1) AA Absenting himself without leave from 2230 hrs. 23.10.43 until apprehended at 2340 hrs. 23.10.43. Total Time Absent- 1 hr, 10 minutes. Sec 40 AA Act to the prejudice in that he did attempt to escape from the unit guard room.	Sgt Lea Cpl Coupland Cpl Geddes.	7 days pay	28.10.43	Major A.W. Searle.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY J. H. Burgess Lt Officer having Custody of regimental books					

No. L.7690 Name CAHAREL, R. Sqn., Battery, or Company 41 CGTC Corps RCASC Date of enlistment 12.1.40 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
This man having completed 2 yrs service, his previous sheet has been destroyed in accordance with C.A.R.O.319, (24)									
Field	9.6.42	Pte		(1) Section 15(3) A.A. Beyond fixed limits of Billet area (2) Section 11 AA. Did not wear his respirator. (3) Not in possession of his paybook(Sec 40 AA).	Documentary	7 days F.P.	11.6.42	Major W.A. Lucas	Forf 7 days pay FR&I 149 (1) (b)
Field	20.1.43	Pte		Sec 15(1) AA A.W.L. (3 days, 20 hrs, 25 minutes).	Cpl Tawns, A. Documentary	21 days pay	26.1.43	Capt. W.L.G. Carter	Forf 21 days pay FR&I 149(1) (b) Forf days pay FR&I 149 (1) (a)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5.12.42	Pte		Sec 15(1) AA A.W.L.(11 hrs, 30 minutes)	Cpl.Zarillo, N.	14 days F.P. Forf 14 days pay FR&I (1) (b). Forf 1 days pay FR&I 149(1)(a) Total 15 days pay.	7.12.42	Major W.A. Lucas	
Field	22.6.43	Pte		AA Sec 15(1) AWL from 1730 hrs 22.6.43 until 1400 hrs. 24.6143. Total Time Absent - 44 hrs, 30 mins.	Capt. A.M. Abernethy Pte. French,D.L.	Forf 2 days pay FRI 149(a) Forf. 6 days pay FRI 149(2) 6 days C.B.	25.6.43	Major W.H. Colling	

CERTIFIED TRUE COPY

J. Burgwin Officer having custody of Regimental Books.

Summary of Evidence in the Case of
L 7690 Pte. Rene Cabaret
L 12404 Pte. George Demenuk
41 Cdn. Gen. Tpt. Coy. R.C.A.S.C.

The Commanding Officer Directs that the evidence be taken on oath.

First Witness for Prosecution

No. 5833149 Sgt. Wainford, A., 64 Section S.I.B., C.M.P. having been duly sworn, states:—

On 12 Nov 1943 I received information alleging that a burglary had been committed in the Sister's quarters 11 Gen. Hospital at about 2240 hrs. 11 Nov 43. Cpl. Morgan C.M. Police who laid the information produced to me certain articles including an empty Coty powder box (Exhibit A) a pr. of surgical scissors (Exhibit B) a battle dress blouse (~~Ex~~ upon which I saw a quantity of white powder (Exhibit C) a pr. of Battle Dress Trousers also having white powder thereon (Exhibit D) an identity card wallet containing identity card in the name of M. Hingston, 2 - 2/6d B.M.A. notes, one 1/ B.M.A. note, 1 £1 B.M.A. note, three 10 lira notes, and two 5 lira notes - wallet and contents as Exhibit E. a white silk handkerchief (Exhibit F) — In the pockets of the Battle Dress Blouse I found a Cdn. army pay book in the name of Pte. Cabaret (Exhibit G) and also found a large Canadian army pattern knife (Exhibit H).

On 12 Nov 43 accompanied by Cpl. Morgan

I went to the G.M.P. guard room where I saw
L 7690 Pte. Calvert. I told him who I was and
that I was making enquiries concerning the
Breaking and Entering of the Sisters Quarters
at 11 Gen. Hospital on 11.11.43 and I cautioned
him. He said "I don't know anything about it."
I then produced to him a Battle Dress Blouse
and Trousers and asked him if he recognized
them. He said, "I suppose they are mine."
I then produced to him a Gen. Army pattern
Knife and asked him if he recognized it. He
said "I have never seen it before". I next saw
L 12404 Pte. Dennenny R. I told him who I was
and explained the nature of my inquiry and
I cautioned him. He said, "I don't know anything
about it, I can't help you in any thing about it."
I then produced to him a pair of surgical scissors
I asked him if they belonged to him. He said
"Yes they are mine, a Nursing Sister in England
gave them to me." On 16.11.43 I saw Sister
M. Kingston, I produced to her a Gen. Army
knife (Exhibit A) I asked her if she recognized
it. She said "Yes it is the one with which
I was threatened on the night of the offence." I
next produced to Sister Kingston a Safety razor
box, I asked her if it was her property and
she said "Yes this is the box which was stolen
from my room on 11 Nov 43." I obtained
statements from Sister M. Kingston (a statement
and an additional statement - Exhibit E),
No 73 96 761 Pte. Smith L.J. (Exhibit F),
No. 73 84019 Pte Baker, A.F. (one statement
and an additional statement (Exhibit K)
Lt. Col Mitchell - Higgs (Exhibit L)

No S/419 8027 Cpl. Morgan C.M. Police and an additional statement from him (Exhibit M)
No 739 6757 Pte. Rollings J.A. (Exhibit N)
No B/86221 Sgt. Paterson (Exhibit O)
No B/2533 Sgt. Hughes (Exhibit P)
No K/70866 L/Cpl. Reichroeb (Exhibit Q)
No D/822251 Pte. Clarke (Exhibit R).

Both accused decline to cross examine this witness.

A Wainford Sergeant
S.I.B.

26/11/43

2nd to 11th Witness for Prosecution

Names as above (Exhibits I to R).

I certify that in my opinion the attendance of these witnesses is not readily procurable due to the exigencies of the service and the fact that complete statements have been taken from them by the S.I.B., and written statements of their evidence, signed by them, have been read to the accused and are attached hereto as Exhibits "I", "J", "K", "L", "M", "N", "O", "P", "Q" and "R".

J.H. Burger Lieut.

I do not require the attendance of these witnesses for the purpose of cross examination.

R. Cabanel.
G. Demenuk

The accused were cautioned as follows:-

Do you wish to make any statement or give evidence on oath? You are not obliged to say anthing or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution both accuseds declined to give evidence and to make a statement.

Both accuseds declined to call witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of both accuseds and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

J. P. Burger
Lt Cdr Yes Tpt Dey
R.C.A.R.C.

Field
16 Feb 43

Exhibit "I"

Statement of Leila M. Hemington,
11th General Hospital.

Who saith:-

On the 11th November 1943, at about 2240 hrs
I was in my own private room in the Hospital.
This is the room which is allotted to me personally
for my living & sleeping quarters when I am off
duty. I was reading a book in bed with the
[redacted]
of an electric lamp. I heard heavy footsteps in the
passage outside, and also the sound of voices.
I put out the light. I know that at the time
that the door to my room was shut and fastened by
the catch, although it was possible to open it by
turning the handle. The next thing I heard was
somebody turning the handle of the door, the
door was then opened, and I could see two
soldiers standing in the doorway. One of the
soldiers the taller of the two said "Put that light
on". I told them to get out, but they stood more and
attempted to find the electric light switch but were
unsuccessful. I then got up and tried to push them out.
I succeeded in pushing them out of the door, and I took
the key from the outside, where it was in the lock, and then
succeeded in closing the door. I tried to put the key on the
bed on my side of the door, but realised I

I was doing this, one of them pushed the door, and one of them came into the room, ~~and~~ in the struggle I got out of the room, passing both of the soldiers as I did so. I saw that one of them, the shorter of the two, was holding a large Jack knife, with the blade open, in his hand. He was holding this knife in a threatening attitude, and I thought that he might strike me, and I was afraid, and I rushed into the adjoining room, and locked the door. I heard the soldiers in my room, and it sounded as if they were ransacking it. I found some clothes to put on, and intended to go out of the room and get some assistance, but I found that I could not have the key on the lock, so I went through the French window to look for assistance, but I saw nobody. As I stood there, another Sister came out onto the Balcony adjoining the one on which I was standing, and I told her what was happening. We then saw a soldier passing, and shouted to him that two men had broken into my room. I saw him now towards the Hospital entrance. I then succeeded in leaving the room in which I was locked by way of the Balcony. I then returned to my room with the other Sister, Sister Cooper, and upon turning on the light, I saw that my dressing table drawer was open, and certain things were missing from it. I noticed that my ~~ex~~ identification card wallet was missing from the dressing table.

and I also that two suit ties, a box of "Coty" powder and a bundle of letters were missing.

At about midnight two Military Policemen, came to the Hospital Sisters quarters with a truck. I went to the truck and upon looking inside I saw two Canadian soldiers sitting on the truck. I immediately recognised one of them as the tall one concerned in the office, and pointing to him I said to the Police Corporal "Good Gracious, that is one of the men." The Truck was then driven away by the Police. On the 12th November 1943, Corporal Morgan C.M. Police, took me into the company office and produced to me the following articles.

Two Grey uniform ties.

1 Leather identification card wallet, containing identification card in my name, two 2/6 B.M.A notes, one 1/- B.M.A note one £1.0.0 B.M.A note. three 10 hire notes two five hire notes.

One "Coty" powder box empty.
One small metal chromium plated box empty.
One small chiffon handkerchief.
One small bottle "Revlon" nail varnish
One hair brush.
One clothes brush
One "Nursing Sister" Gauntlette.
One Bottle "Revlon" "Only remover."
One small mirror broken.
One packet of 10 Ardall Aganettes.

part of a packet of chocolate.

One ladies white silk handkerchief with name M. HINGSTON in corner.

One envelope containing correspondence addressed to MISS. M. HINGSTON. T.A.N.S.

I examined all of these articles and recognised them as my property, they were articles missing from my room in the hotel Quarter.

Later the same day Corporal Morgan produced to me, a pair of surgical scissors, attached by a piece of string to a Jack knife. I immediately recognised the scissors as my property, and I pointed out a small cross scratched on the scissors, by which I could identify them. The Jack knife I had never seen before. Morgan also produced to me a large white sheet, which has the appearance of a Hospital sheet.

M. Hingston.
TAN S.

Statement taken and signature witnessed by Sergeant Wainford S.I.B at Catania on 14/11/43

Sister Hingston. 11th General Hospital
Catania.

who saith:-

In addition to the statement which I made to Sgt Wampod, yesterday, I should now like to state, that on the night of the offence Colonel-Mitchell-Hogge handed to me the bottom half of a powder box, which he stated he had seen one of the Canadians concerned throw away on the road. I immediately recognised this half of the box as being part of the box of powder which I had had stolen from my room. I handed it to a Bataman, I do not know what he did with it.

On 16/11/43 Sgt Wampod S.I.B produced to me a Canadian Army clasp knife. I recognise this knife as the one with which I was threatened by the Canadian on the night of the offence.

M. Hingston
T.A.N.S.

Statement taken and signature witnessed by Sgt. Wampod S.I.B. at Catania on 15/11/43

Exhibit J

Statement of No. 7396761 Pte. Smith L.G.
11th. General Hospital.

who saith:—

On the 11th November, 1943 I was passing the Sisters Quarters, with Pte Rollings. So I heard somebody calling from one of the Balconies, of the Sisters private Rooms. I did not think they were calling to me so I but no notice. I then went with Rollings to the Sisters Quarters Entrance, and as we entered the porchway, I saw two Canadian soldiers, coming down the steps, which lead up to the Sisters private quarters. I saw that one of the soldiers, the shorter of the two was holding a large Jack knife in his hand. It appeared to be attached to his waist by a lanyard. The knife appeared to be of some bright metal as I saw it flash. Rollings spoke to them and the soldiers went out into the street, and commenced to walk in the direction of the Hospital. Pte Baker then came to me and said that two soldiers had just been in the Sisters rooms, so we followed the two soldiers we had just seen towards the Hospital. When we did so we saw the two soldiers whom we were following disappear into the entire the Hospital Grounds.

We searched on the Hospital Grounds but the soldiers could not be found. We were joined on the search by Colonel Mitchell-Higgs, and we then saw the two soldiers whom we had followed. They were about to leave the Hospital Grounds by the top gate. I commenced to follow the soldiers accompanied by Lieut. Colonel Mitchell-Higgs and private Baker, but when I had gone a short way with them I was told by the Colonel to follow behind him at about 20 yds distance. I did so and saw the two Canadian soldiers go to an Army Billet which I now know to be. 41st Cdn. Gen. Trns. Coy H.Q.

On 15th November 1943, Sgt. Wainford S.I.B. produced to me a Just knife. I am able to say that this Just knife is similar to the one I saw in the hands of the Canadian.

L. G. Smith

Statement taken and signature witnessed by Sgt. Wainford S.I.B. at Catania on 13/11/43

Exhibit "K"

Statement of 7384019 Pte. Baker A. G.
11th General Hospital.

who saith:-

On the 11th November 1942 at about 1045 pm I was passing the Officers Quarters, when I saw Officer Houghton and Officer Cooper standing on the Balcony of their respective rooms. They called me Balcony of their respective rooms. They called me and saying that two men were in Houghton's Room. I went to the entrance of the Officers Quarters, and saw there Pte Rollings and Smith. I told them what had happened and Rollings pointed to two soldiers going in the direction of the Hospital and said "They must be the men, they have just come down the steps. I went to phone the Police, whilst the others went after the soldiers. I came back, went to the Hospital by myself, and saw Lieut. Colonel Higgs and after I had been standing there a few moments, explaining the occurrence, I heard footsteps, and I and the Colonel went in the direction of the sound. We looked in the Main Road, and we saw two men going in the direction of the Bus Road. We followed at a distance of about 8 yards. I saw one of the

men, whom I could now see were canadian soldiers throwing white powder about.] There was a lot of this powder on one of the soldiers clothes. As we followed one of the soldiers threw away a box. I saw the Colonel pick it up, and he showed it to me. It was a ~~box~~ "Powder Box" and it contained a very small quantity of face powder.

We continued to follow the soldier at a distance of about 8 yards, until we came to an army Billet, which I now know to be the H.Q. 4th Cdn Gen. Trans Coy. R.C.A.S.C. We saw both the soldiers enter by the gate, one of them only went a little way inside, and then came out again. This soldier spoke to the Colonel, I could see that his Battle dress blouse and trousers had a large quantity of white powder on them. A Canadian Sergeant then came out of the billet, and I saw the Colonel ~~to~~ point out to the Sgt the soldier whom we had followed. The soldier then went inside, and Colonel Mitchell Higgs then left, leaving to await the arrival of the Military Police.

A Baker, Pte.

Statement taken and signature witnessed by Sgt Wampard S.I.A at Catania on 15/11/43.

Statement of No. 7384019.
Pte Baker. A.C.

who saith:-

In addition to the Statement which I have already made to Sgt Wainford S.I.A., I should like to state that I now remember that on the night of the offence, that the bottom half of a powder box was handed to me, by the Assistant Matron, who told me that it had been sent from Colonel Mitchell-Higgs. I gave the half to one of the Police Corporals.

A Baker, Pte.

Statement taken and signature witnessed by Sgt Wainford S.I.A. at Catania on 15/11/43

Exhibit "L"

Statement of Lieut. Col. Mitchell Higgs.
11th General Hospital.

who states:—

On 11th November, 1943 at approx. 23.30 hrs. I was informed by Sister Hingston that her room had been ransacked by two soldiers. A Wallet and Powder Box were included in the missing property.

I then saw the men emerge from the Northern Gate of the Hospital ground, and proceed up the hill. Thinking they might be the two men. I followed them with Pte Baker, leaving Pte. Rollings with the Sister. During the pursuit I saw one of the men throwing powder about, and I also saw one of them throw part of a box of powder down in the road. I picked up the bottom half of a powder box, and later returned it to the sister. I followed these two men to an Army billet which they entered. One subsequently returned, and I saw that he had some of the powder upon his trousers. I pointed this man out to the Sergeant, who came out of the Army Billet.

C. Mitchell Higgs Lt.
15/XI/43.

Statement taken and signature witnessed by Sgt. [illegible] 2.1 A at [illegible] on 15/11/43.

Exhibit "M"

Statement of No. 5/4198027 Cpl. W. B. Morgan, C.M. Police
HQ 56 area.

Who states —

At Catania on the 11th November 1943, at about 2245 hours, I was on duty in the A.P.M.'s Office, 56 area, when I received a telephone message from 11th General Hospital to the effect that two Canadian soldiers were ransacking the Sisters Quarters there.

I proceeded to the 11th General Hospital and at the entrance gate I saw a soldier who told me that he had reason to believe that the soldiers were in the Hospital Grounds. I then accompanied this soldier on a search of the Hospital grounds but we could not find them. Another soldier then arrived & told me he had reason to believe that the men for whom we were looking had gone in the direction of 41st Bdn. G.T. Coy. RCASC.

I thereupon proceeded in the C.M.P. Lunch together with Cpls. Thompson, Herbert & Brittell, Pte Clark, Canadian Splitting Police & the soldier concerned.

When we arrived I informed the sentry of the nature of our enquiry and soon afterwards Sgt. Paterson of 41st Bdn. G.T. Coy. RCASC. arrived. This Sgt then conducted us to a billet & upon entering I saw a soldier, standing by a bed. I now know this soldier to be No. L. 7690, Pte Cabanel, R. I noticed that he was dressed only in a pair of cellulose shorts, & I by the light of the torch I was

Sheet 2.

carrying I saw that he had some white powder on his face and I also noticed a strong smell of perfume. Cabarel was given instructions to get dressed and I saw him go to another bed, quite near and put on B. J. Francis's Blouse. I noticed that the Blouse which he put on had a needle & cotton stuck in the sleeve and I saw that a Canadian RCASC flash was 3/4 sewn on. I know that he did not obtain this blouse from the bed at which he had previously been standing. I was given to understand by Sgt Paterson that the bed at which Cabarel had previously been standing was his (Cabarel's)

Cabarel then left the room & I in company with w/cpl Thompson G & Sgt Paterson looked amongst the blankets of Cabarel's bed & found the following articles

1 wallet containing Identity Card issued to Sister Hinston, £1-6-0 B.M.A Notes, 40 lire in Notes.
1 Bottle (Revlon-oily nemorex).
1 Pkt ardath cigarettes.
1 Broken mirror
2 Grey Ties (Nursing Sisters Uniform Pattern)
2. Brushes
1 Empty Metal Box.
1 Powder box practically empty
1 Sister's Uniform Epaulette.
1 Handkerchief marked N. Hingston
Several letters addressed to Miss Hingston.
1 Small Chiffon Handkerchief
1 Bottle Nail varnish

Sheet 3.

Lying on the bed also we found a Bottle Dress Blouse & Trousers. I saw that these articles of clothing had a large amount of face powder on them. I looked in the pockets of the B.D Blouse & found a Canadian Army Pay Book in the name of Pte Cabanel. I took possession of all these articles.

We went outside the billet & I saw Cabanel standing outside in company with r/cpl Cantrell & Pte Clark.

As we stood there another Canadian soldier was brought along, whom I now know to be No. 1 BHOH, Pte Demunk.

I ordered Pte Clark, Canadian Military Police to search Demunk. This was done. I saw Pte Clark cut a ~~[illegible]~~ knife clasp from a lanyard which was around Demunk's waiste. I also saw Pte Clark take from Demunk's pocket a pair of surgical scissors which I noticed had a cross scratched on them.

I then intended to convey these two soldiers Ptes Cabanel & Demunk to the Military Police Guard Room but on the way the truck stopped outside the Sister's Quarters & Sister Hingston came out. She went to the truck, looked in & pointing to Demunk she said, "Good Gracious that is one of the men". We then went to the Guard Room

Sheet -4-

A Colonel & Demurk weal placed under close arrest pending further investigation.

13. Nov 43.

[illegible] Cpl.
Catalice.

Statement taken and signature witnessed by

Sgt. Wainford S.I.B. at Catania. on. 13/11/43

S/4198027 Cpl W B Morgan, C. M. Police

States:-

Further to my statement of 13th November 1943, I now remember Pte Baker handing me the bottom part of a Powder Box (Cotie) on the night of the theft at about 2320 hours. There was a very small amount of powder still left in this part of the box.

I later compared the bottom half of this box with the top part of a powder box which was found on Cahanel's bed. It appeared obvious when I fitted the both parts together, that the part which Baker handed to me was the other half to the part found on Cahanel's bed.

W B Morgan
Cpl
CMPolice.

16/11/43.

Statement taken & signature witnessed by Sgt Wanford. S.A.D. at Catterick Cin.
16/11/43.

Exhibit "O"

A Detachment
64 Section.
Special Investigation Branch
Corps of Military Police.

Statement of :- No. B/86221 SGT. PATERSON
41st Canadian Gen. Trp. Coy
R.C.A.S.C.

who saith:—

On 11th November 1941, at about 23.00 hrs. I was standing near the entrance gate to Coy. H.Q. I heard a disturbance just outside the gate, as if somebody was arguing. I decided to investigate this, and as I passed through the gate I saw a member of this unit, whom I know to be Pte Cahavel, come into the courtyard. He was carrying something white in his arms, it looked like a white bundle. I saw that he had white powder on his tunic, Battle dress blouse, and on his trousers, he was wearing no hat, and his Tolouse was unfastened at the neck. I then went to the Coy. Billet Guard who was standing at the gate, and asked him what was the matter. As I did so a Lieut. Colonel, who was standing there, "gave me to understand that two men from this unit had entered the sisters quarters of the General Hospital and had stolen something. He also said I followed that he had followed the men to this H.Q. and he then pointed to a Private Demonnet who was standing nearby, and said that he was one of the soldiers he had followed. I looked at Private Demonnet and saw that he too, had some white powder

on his clothes. I then made arrangement to put the two men, whom I had seen ~~enter~~ the g. indicated, under close arrest.

The Military Police then arrived, and I made arrangement to search the beds of these two men. I was present when the bed of Cabaret was searched, and I saw a Military Policeman find, a white sheet, which contained, a box white contained a small quantity of face powder, a hair brush, a large comb. a broken mirror, a bottle of perfume, and an air graph letter addressed to a Nursing Sister, also some other papers. I was not present when Private Remnant bed was searched.

N. Paterson, Sgt.
B. 86221

Statement taken and signature witnessed by Sgt. Wainford S.I.B. at Catania. on 14/4/43

Exhibit "P"

Statement of No. B/2533 Sgt Hughes.

who saith:-

On 11th November 1943 at about 23.30 hrs I was awakened by Sgt Paterson, who told me that two men from my section were in trouble. I got up and as I did so I saw Pte Lahavel, standing by Pte Demunde bed. He was putting on a pair of battle dress trousers. Two M.P.'s were present. I saw the M.P.'s take Pte Lahavel outside & then they returned and searched Lahavel's bed. I saw them find a white sheet, and several other articles including a box containing a small quantity of face powder, & a bottle of perfume. I saw them take possession of a pair of battle dress trousers, which were at the foot of Lahavel's bed. These trousers had a large quantity of white powder on them. ~~They~~ ~~were~~ The military Police then took away the articles which had been found on the bed, and left with Lahavel.

B 82533 Sgt Hughes

Statement taken by Sergeant Wanfield & signature witnessed on 15/4/43.

Exhibit D.

Statement of No. K70566. Lpfl. TEICHROEB. F.

who saith:-

On 11th October 1943, at about 23.30 hrs I was Guard Commander at the H.A. Sgt Paterson came to me and asked me to bring Pte Cabarel as he was wanted by the Military Police. I went to Cabarel's room, and saw Cabarel standing by a bed, he was dressed only in a pair of shorts. I told him to get dressed and come outside, after some argument he did so. I then went to look for the Demonst, but could not find him.

K70866 Lpfl. Teichroeb F.

Statement taken and signature witnessed by Sgt. Wainford S.I.A. at Catania on 15/10/43

Exhibit "R"

Statement of No. D/828251.
Pte. Clarke.
No. 3 Coy.
Canadian Provost Corps.

who saith:—

On 11th November 1943, at about 22.40 hrs., I was duty Driver for 200 L of C Provost. I received instruction to proceed with my Truck to 11th Gen. Hospital. I did so accompanied by Cpl. Morgan and some other Military Police Wells. When we arrived at the hospital we received further information which took us to 4th Canadian Gen. Trp Coy. RCASC. When we got there we made enquiries to ascertain the whereabouts of two Canadians, who had just come in. ~~we~~ I understood that these names were Cabaret & Demunk. I commenced to look for the men and I saw somebody bring Cabaret out of a billet. I continued the search for Demunk. I eventually found him standing behind a Truck, and I saw that there was a little white powder on the leg of his B.D. trousers. I conveyed Demunk to Corporal Morgan, and the Section Sgt. I saw Corporal Morgan search Demunk, and relaxed that he found a pair of Hospital sensors in his pocket. I saw a Parcel among fellow Just Wrapped round Demunk & wanted by a Lanyard & I cut it off, and handed it to Corporal Morgan.

Hart. 2.

When then took Pte. Dumont and Cochard away in the Truck, and we stopped at the Sisters Quarters 11th Gen. Hospital. I saw a soldier whilst we were there, I think he was a Batman. He brought the bottom half of a Powder Box, and handed it to one of the N.C.O.'s on the Truck. I heard him say "This is part of the box the Colonel found." I did not see what happened to this part of the body but I know it was in the possession of one of the police corporals.

We then took Dumont & Cochard to The Cond Guardroom where they were detained.

G.F. Clarke Pte
H.I. Colr. Pns. Coy.

Statement taken and signature witnessed by Sgt Wainford S.I.B. at Catania on. 13/11/43.

LIST OF WITNESSES

in the case of

L.7690 Pte. Rene Caharel, 41 Canadian General Transport Coy, R.C.A.S.C.

L.12404 Pte. George Demenuk, 41 Canadian General Transport Coy, R.C.A.S.C.

5833149 Sgt. Wainford, A.	No. 64 Section, S.I.B., C.M.P.
Staff Nurse M. Hingston	No. 11 General Hospital
7396761 Pte. Smith, L.G.	No. 11 General Hospital
7384019 Pte. Baker, A.E.	No. 11 General Hospital
Lt.-Col. Mitchell-Higgs	H.Q. 56 Area, C.M.P.
S/4198027 Cpl. Morgan, W.D.	No. 11 General Hospital
7396757 Pte. Rollings, J.A.W.	41 Cdn Gen Tpt Coy, R.C.A.S.C.
B.86221 Sgt. Paterson, W.	41 Cdn Gen Tpt Coy, R.C.A.S.C.
B-2533 Sgt. Hughes, W.	41 Cdn Gen Tpt Coy, R.C.A.S.C.
K.70866 L/Cpl. Teichroeb, G.	No. 3 Coy, Cdn D.C.,
D.822251 Pte. Clarke, G.F.	

O.C.,
41 Cdn Gen Tpt Coy,
R.C.A.S.C.

Sir,-

With reference to my pending trial by Court Martial. I wish that an Officer be assigned to act as defending Officer. If Lt. S.B. Landell, 41 Cdn Gen Tpt Coy, R.C.A.S.C., is available, I wish that he may be assigned for this purpose.

Caharel R.

(L-7690 Pte. Caharel, R.)

FIELD
26 Nov 43.

O.C.,
41 Cdn Gen Tpt Coy,
R.C.A.S.C.

Sir,-

With reference to my pending trial by Court Martial. I wish that an Officer be assigned to act as defending Officer. If Lt. S.B. Landell, 41 Cdn Gen Tpt Coy, R.C.A.S.C., is available, I wish that he may be assigned for this purpose.

Demenuk G.

(L-12404 Pte. Demenuk, G.)

FIELD
26 Nov 43.

Ex Libit N

Statement of No. 7396757 Pte. JAW ROLLINGS
11th General Hospital.

who saith:-

On the 11th November 1943, at about 10.45 p.m., I was passing by the Sister Quarters, accompanied by Pte L. G. Smith. I looked up and saw two Nursing Sisters, one of whom I think was sister Cooper. I heard her shout something, but did not realise that she was speaking to me. We proceeded to the entrance of the Sister Quarters, and when I got there I saw two soldiers, whom I think were Canadians. They were coming down the steps, which gave access to the Sisters private rooms. I cannot give a very accurate description of these two soldiers, although I think I could recognise them again. ~~[illegible]~~ The two soldiers gave me to understand that they had entered the wrong Building, and they went away in the direction of the Hospital. I accompanied them to the entrance of the Sisters Quarters. And I watched them going up the road. As I watched, Pte Baker came up and said: "Two soldiers have been up in the Sisters Quarters."

I pointed to the two soldiers going away, and said "They must be the ones," and I saw them going at the Hospital gates. I and Pte Baker, and Pte Smith, followed the soldiers to the Hospital grounds. All split up and searched in the Hospital grounds, but we could not see the soldiers. Pte Baker then returned accompanied by heard Col. Mitchell Higgs. As they did so I saw two ~~soldiers~~ persons leaving the top entrance, so I remained

on guard at the front entrance, whilst Pte Baker went with heart behind Heggs to me after the person were. I stayed at my post, and then some Military Police came in a truck, and I told them what had happened.

Jas D Pollings

Statement taken and signature witnessed by Sgt. Wainford S.I.D at Catania on 14/4/43

LIST OF EXHIBITS

in the case of

L.7690 Pte. Rene Caharel, 41 Canadian General Transport Coy, R.C.A.S.C.

L.12404 Pte. George Demenuk, 41 Canadian General Transport Coy, R.C.A.S.C.

Exhibit	"A"	The 'Coty' Powder box.
"	"B"	The Surgical scissors.
"	"C"	The Battle dress blouse.
"	"D"	The Battle dress trousers.
"	"E"	Sister Hingston's identification wallet and contents.
"	"F"	The silk handkerchief marked M. Hingston.
"	"G"	Canadian Army pay Book in name of Pte. Caharel.
"	"H"	Canadian Army Clasp Knife.
"	"I"	Original statement by: Staff Nurse M. Hingston, No. 11 General Hospital.
"	"J"	" " " 7396761 Pte. Smith, L.G. No. 11 General Hospital.
"	"K"	" " " 7384019 Pte. Baker, A.E. No. 11 General Hospital.
"	"L"	" " " Lt.-Col. Mitchell-Higgs, No. 11 General Hospital.
"	"M"	" " " S/4198027 Cpl. Morgan, W.D. H.Q. 56 Area, C.M.P.
"	"N"	" " " 7396757 Pte. Hollings, J.A.W. No. 11 General Hospital.
"	"O"	" " " B.86221 Sgt. Paterson, W. 41 Cdn Gen Tpt Coy, R.C.A.S.C.
"	"P"	" " " B.2533 Sgt. Hughes, W. 41 Cdn Gen Tpt Coy, R.C.A.S.C.
"	"Q"	" " " K.70866 L/Cpl. Teichroeb, G. 41 Cdn Gen Tpt Coy, R.C.A.S.C.
"	"R"	" " " D.822251 Pte. Clarke, G.F. No. 3 Coy, C.D.C.

President of the Court

Sir:-

Because it was not possible for Lieut. S.B.Landell to act as Defending Officer for me, I wish that Capt. J.W.Stewart be assigned for this purpose.

Field
3 Nov 43

(L-12404 Pte Demenuk G.)
Demenuk G.

President of the Court

Sir;-

Because it was not possible for Lieut. S.B.Landell to act as Defending Officer for me, I wish that Capt. T. M. Beaupre be assigned for this purpose.

Field
3 Nov 43

(L-7690 Pte. Cabarel R.)

R. Cabarel.

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

PPP-119

PTE DEMERS A

COUNTER NUMBER 5-4462-5

HOUR 9.4d

OPERATOR'S INITIALS EJ m

RELIEVING OPERATOR CR

CERTIFIED TRUE COPY
(R. Cordeau) Captain

PPP-119

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this thirteenth day of May, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

"W.R. Pell"
Major

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

"PEB"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint—~~

~~*(1. . . Three Officers to form the Court.)~~ "PEB"

~~*(2. . . A Field Officer as President.)~~ "PEB"

for the following reasons, namely:—]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W R Pell	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	D I Rice	West N S R
Lieut	C M Forsythe-Smith	West N S R

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "P.A. Bernatchez" Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E4639 Pte Andre DEMERS, R22eR	First Charge Sec 15(1) AA	Guilty	Guilty 10 mths I.H.L.	Confirmed 20th May 44 "P.E. Bernatchez" Brig

"W.R. Pell" Maj

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "P.E. Bernatchez"Brigadier (Signed) "W.R. Pell" Major
Commanding 3 Can Inf Bde *Presiding*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of May 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~3. The Interpreter~~
*~~4. The officers under instruction~~

*Omit if not applicable.

were duly sworn.

Signed this 13th day of May 19 44.

"W.R. Pell" Maj
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (1) on page 762 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

"WP"
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

"Pen"

Signed this 20th day of May 19 44.

"P.E. Bernatchez" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of E.4639 Pte. Andre, DEMERS

(a) (Dated) 24 May 44 (Signed) "P.A. Tremblay" Lieut Asst Adjt R.22e R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B 2
"W.R. Pell"
Maj.

C H A R G E S H E E T.

The accused E.4639 Private André DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:

1st Charge
A.A. Sec. 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, at about 0800 hrs 1 Mar 44, while undergoing Field Punishment, did absent himself without leave until he was arrested at BARI, at about 1200 hrs 6 Apr 44.

Total absence:- 36 days, 4 hrs.

"J.O. Charlebois"

(J.O. CHARLEBOIS), Major
T/Commanding Royal 22e Regiment.

In the Field
28 Apr 44.

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL."

"P.E. Bernatchez"

(J.P.E. BERNATCHEZ) Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
12 May 44.

MEDICAL OFFICER'S CERTIFICATE

I certify, that I have this morning examined No. E.4639 Pte....Name...DEMERS, A.....of...Royal 22e Regt..... and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date... 13 May 1944.

"J. Brook" Capt
(Medical Officer)

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at R.22.R.

on the 13 day of May 19 44 by order of

Brigadier J.P.E. Bernatchez

Commanding 3rd Cdn Inf Bde.

dated the 12 day of May 19 44

President.

Major W.R. Pell Carl & York Regt

Members.

Capt D.I. Rice West N.S.R.

Lieut. C.M. Forsythe-Smith West N.S.R.

, ~~Judge-Advocate~~ "WRP"

Trial of*

E.4639 Pte. Andre DEMERS R 22 R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ---------- is not available to serve owing~~ to "WRP"

, ~~waiting member takes his place as a member of the Court~~.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. P.A. Tremblay

Counsel‡ or defending officer† Lieut. Alfred La Larte

At 1430 o'clock the Trial commences.

The order convening the Court is read, and is marked A , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible]

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~ "WEPW

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Question to the accused.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Answer.

Guilty

Question.

Are you guilty or not guilty of the second charge against you, which you have heard read?

"WRP"

Answer.

Question.

Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

The accused having pleaded Guilty to First charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused B.4639 Pte. Andre DEMERS

is found guilty of Absenting himself without leave while undergoing Field Punishment from 0800 hrs 1 Mar 44 until 1200 hrs 6 Apr 44.

†The summary (or abstract) of evidence is read, marked B3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. ~~The accused in mitigation of punishment says—~~

[*or* hands in a written statement, which is read, marked B4, signed by the President, and attached to the proceedings.]

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer.

No

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty".

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut. F.A. Tremblay is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked D5 signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

Accused declines to cross-examine

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence

The Court sentence the accused to 10 mths imprisonment with hard labour.

"W.R. Pell"
Maj.

"W.R. Fell"
Maj.

Plea in Mitigation of Punishment by Lieut. Alfred LeLorte, defence. "I am Lieut Alfred LeLorte and would like to say that this soldier enlisted in 1939. He has been with the regiment more than four years. He battled all the way through Sicily and Italy from July 1943 to Feb. 1944. The man supports his family, and his mother. Being an old soldier, and since he supports his mother I request clemancy from the court."

SUMMARY OF EVIDENCE
in the case of

53
"W.R. Pell"
Maj.

E.4639 Pte. Andre DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.M.F., on active service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For the prosecution.

E.106199 L/Cpl. Arthur BOURGON having been duly sworn states:-

"I am E.106199 L/Cpl. Arthur Bourgon of the Royal 22e. Regiment posted to the Regimental Police Section. At St.Leonardo on 1 Mar 44 at about 0800 hours I made a roll call of personnel detained in Regimental Detention and noticed the absence of E.4639 Pte. Andre DEMERS whom I now recognize. I did not see him again until he was returned to unit under close arrest upon apprehension.

The accused declines to cross-examine this witness. R.P. 83(b) has been complied with.

"Bourgon A" L/Cpl.

2nd Witness For the Prosecution.

E.4592 L/Cpl. Joseph Gaudreau having been duly sworn states:-

" I am E.4592 L/Cpl. Joseph Gaudreau of the Royal 22e. Regiment posted to the Regimental Police Section. I was present when E.106199 L/Cpl. Arthur Bourgon of the Regimental Police made a roll call of personnel detained in detention. This roll call was made at about 0800 hours 1 Mar 44 and E.4639 Pte. Andre DEMERS whom I now recognize failed to answer to his name. I did not see him again until he was returned to Unit under close arrest upon apprehension.

The accused declines to cross-examine the witness. R.P. 83(b) has been complied with.

J.R. Gaudreau" L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of Procedure 4(c),(d), (e), (f) and (g) were duly complied with.

"P.A. Tremblay" Lieut.
Officer taking Summary.

In the Field
28 Apr 44.

ADDITIONAL SUMMARY OF EVIDENCE II "WRP"

In the case of

E.4639 Pte Andre DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on active service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

3rd Witness For the Prosecution. Captain J.B. Rousseau, Royal 22e Regiment, having been duly sworn, states:-

"I am Captain J.B. Rousseau, posted as Adjutant to the Royal 22e Regiment. I am Officer i/c Records and hereby produce certificate of arrest under AA 163 (i) (jj) in the case of the accused whom I now recognize. This certificate is marked exhibit A and is signed by Officer Commanding 230 Provost Coy.

The accused declines to cross examine the witness.
RP 83 (B) complied with

"JB Rousseau" Captain.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence and hearing of the accused and that rules of Procedure 4 (c),(d),(e),(f) and (g) were duly complied with.

"PA Tremblay" Lieut.
Officer Taking Summary.

In the Field
12 May 44.

MFM 6
(AFB 122)
40/PAS/126 (5488)

TEMPORARY SHEET - Original Not Available

No E.4639 Name Demers A. Sqn. Battery, or Company B Corps Date of enlistment 14 Nov 38 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc "WRP" Character Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true extract of Regimental Books in my pustody.					
				"PA Tremblay" Lieut. Ass. Adjt. R22eR.					
				30 Apr 44.					

(PTO)

RECORDED AT CMHQ IN AB 160 PPP-119

Correspondence to be PINNED here.

RECEIVED 3 JUL 1944 JAG BRANCH C.M.H.Q.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

H.56

On Active Service, this thirteenth day of May, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint~~ :—

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

for the following reasons, namely:—

CAN 3 JUN 1944 G.H.Q. 2nd ECHELON

98

PROCEEDINGS REVIEWED 3 July 44
H. Conde Lieut
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W R Pell	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	D I Rice	West N S R
Lieut	C M Forsythe - Smith	West N S R

*Signed by Brigadier

*Commanding 3 Cdn Inf Bde
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E4639 Pte Andre DEMERS, R22eR	Arrest Charge Sec 15(1) AA	Guilty	Guilty 10 mths I.H.L.	Confirmed 10 May 44 K Burnaby Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) K Burnaby Brigadier (Signed) V.O.K. Bell Major
Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of May 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

Signed this 13th day of May 1944.

V.O.K. Bell Major
President of the Court Martial.

C. Certificate in cases of death sentences.

*See footnote (k) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 10th day of May 1944

K Burnaby Brig
Confirming Officer.

Promulgated and extracts taken in the case of E 4639 Pte Andre DEMERS

(a) (Dated) 24 May 44 (Signed) Pte remitted hard labour R.S.M. 3 Cdn Inf Bde

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9

**Form of Proceedings for General and District Courts-Martial.

Proceedings of Field General Court-Martial held at R.W.R. on the 13 day of May 1944 by order of Brigadier J. P. E. Bernatchez

Commanding 3rd Edn Infy Bde

dated the 12 day of May 1944

President

Major W. R. Pell — Carl & Yorks Regt

Members

Capt D. I. Rice — West N.S.R.

Lieut. C. M. Forsythe-Smith — West N.S.R.

Trial of* , Judge Advocate

E 4639 Pte Andre Devers. R.W.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut P. A. Tremblay

Counsel‡ or defending officer† Lieut Alfred La Forte

At 1430 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn.

The ~~following officers under instruction~~ are duly sworn. WKS

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

B2

CHARGE SHEET.

The accused E.4639 Private André [redacted], a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

1st Charge
A.A. 666. 15 (1) WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

in the Field, at about 0800 hrs 1 Mar 44, while undergoing Field Punishment, did absent himself without leave until he was arrested at BARI, at about 1200 hrs 6 Apr 44.

Total absence:- 36 days, 4 hrs.

J.G. Charlebois

(J.G. CHARLEBOIS), Major,
T/Commanding Royal 22e Regiment.

In the Field
26 Apr 44.

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL."

J.P.E. Bernatchez

(J.P.E. BERNATCHEZ), Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
12 May 44.

[illegible] OFFICER'S CERTIFICATE

[illegible] I have this morning examined No. E4639

Rec. [illegible] DEMERS H. [illegible] at Royal 22nd Regt.

my opinion he is [illegible] to undergo trial by Court Martial

[illegible]tion. On the field

[illegible] 13 May 1944

J Brook Capt.
(Medical Officer)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E 4639 Pte Andre Demers is found guilty of Absenting himself without leave. from 0800 hrs 1 Mar 44 until 1200 hrs 6 Apl 44 while undergoing field punishment

†The summary (or abstract) of evidence is read, marked B2, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. ~~The accused in mitigation of punishment~~ says:—

[*or* hands in a written statement, which is read, marked B4, signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut F. A. Trembley, is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B 5 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

Accused declines to cross examine

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused to 10 months imprisonment with hard labor. Sentence

W. R. Tell Sdjr

Vortell sign B4.

Plea in Mitigation of Punishment by Lieut. Alfred Le Tarte, Defense: "I am Lieut. Alfred Le Tarte and would like to say that this soldier enlisted in 1939. He has been with the regiment more than four years. He battled all the way through Sicily and Italy from July 1943 to Feb. 1944. The man supports his family, and his mother. Being an old soldier, and since he supports his mother I request clemency from the Court."

CERTIFICATE OF ARREST UNDER A.A. 163 (1) (Ex.) COPY Exhibit A.

I, [illegible] certify that No. EX4639 Rank. Pte.

Name. DEMERS A. Unit. "B" Coy. Royal 22nd Regt.

was arrested at BARI at about 1200 Hrs on the 6th April 1944.

[illegible] Captain.
Officer Commanding,
230 Provost Company.
The officer into whose custody the above named person was taken on arrest.

LIST OF WITNESSES FOR PROSECUTION

in the case of

E.4639 Private Andre DEMERS, Royal Que Regt

FOR PROSECUTION

E.106199 L/Cpl Bourgon

E.4591 L/Cpl Gaudreau R.

FOR DEFENCE

N I L

LIST OF EXHIBITS

~~Exhibit~~ pot ~~Declaration of Court of Inquiry~~ pot

Exhibit A. pot Certificate of Arrest AA 103(j)(ii)

I hereby acknowledge receipt of a true copy of a summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of LIEUT. F. LETARTE.

if he is available.

G. Demers Pte

In the Field
April 44

83

SUMMARY OF EVIDENCE
IN THE CASE OF

E.4639 Pte. Andre DEBERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.M.F., on active service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness for the Prosecution.

E.106199 L/Cpl. Arthur BOURGON having been duly sworn states:-

" I am E.106199 L/Cpl. Arthur BOURGON of the Royal 22e. Regiment posted to the Regimental Police Section. At St.Leonardo on 1 Mar 44 at about 0800 hours I made a roll call of personnel detained in Regimental Detention and noticed the absence of E.4639 Pte. Andre DEBERS whom I now recognize. I did not see him again until he was returned to Unit under close arrest upon apprehension.

The accused declines to cross-examine this witness. R.P. 83 (3) has been complied with.

Bourgon .....L/Cpl.

2nd Witness for the Prosecution.

E.4692 L/Cpl. Joseph Gaudreau having been duly sworn states:-

" I am E.4692 L/Cpl. Joseph Gaudreau of the Royal 22e. Regiment posted to the Regimental Police Section. I was present when E.106199 L/Cpl. Arthur Bourgon of the Regimental Police made a roll call of personnel detained in detention. This roll call was made at about 0800 hours 1 Mar 44 and E.4639 Pte. Andre DEBERS whom I now recognize failed to answer to his name. I did not see him again until he was returned to Unit under close arrest upon apprehension.

The accused declines to cross-examine the witness. R.P. 83 (3) has been complied with.

J.J. Gaudreau .....L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of Procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

[signature] .....
Officer taking summary.

In the Field
28 Apr 44.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of

E.4639 Pte Andre DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMP, on active service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

3rd Witness For the Prosecution.

Captain J.B. Rousseau, Royal 22e Regiment, having been duly sworn, states:-

" I am Captain J.B. Rousseau, posted as Adjutant to the Royal 22e Regiment. I am officer i/c Records and hereby produce certificate of arrest under AA 163 (i) (dd) in the case of the accused whom I now recognise. This certificate is marked exhibit A and is signed by Officer Commanding 230 Provost Coy.

The accused declines to cross examine the witness.

RP 83 (B) complied with ..... Captain.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence and hearing of the accused and that rules of Procedure 4(c),(d),(e), (f) and (g) were duly complied with.

..... Lieut.,
Officer taking Summary.

In the Field
12 May 44.

TEMPORARY SHEET - ORIGINAL NOT AVAILABLE

M.F.M. 6.
(A.F.B. 122)
EEM—7-41 (1219-20)
H.Q. 1772-39-1052

No. E.4639 Name Demers A. Sqn., Battery, or Company B Corps CIC Date of enlistment 14 Nov 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true extract of Regimental Books in my Custody					
				R.A. Tremblay Lieut					
				Ass. Adjt. R. 22e R.					
				30 Apr 44					

(P.T.O.)

M.F.B. 355
HM—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E4639	PTE.	A. DEMERS	R. [illegible]

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets PTT ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act PTT and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ PTT

~~or,~~ PTT

~~There are no entries in the conduct sheets of the accused.~~ M.F.M. 6 not available PTT

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~ PTT

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 25 days in ~~Air Force~~ PTT military custody, making a total of 25 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 23 ~~attestation paper is~~ PTT

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 14 NOV 39

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force military decoration, or air force military reward (or is in possession of or entitled to). State any air force military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ; and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Regiment Name of

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30 day of Apr 44

The above statement (with the schedule of convictions [illegible] has been [illegible] with) is read, marked signed by the president, and annexed to the proceedings.

WWW-99 Case #2.

Etc Demo A.

Use PPP-119 for 1st scan.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 4639 Pte ANDRE DEMERS

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for TEN (10) DAYS beginning on (date) 20 AUG 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ____ days, of which ____ days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR ~~TEN (10) DAYS~~ THIRTY (30) DAYS

(Sgd) ____ Judge-Advocate, if any. 23 Aug 44 Date awarded. (Sgd) A.M. Russell Lt-Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding ____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see: AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed Ewll

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) Commander RCN

Date 27 Aug 44 Commanding COMMANDER 1 CDN BASE DET GROUP Reviewing Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E4639 Pte Andre DEMERS	29-Aug-44	Captain Commandant 2 Cdn. Field Punishment Camp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AU 160. WWW-9997

FIELD GENERAL COURT-MARTIAL

CFA86 (To take place of AFA81 and AF B/1608 (160(1)))
4/38B

BRIGADIER Convened by Order of E.W. HALDENBY M.C. V.D. Comd 1 CDN BASE dated 21 AUG 44 RET GP. CMF.

23 SEP 1944 NWAC BRANCH

ACCUSED.

As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E4639	PTE	ANDRE	DEMERS	2 CDN DET PUN CMP

PROCEEDINGS REVIEWED 24 Sep 44 K 19

JAG

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) ITALY on (date(s)) 23 AUG 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

2A 89

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused ~~is~~ ~~are~~ brought before the Court. At 0845 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ____ as interpreter? Ans ____
The Interpreter is sworn.(1) Do you object to ____ as shorthand writer? Ans ____
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A.M. RUSSELL CIC	(1 AU 1 CARD)
Member	CAPT	H.A. STEPHENS CIC	1 AU 2 CARD
Member	CAPT	J.H. WELLS RCA	1 AU 2 CARD
Judge-Advocate			CONTD
Prosecutor	LIEUT	K.A.W. MACKENZIE C 16 NS RC ALGN	
Defending Offr	CAPT	B.J. DUNCAN CAC	5 AU 2 CARD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused E 4639 PTE ANDRE DEMERS before arraignment make(s) (no) (a) plea ____ (1)
CONTD

(1. If a special plea is made for separate trial on one or more charges (RP 62(5), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or to one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is directed by~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes/c his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, see Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (ii).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 84(C). (Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative commencement is not applicable when there are plea/s of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, omit this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 255 or AFB 2916. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to persue on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and the province, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2303, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and dispersal of accused after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Appx B 2

CHARGE SHEET

The accused E4639 Pte., Andre DEMERS, R 22nd R., 1 Bn., 1 C.B.R.D., a soldier undergoing sentence in No. 2 Canadian Field Punishment Camp, No. 1 C.B.R. Group, a soldier of the Canadian Army Overseas is charged with:-

CHARGE

Section 15(1)(a) ARMY ACT

When on Active Service absenting himself without leave,

in that he,

In the field in Italy, while in confinement, absented himself without leave from approximately 2340 hours 15 July 44 until apprehended by the C.M.P., at Bari, Italy, at approximately 1100 hours 27 July 1944.

Time absent 11 Days, 11 Hours 20 Minutes.

Captain,
Commandant,
No. 2 Canadian Field Pun., Camp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
21 Aug 44

(E. W. HALDENBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army-CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E4639	Pte		Andre	DEMERS	2 Cdn Fd Pun Camp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) ~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) ~~(s)~~ set forth in the Charge Sheet(s) ~~(s)~~ attached and on (*date*) 21 Aug 44 endorsed by me, ~~(or by an offr of my staff (or me)~~, "To be tried by Field General Court-Martial". GWH

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ GWH

(*Delete parts in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~a. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ GWH

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

~~b. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ GWH

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A M RUSSELL (CIC)		1 Fd 1 CBRD

MEMBERS.

Capt or Lieut to be detailed by OC 7 Fd 2 CBRD

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 8 Fd 2 CBRD		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 5 Fd 2 CBRD		

~~JUDGE ADVOCATE~~ GWH

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (*Country.*)

Date 21 Aug 44

GWHaldenby (*Signed personally. RP 105 fn 2.*)

(E. W. HALDENBY)

Brigadier (*Rank.*)

Commanding 1 Cdn Base Rft Gp-CMF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FA46 (to incl of AFA3 40/9 & 6/16pt (46))

(*See overleaf for notes and notes for use on trial.*)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RQ (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jun 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 82(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so *far as* practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on *new matter*, if allowed by Court (*RP 86(E)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given *as* to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 45(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*See top.*)

(ii) Convening Order with any deletions made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 547.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered: Ex A, Ex B, etc. (*As to submitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Statement of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 114(C), MML p 750.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

25 Aug 44

MEDICAL CERTIFICATE

I have inspected E4639 Pte DEMERS, A., this day 25 Aug 1944 and find him fit to undergo his trial.

F G Macarthur Captain
R.C.A.M.C.

F.S.C.M. - E 4639 Pte. Demers, A. 2 Cdn. Fd. Punishment Camp 25 Aug. 44

E.1. The accused, E 4639 Pte. Demers, A., being duly sworn, states:

I enlisted in Nov. '39 and came overseas in Dec. '39. I came on the invasion of Sicily with the R 22e Regt. and remained constantly in action with my unit until the battle of Ortona. I am married, drawing no allowance and my wife depends solely on my pay for subsistence. On 15 July I escaped from 2 Cdn Fd. Pun Camp after being persuaded to do so by two other soldiers who told me that once we had successfully escaped they had means of making plenty of money and would do so as civilians. It took the soldiers a week to persuade me to leave with them. ~~[illegible]~~ AA.

~~[illegible]~~ AA.

R.P. 83(b) complied with.

Plea in Mitigation of Punishment by the Defending Officer

E.3. It should be obvious to the Court that this is a case where leniency should be given. The accused has been a soldier for five years and has been in action with his unit from the Sicilian landing until the battle for Ortona.

There are only two entries on his MFM 6 during a period of five years, both in the current year. The Court should take into consideration that in many cases of this nature, when a soldier of previous good record suddenly commences committing military crimes, especially after long periods of action, the great majority of cases are due to nervous exhaustion rather than criminal tendency. In addition, might I point out the unfortunate position in which this soldier's wife ~~[illegible]~~ would find herself should he be sentenced to a long term. In closing I would reiterate that this, in all seriousness, is a case which calls for leniency. The accused cannot produce a ~~[illegible]~~ witness as to character due to distance and expense involved.

R.P. 83(b) complied with.

B. 5.

Annex

Summary of Evidence

In the case of

F 4639 Pte Demers A. a Soldier undergoing sentence in No 2 Canadian Field Punishment Camp No 1 C. B. R. G. Canadian Army Corps

The Acting Officer Commanding directs that the evidence will be taken under oath

1st Witness for Prosecution.

D76003. A/Sgt. Cape J. No 2 Con Field Punishment Camp. 1 Con. B.R.G. C.A.O. having been duly sworn states.

I am D76003. A/Sgt Cape J. on 15 July 44 I was Coy Commander of D Coy. to which Coy. the accused E4639 Pte. Demers A was attatched. at approx 1620 hrs on 15 July 44 I was in charge of D Coy. on the Main Count parade. At that time the accused was present. At approx 2340 hrs. I heard the alarm whistle blown. I immediately got out of bed and proceeded to the compound where a break had been effected. I fell in my Coy. and called the roll. The accused did not answer his name, he was not on parade. I then made a thorough search of the cells and found the accused's bed made down as though some one was occupying it. It was a dummy bed. The accused was absent. The Standing orders of the F.P. Camp reat" All personnel leaving the camp through the gate must produce a pass". a soldier under sentence is not issued a pass.

The accused has been absent each day since his escape, until returned to this Camp under escort.

D-76003 J Cape

D76003. a/Sgt. Cape J (continued) 1st Witness

I submit ~~body receipt~~ Certificate of arrest for the arrest of the accused in Bari at approx 1100 hrs 27 July 41 as evidence in accordance with a.a. sec 163 (1) (gg)

D-76003 J Cape

Question

Do you wish to cross examine the witness

Answer

No.

The certificate of arrest ~~the Body receipt~~ referred to in the Summary, marked exhibit "a" read over shown to the accused and attached to the summary.

Officer taking Summary
Yeckingie St.

3

Witness for Prosecution.

M30849 Pte James E.L. No 2. Canadian Field punishment Camp. I.C.B.R. Group Canadian Army C.M.T.

Having been duly sworn, states.

I am M30849 Pte James E.L. of No 2 Can. T.P. Camp. on 15 July 44 I was staff in charge of the compounds at approx 1930 hrs. I let the three men in cell 6 out to the latrine and returned them. I checked the rest of the cells and all were present as there was a body in each bed at approx 2330 hrs. the alarm whistle was sounded. a roll was called Pte Demers the accused's name was called he did not answer his name he was absent. I checked the cells and surrounding ground and was unable to find him.

O L James

Question.
Do you wish to cross examine the Witness
answer
no.

2nd Witness for Prosecution.

M30849 Pte James E.L. No 2. Canadian Field punishment Camp. I.C.B.R. Camp Canadian Army C.M.F.

Having been duly sworn, states.

I am M30849 Pte. James E.L. of No 2 Can. F.P. Camp. on 15 July 41 I was Staff in charge of the Compounds at approx 1930 hrs I let the three men in cell 6 out to the latrine and returned them. I checked the rest of the cells and all were present as there was a body in each bed. at approx 2330 hrs the alarm whistle was sounded. a roll was called Pte Demers the accused's name was called he did not answer his name he was absent. I checked the cells and surrounding ground and was unable to find him.

E.L. James

Question.
Do you wish to cross examine the Witness
answer
no.

The accused was cautioned in accordance with R.P. 4(E) as follows.

"Do you wish to make a statement or to give evidence ~~under~~ upon oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence"

The accused reserved his defence

I certify that the foregoing Summary of Evidence was taken down in accordance with R.P. 4 (c) (b) (d) (f) and (g) and that the rules have been complied with

Mackenzie Lt
Officer detailed to take the Summary

In the Field
1st August 18.

Certificate in accordance with the Army Act, Section 163 (i) (ii)

I, certify that No E 4639 Rank Pte Name Demens. A.

of the 4th Btn. C.B.R.D. was arrested at Bari at about 1100 hours

on the 27th JULY 1944.

28/July/1944

Signature of Provost Marshal, APM, or other officer into whose custody the a/n person was taken on arrest

T. F. Hunt Captain.
Officer Commanding,
230 Provost Company.

E 2

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
E4639	Pte	Demers, A.	R22eR 1 Bn, 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with the statement, but not printed in the record.

See para. 471, K.R.

* The particulars herein stated should agree with the entries in the conduct sheets. Particulars before enlistment should be given in the case of persons who have served in the ranks, and any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for desertion, then the entries for absence without leave preceding desertion should be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AWL	Nil times	Ons 7 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused

~~XXXX

Certificate in accordance with the Army Act, Section 163 (4) (ii)

I, certify that No E 4639 Rank Pte Name Demess. A.

of the 4th Btn. C.B.R.D. was arrested at Bari at about 1100 hours

on the 27th JULY 1944.

28/July/1944

Signature of Provost Marshal, APM, or other officer into whose custody the a/n person was taken on arrest

Captain.
Officer Commanding,
250 Provost Company.

This is exhibit (a) referred to in the summary of evidence in the case of E 4639 Pte. Demers. A. read over shown to the accused and attached to the summary of evidence

Officer taking Summary
K. A.W. MacKenzie Lt.

E. 2.

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E4639	Pte	Demera, A.	R22eR 1 Bn, 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R. 1940.

* The number given under each column must agree with the number of entries in the conduct sheets, particulars being given in the next column of each award, punishment or offence which is struck out in red ink.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	[redacted] 0 times	0 times. 2 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused.

[redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

3. [redacted] or The accused at the present time is under sentence for 10 mths under AA 15(1)(a) beginning on the 20 day of May 44

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and see 3. above days in military custody, making a total of days, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] record of service is 23yrs. 7mths.

6. The date of his [redacted] attestation specified in his [redacted] record of service is 14 Nov. 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4yrs 9mo 10days (Low Cat. C3)

8. The accused is entitled to deferred pay or gratuity in respect of 4yrs 9mo. 10days service.

9. The accused is entitled to reckon [redacted] service for the purpose of determining his [redacted] etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted] entitled to (*state any military decoration or award*).

[redacted] rank of

[redacted] and in his regiment (or corps or department) the rank of dated

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E4639 Rank Pte Name Demers, A. of R22eR Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
~~G.C.~~	~~Field~~	~~AA 15(1) WOAS AWL from 0800 hrs 25-1-44 until apprehended at 2320 hrs 22-2-44 Absence 28 days 15 hrs 20 mins~~	~~28 days F.P.~~	~~Nil~~
FGCM	Field 20 May 44	AA 15(1)(a) WOAS AWL in that he in the field at about 0800 hrs on 1 Mar 44, while undergoing F.P., did absent himself without leave until apprehended at Bari at 1200 hrs 6 Apr 44. Absence 36 days 4 hrs	10 months Imp. with M.L.	Nil

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 day of August 1944

Captain Commandant
2 Cdn. Field Punishment Camp.

19. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of years Date of Promotion

In the rank of years

In the rank of years

(Description.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned recorded accordingly.)

Temporary Sheet. Original destroyed by fire

MFM 6 (AFB 122) 40/P&S/126 (3488)

No E4639 Name Demers, A | Sqn, Battery, or Company "B" | Corps C.O.I. | Date of enlistment 14-11-39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc "Satoin" Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	25.1.44	Pte		Sec 15(1) WOAS AWL from 0800 hrs 25.1.44 until apprehended at Casacalenda at 2320 hrs on 22.2.44 ABSENCE 28 days 15 hrs 20 minutes	Document of Court of Inquiry	28 ds FP		Major "Charlebois"	28 days Pay PRI 14 9 (1) a
In the Field	1.3.44	Pte		Sec 15(1)a WOAS, Absenting himself without leave, in the Field at about 0800 hrs on the 1 Mar 44 while undergoing FP did absent himself without leave until he was apprehended at Bari at 1200 hrs on the 6 Apr 44 Absence 36 days -4hrs		To undergo imprisonment with hard labour for a period of 10 months (ten) 20 May 44		F.G.C.M.	"P.W.Tremblay" Lieut.

Certified True copy, [redacted] from records at our disposal.

Captain Commandant
2 Can. Field Punishment Camp.

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 4639 Pte Andre DEMERS

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Ten Months beginning on (date) 20 May 44 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of / days, of which / "AMR" were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for ten months.

(Sgd) N/A — Judge-Advocate, if any. 25 Aug 44 — Date awarded. (Sgd) "AMRussell Maj" — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

[redacted] "EWH"
(1. AA 57A. Delete if not used.)

(Sgd) "E W Heldenby" Brig.
COMMANDER
Commanding 1 CDN BASE RFT GROUP
Confirming Officer.

Date 27 Aug 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E4639 Pte Andre DEMERS	29 Aug 44	"D Dick" Capt. Captain Commandant 2 Cdn Field Punishment Camp.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY (W.M. Owen) Capt.

WWW-99

CFA98 (In lieu of AFA51 40/P & S/1098 (4010)
4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier E.W. Haldenby MC. V.D. Comd 1 Cdn Base Rft Gp-CMF dated 21 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E4639	Pte		Andre	DEMERS	2 Cdn Fd Pun Camp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date) 25 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet [redacted] attached thereto (1) "AMR" The Court is satisfied that it is properly convened and constituted(2), accused is [redacted] amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [redacted] brought before the Court. At 1545 hours trial commences. "AMR"

A4. The Prosecutor produces a Medical Certificate that accused is [redacted] fit to undergo trial by court-martial.(1) [redacted] "AMR"
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to / "AMR" as interpreter? Ans
The Interpreter is sworn.(1) Do you object to / as shorthand writer? Ans
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 31, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.M. RUSSELL	CIC	1 Bn 1 CBRD
Member	Capt	H.A. Stephens	CIC	7 Bn 2 CBRD
Member	Capt	J.H. Wells	RCA	8 Bn 2 CBRD
Judge-Advocate				Centre
Prosecutor	Lieut	K.A.W. MacKenzie	CIC	No 2 Re Alloc
Defending Offr	Capt	B.M. Duncan	CAC	5 Bn 2 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 2.)

A8. The accused E 4639 Pte Andre DEMERS before arraignment makes(s) (no) [redacted] plea "AMR" (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 13C, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

"AMR"

A9. The accused is [redacted] arraigned (separately) on all charges in the charge sheet.(1) The accused does [redacted] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See paras 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [redacted] "AMR" considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Secured Form B 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will see RP 83-85 ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(F), and of witnesses see RP 17(E) fn 6 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(F), and of witnesses see RP 17(E) fn 6 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(A) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

"AMR" B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge[X](1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge([X]. call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge[X].(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No

(1. *RP 27(8).* 2. *RP 37(D) fn 6.* 3. *RP 35(8) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Summary of Evidence is marked Ex B5, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(8). If there is any evidence inconsistent with any plea of Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B4. On the charge[X] to which the plea[X] of Guilty is "AMR" not changed the President records finding[X] of Guilty in Part I of the Schedule.(1)

(1. *RP 35(8). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B5, initialled and read aloud by the President.(1)

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

[illegible] charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) fn 6.*)

The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued [illegible] paras B1 to B5 of Record Form B on p 2.(1) "AMR"

(1. *Under B5 such parts only of the Summary of Evidence read to him (them) as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with [illegible] paras D1 to D8 inclusive in Record Form D on p 3 and making on [illegible] same record thereof on a separate sheet.*)

The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using [illegible] E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

* For lower Lower Shreds of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 44 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. "AMR"

Do you intend to call witnesses on your behalf ? Ans. .....

Are they witnesses as to character only ? Ans. .....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 44(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(G).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part A of the Schedule is dated and signed.(2)

(1. *AA 54(2) (3), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. Yes.

(1. *RP 37(C) fn 4, 44 fn 1.*)

"AMR" E2. The Prosecutor produces Statement[X] as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet[X](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier[X] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Z 2 and Ex Z 3 respectively.(3)

(1. *MFB 353 or MFB 294.* 2. *MFM 6.* 3. *RP 46, KR Con 552. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement[X] and Conduct Sheet[X], and in mitigation of punishment ?(1) Ans. Yes. "AMR"

(1. *RP 37(C), 44(2D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an asset anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its gamuts, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 320, 320, 563-566, Overseas SO 309, 2323, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

"AMR" B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge[s] (1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge[s], call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge[s].(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused : Do you wish to make a statement ? Ans. No (4)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2. *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. [redacted]

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

"AMR"

B4. On the charge[s] to which the plea[s] of Guilty is [redacted] not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B5, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. [redacted] the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record [redacted] D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*b*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form [redacted] as to relate to the charges dealt with under C2. *If any plea is changed to Not Guilty, trial thereon proceeds by complying with* [redacted] *D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2.*)

"AMR"

C3. The accused having been found Guilty on one or more of the charges [redacted] proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fill in if Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*b*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevancy. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

"AMR"

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 56(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part II of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.* 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Yes.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

"AMR" E2. The Prosecutor produces Statement[s] as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet[s](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (b), and (ii) they purport to refer to (a) soldier[s] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E 2 and Ex E 3 respectively.(3)

(1. *MFB* 353 *or AFB* 296. 2. *MFM*, 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

"AMR"

E3. President to accused : Do you wish to address the Court on the Statement[s] and Conduct Sheet[s], and in mitigation of punishment ?(1) Ans. Yes.

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 562-566. *Overseas AO* 359, 1323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41 (2), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1) (*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"AMR" B 2

CHARGE SHEET

The accused E4639 Pte. Andre DEMERS, R 22nd R., 1 Bn., 1 C.B.R.D., a soldier undergoing sentence in No. 2 Canadian Field Punishment Camp, No. 1 C.B.R. Group, a soldier of the Canadian Army Overseas is charged with:-

CHARGE

Section 15(1)(a)

ARMY ACT

When on Active Service absenting himself without leave,

in that he,

In the field in Italy, while in confinement, absented himself without leave from approximately 2340 hours 15 July 44 until apprehended by the C.M.P., at Bari, Italy, at approximately 1100 hours 27 July 1944.

Time absent 11 Days, 11 hours 20 minutes.

"R M Evans Lt"
for Captain
Commandant,
No. 2 Canadian Field Pun., Camp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
21 Aug 44

"E W Haldenby"
(E.W. HALDENBY) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army-CMF

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 4639	Pte		Andre	DEMERS	2 Cdn Fd Pun Camp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Aug 44 endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial". "EWH"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~[illegible]~~ "EWH"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~ "EWH"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~ "EWH"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) A M RUSSELL (Must be named. RP 106.) (CIC) 1 Bn 1 CBRD (Unit.)

MEMBERS.

Capt or Lieut to be detailed by OC 7 Bn 2 CBRD

Capt or Lieut to be detailed by OC 8 Bn 2 CBRD (Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 5 Bn 2 CBRD (Rank.) (Named or detailed, if any. RP 106.) (Unit.)

~~[illegible]~~ "EWH"

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy (Country.) "E W Haldenby" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(E W HALDENBY)

Date 21 Aug 44 Commanding 1 Cdn Base Rft Gp-CMF Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Can 562, RP 26, 29, 111.)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless there-unto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 762, RP 82, 111.)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (RO (Can) 2693.)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (or, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(3), be taken by him, verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply as far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 46 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 85(C).*)
(v) Closing address (*as matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 83.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 108, 107, 114.
(iii) Medical Certificate(s). (*KR Can 567.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (k).*)
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 709.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

"AWR" 25 Aug 44

MEDICAL CERTIFICATE

I have inspected E4639 Pte DEMERS, A., this day 25 Aug 1944 and find him FIT to undergo his trial.

"F C Macarthur" Captain
R.C.A.M.C.

"AMR"

F.C.C.M. - E4639 Pte DEMERS, A. 25 Aug 44
2 Cdn Fd Punishment Camp

E 1 **The accused, E4639 Pte Demers, A., being duly sworn, states:-**

I enlisted in Nov 39 and came overseas in Dec 39. I came on the invasion of Sicily with the R 22e Regt and remained constently in action with my unit until the battle of Ortona. I am married, drawing no allowance and my wife depends solely on my pay for subsistence. On 15 July I escaped from 2 Cdn Fd Pun Camp after being persuaded to do so by two other soldiers who told me that once we had successfully escaped they had means of making plenty of money and would do so as civilians. It took the soldiers a week to persuade me to leave with them.

R.P. 83 (b) complied with.

Plea in Mitigation of Punishment by the Defending Officer

E 3 It should be obvious to the Court that this is a case where leniency should be given. The accused has been a soldier for five years and has been in action with his Unit from the Sicilian landing until the battle for Ortona. There are only two entries on his MFM 6 during a period of five years, both in the current year. The Court should take into consideration that in many cases of this nature when a soldier of previous good record suddenly commences committing military crimes, especially after long periods of action, the great majority of cases are due to nervous exhaustion rather than criminal tendency. In addition, might I point out the unfortunate position in which this soldier's wife would find herself, should he be sentenced to a long term. In closing I would reiterate that this, in all seriousness, is a case which calls for leniency. The accused cannot produce a witness as to character due to distance and expense involved.

R.P. 83 (b) complied with.

"AMR"

"AMR" B 5

Summary of Evidence

In the case of

E4639 Pte Demers, A., a soldier undergoing sentence in No. 2 Canadian Field Punishment Camp, No. 1 C.B.R.G., Canadian Army Overseas.

The Acting Officer Commanding directs that the evidence will be taken under oath.

1st Witness for Prosecution

D76003 A/Sgt Cape, J., No 2 Can Field Punishment Camp, 1 Can B.R.G., C.A.O., having been duly sworn states.

I am D 76003 A/Sgt Cape, J., on 15 July 44, I was Coy Commander of D Coy to which Coy the accused E4639 Pte Demers, A., was attached. At approx 1620 hrs on 15 July 44, I was in charge of D Coy on the Main count parade. At that time the accused was present. At approx. 2340 hrs. I heard the alarm whistle blown. I immediately got out of bed and proceeded to the compound, where a break had been effected. I fell in my Coy and called the roll. The accused did not answer his name, he was not on parade. I then made a thorough search of the cells and found the accused's bed made down as though someone was occupying it. It was a dummy bed. The accused was absent. The Standing orders of the F.P. Camp read "All personnel leaving the camp through the gate must produce a pass". A soldier under sentence is not issued a pass. The accused has been absent each day since his escape, until returned to this camp under escort.

"D76003 J Cape"

2.

D76003 A/Sgt Cape, J., (continued) 1st Witness

I submit Certificate of arrest for the arrest of the accused in Bari at approx 1100 hrs 27 July 44 as evidence in accordance with A.A. Sec 163 (1) (jj)

"D76003 J Cape"

Question
Do you wish to cross examine the witness.
Answer
No.

The certificate of arrest referred to in the Summary, marked exhibit "A" read over, shown to the accused and attached to the summary.

Officer taking Summary
"K MacKenzie" Lt.

2nd Witness for Prosecution

M30849 Pte James, E.L., No 2 Canadian Field Punishment Camp 1 C.B.R.Group, Canadian Army-CMF., having been duly sworn, states:-

I am M30849 Pte James, E.L. of No 2 Can F.P. Camp, on 15 July 44, I was staff in charge of the compounds, at approx 1930 hrs, I let the three men in cell 6 out to the Latrine and returned them. I checked the rest of the cells and all were present. As there was a body in each bed. At approx 2330 hrs the alarm Whistle was sounded. A roll was called, Pte Demers, the accused's name was called, he did not answer his name he was absent. I checked the cells and surrounding ground and was unable to find him.

"E L James"

Question
Do you wish to cross examine the Witness?
Answer
No.

The accused was cautioned in accordance with R.P. 4 (e) as follows:

"Do you wish to make a statement or to give evidence upon oath? You are not obliged to say any thing or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused, reserves his defence.

I certify that the foregoing Summary of Evidence was taken down in accordance with R.P. 4 (c)(d)(e)(f) and (g) and that these rules have been complied with.

In the Field
14 August 44

"K MacKenzie Lt"
Officer detailed to take the Summary.

"AMR"

Certificate in accordance with the Army Act, Section 163 (i)(ii)

I, certify that No E 4639 Rank Pte Name Demers, A.
of the 4th Btn. C.B.R.D. was arrested at Bari at about 1100 hours
on the 27th JULY 1944.

Signature of Provost Marshal, APM, or other Officer into whose custody the a/n person was taken on arrest.

"T F Kent" Captain.
Officer Commanding,
230 Provost Company.

28 July 1944

/ /44

This is exhibit "A" referred to in the summary of evidence in the case of E4639 Pte Demers, A., read over, shown to the accused and attached to the summary of evidence.

Officer taking Summary
"K.A.W. MacKenzie Lt"

ARMY FORM B.206.

E 2 "AMR"

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E4639	Pte	Demers, A.	R 22e R, 1 Bn. 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary shall be completed from the said conduct sheets.

The conduct sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 577, K.R., 1940.

* The accused's service should be stated exactly, for the first offence in the period specified, and for each subsequent offence since then, to the latest offence in each entry, and to any recorded offence not falling within the period specified.

Instructions.—If the charge is for desertion, the entries for desertion and for absence should be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	One times	One 7 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct Nil

or

There are no entries in the conduct sheets of the accused.

2 [redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.

3 [redacted] or The accused at the present time is under sentence for 10 mths under AA 15(1)(a) beginning on the 20 day of May 44

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and see 3 above days in military custody, making a total of days, of which Nil days were spent in hospital

5. The present age of the accused according to his record of service is 23 yrs 7 months

6. The date of his [redacted] specified in his record of service is 14 Nov 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 7 mos 10 dys (less detn etc)

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 7 mos 10 dys service

9. The accused is entitled to reckon / service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted] entitled to (state any military decorations or rewards).

11 [redacted]

rank of

12 [redacted]

and in his regiment (or corps or department) the rank of for [illegible]

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E 4639 Rank Pte Name Demers, A. of R 22e R Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	Field 20 May 44	AA 15(1)(a) WOAS AWL in that he in the field at about 0800 hrs on 1 Mar 44, while undergoing F.P., did absent himself without leave until apprehended at Bari at 1200 hrs 6 Apr 44. Absence 36 days 4 hrs.	10 months Imp with H.L.	NIL

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 day of August 1944

"D Dick" Captain Commandant
2 Cdn Field [illegible]

IV. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of Date of Promotion

In the rank of years

In the rank of years

In the rank of years

Remarks:—If any [illegible] of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the [illegible] of a reversed amended accordingly.)

Temporary Sheet. Orignal destroyed by fire

MFM 6
(AFB 122)
40/P&S/136 (3428)

No E4639 Name Demers, A. | Sqn. Battery or Company "B" | Corps C.O.I. E 3 | Date of enlistment 14-11-39 | OC Badges | Service or Proficiency Pay | Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Compsny. etc "Satoin" Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	25-1-44	Pte		Sec 15(1) WOAS AWL from 0800 hrs 25-1-44 until apprehended at Casacalenda at 2320 hrs on 22-2-44 ABSENCE 28 days 15 hrs 20 minutes	Document of Court of Inquiry	28 ds F.P.		Major "Charlebois"	28 days Pay FRI 149 (1) a
In the Field	1-3-44	Pte		Sec 15(1)a WOAS, absenting himself without leave, in that he, in the Field at about 0800 hrs on the 1 Mar 44 while undergoing FP did absent himself without leave until he was apprehended at Bari at 1200 hrs on the 6 Apr 44 Absence 36 days - 4hrs		To undergo imprisonment with hard labour for a period of 10 months (ten)	20 May 44	F.C.C.M. "P.W.Tremblay" Lieut "D Dick" Captain Commandant 2 Cdn Field Punishment Camp	

Certified True Copy from records at our disposal.

(P10)

5U-129
Pte Demers, A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D106029 Pte(Lance-Corporal) Adrien DEMERS - 2 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 & special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which N/L days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with Hard Labour for two (2) years and to be dishonourably discharged with ignominy from His Majestys service

11 SEP 45 (Sgd) H.H. Brownfield

(Sgd) ..... Judge-Advocate, if any. Date awarded. President. (AA 45, 50.)

(See back of Convening Order re. disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

~~In delete and finalize see AA 54, 57, RP 57(2) fn 4, 61(2), 64, 65, 120, MML pp 759-761, KR Can 567-577. Appropriate reports re confirmation and consequences of non-confirmation of finding or sentence or both to be inserted. Delete if not applicable.~~ If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be entered before promulgation: RP 53, MML p 66. Quashing other proceedings: KR Can 576. Duties and powers of confirming officer: RP 53, MML p 66. Quashing other proceedings: KR Can 576. Duties and powers of confirming officer: RP 53, MML p 66.

The Vce Judge-Advocate-General, Canadian Army Overseas, having given and the conviction on the charge in these proceedings is invalid, I hereby direct that the record of the conviction on the said charge be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

In the Field
3 Oct 45

H.H. Brownfield (H.O.N. BROWNFIELD) Brigadier
Com "C" Group, Cdn Rft Units
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 106029 Pte Demers A.	18 Oct 45.	J.R. Matthieu Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 26 SEP 1945 D.M.I. 6

54.129

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81 40/F & S/1696 (6144) 4/38B

Convened by Order of Brig H.O.N. Brownfield CBE MC Comd "C" Gp CRU dated 10 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D106029	Pte	Lance-Corporal	Adrien	DEMERS	2 CGRU

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 11 SEP 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1410 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to C/16467 Sgt Bernier Marc as shorthand writer? Ans NO
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, - IR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	A.C. HOLLAND	1CGRU
Member	LIEUT	O.P. QUINN	1CGRU
~~Judge-Advocate~~			
Prosecutor	LIEUT	H.J. McCULLOUGH	2CGRU
Defending Offr	LIEUT	F.R. HUXTABLE	2CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 8.)

A8. The accused ..... before arraignment make(s) (no) ~~(or) plea~~ (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR (5)
(1. *RP* 37(B). 2. *RP* 37(D) *fn* 6. 3. *RP* 35(B) *fn* 2 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(*s*) to which the plea(*s*) of Guilty is (are) not changed the President records finding(*s*) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(B). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 17(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (2).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making as appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*). 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if on his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 147(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(*s*) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(*s*)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(*s*) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex C respectively.(3)
(1. *MFR* 225 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 552. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(*s*) and Conduct Sheet(*s*), and in mitigation of punishment ?(1) Ans. No, but I'd like to say I'm sorry (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges or all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 126, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 343-346, *Overseas* 80 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 40(3), *MML p* 132. *Where accused already under sentence of imprisonment or detention see AA* 44(3) (*b*), 68(1), *KR Can* 364. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D.106029 Pte.(Lance-Corporal) Adrien, DEMERS, CIC, on strength of No. 2 Cdn. Gen. Reinf. Unit, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH-
OUT LEAVE

in that he

In the Field, at 2200 hours on the 10th January 1941 illegally absented himself without leave until apprehended by Cdn. Provost Corps at Guildford at 1020 hours on the 30th August 1945.

(Total Time Absent: 1692 days, 12 hours, 20 minutes).

In the Field

6th Sept. 45

W.A. Townsley

(W.A. TOWNSLEY) COLONEL
Commanding Officer
No.2 Cdn Gen Reinf Unit

To be tried by Field General Court Martial

Brigadier
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants
10 Sep 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D106029	Pte	Lance-Corporal	Adrien	DEMERS	2 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Colonel	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO	1 CGRU
Lieut	to be detailed by CO	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In England (Country.)

Dat 10 Sep 45

[signature] (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 38 (In lieu of AFA 3) 40/P&S/1897 (6148)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 98(C)*), any objections (*RP 98(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 98(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 98(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 93 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 2, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 62.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 93(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after mention of sentence awarded. (*AA 53(9), RP 110(C), MML p 769.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: D106020 (Rank) PTE
DEMERS R.P. (Name) of DET. BR. and in my opinion he is
fit to undergo trial by Court Martial.

Station DETENTION

Date 11-9-45

RMO (Medical Offr)

PTE DEMERS A. D.106029

Pte Demers enlisted as a single man in March 1940. He was immediately employed on regimental police duties and has been for his full army carreer. He did this type of work on the boat overseas and also in the holding units here. He never had an entry in his N.P.N.C. In England he became a L.Cpl. and was placed under a guard room sgt. who made life very difficult for him. Demers states he would not buy drinks and 'toady' up to the sgt. and consequently the sgt. was very unfair to him. Before coming overseas Demers did not drink - he now started drinking and it was during one of these drunks he went A.W.L. He states that the provost in Guildford had many oportunities to pick him up as he wore uniform but they never did, so he thought that if they did not need him that had there was no need for him to give himself up.

In awarding punishment would the Court take into consideration these factors. His clean conduct sheet. That before he enlisted in Canada he was employed for 15 years straight withone firm. This is a record of good character in itself. He was good enough in his duties to be made a L/Cpl. During his A.W.L. he met ans English girl - married her and had two children, one of whom died at the age of 14 months. He now intends to have the marriage approved by the army and take his wife back to Canada where his old job is waiting for him. While he was A.W.L. Demers had no civil charges laid against him and was a good citizen. He was a good citizen in Canada - and on his return should continue to be one. Thisw man has committed only the one crime. His charachter is good. Would the Court consider this.

E-3

SUMMARY OF EVIDENCE

In the case of D.106029, Pte.Adrien DEMERS, CIC, on strength of No. 2 Cdn.Gen.Reinf.Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

.....

First Witness Prosecution

Lieut. F.R. Huxtable, No.2 CGRU, having been duly sworn, states as follows:-

" I am Lieut. F.R. Huxtable, No.2 CGRU, and I produce the following documents pursuant to Overseas Routine Order 5352 which have been read over and shown to the accused and which are attached hereto as exhibits:-

Exhibit "A":- Certified True Extract from MFM 4, showing D.106029, Pte. Demers, A., illegally absented himself without leave from 2200 hours 10 Jan. 1941.

Exhibit "B":- Certificate of Apprehension showing D.106029 Pte. Demers, A., was arrested by Cdn. Provost Corps at Guildford at 1020 hrs 30 Aug 1945.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

F.R. Huxtable .....Lieut
(F.R. Huxtable)

The accused was cautioned as follows:-

"Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure (4) (C) (D) (E) and (F) have been complied with.

In the Field

6th Sept. 45

J.R. Mathieu Lt
.....
(J.R. Mathieu) Lieut
Officer detailed to take the Summary of Evidence.

EXHIBIT "A"

[illegible]

D.O. 52 dated 3 Mar 41

AWL from 2200 hrs 10 Jan 41 (still absent) (21 days)

B 106029 L/Col Demore A

CERTIFIED TRUE EXTRACT FROM MFM 4

[illegible] Capt
Records Offr Dep Bn
[illegible] Reg

In your reply please quote this
C.R.U. Reference 450/A.A.L/9-874

EXHIBIT

CERTIFICATE OF APPREHENSION

I CERTIFY that No. D-106029 ....., Rank. Pte ....Name. DEMERS, A.D. .....
Unit. Royal 22nd Reg't ..... was arrested at. Guildford .....(plac
at. 1020 .....hrs On. 30 Aug 45 .....(date) and that at the time of his arrest he was wearing (military uniform) or [redacted].

A.P.M.s OFFICE
30 AUG 1945
H.Q.
CON. REINFORCEMENT UNITS

M

W.H. Brown S/Sgt
B-94843 S/Sgt Brown, W.H.

W. K. Taylor. Sgt
M-7899 Sgt Taylor, W.K.

LIST OF WITNESSES

In the case of D.106029 Pte. DEMERS, Adrien

CIC, on strength of No.2 C.G.R.U. a soldier of the Cdn. Army Overseas.

(For Prosecution)

1. Lieut. F.R. Huxtable, 2 CGRU

(For Defence)

NIL.

LIST OF EXHIBITS

(For Prosecution)

Exhibit "A":- Cert.True Extract from MFM 4 showing accused A.W.L. from2200 hours 10 January 1941.

Exhibit "B":- Certif. of Apprehension showing accused was arrested by Cdn. Provost Corps at Guildford at 1020 hours 30 August 1945.

Exhibit "C":-

(For Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, D.106029 Pte. Adrien DEMERS hereby request that the Convening Officer appoint a Duly Elected Officer to represent me at my forthcoming trial by Court-Martial, should he be available.

In the Field.
6th Sept. 45.

(A. Demers) Pte.

RECEIPT FOR DOCUMENTS

I, D.106029 Pte. Adrien DEMERS hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the charge sheet under which I am being brought to Court-Martial.

6th Sept. 45.

(A. Demers) Pte

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.106029	Pte(A/L/Cpl)	DEMERS, A.	No. 2 C.G.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

*Strike out if not applicable.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For _____ times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet Nil

Date of last entry in Field Conduct Sheet Nil

4. The accused has been awaiting trial on the present charges for Eleven days in military custody, *i.e.*, Nil days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 32 years

6. The date of his attestation 22 May 1940

8. The accused is in possession of‡ C.V.S.M. &Clasp

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously without reduction, to the present date—

Date of Promotion.

In the substantive rank of _____

In the war substantive rank of _____

In the acting rank of _____

EX B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) WL.20721/3011 [illegible] A.& E.W.Ltd. Gp.[illegible]

Compiled from Original MFM 6

No. D.10602 Name DEMERS, A. Sqn, Battery, or Company Corps CIC Date of enlistment 22-5-40 GC Badges Service or Proficiency Pay

3/17 MFM 6 (AFB 122) 40/P&S/136 (7010)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified No Entries To Date 5th September 1945					
				Certified True Copy consisting of one page.					
				5th Sept. 45 ..... Lieut Officer having custody of original.					

(P10)

5V-143

Pte. Demers, A.

Missing

(2)

(30)

PPP.9

PTE DEMERS C.

CORDED AT CHNQ IN AD 160 PPP 9

RECEIVED 22 MAY 1944 JAG BRANCH G.M.H.Q.

(F)

Army Form A.3.

...ondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

G 24

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTY-FIRST day of MARCH, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Army Service Corps - 1 Cdn Div, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

CANADIAN SECTION DISCIPLINE & PAY SECTION 18 APR 1944 G.H.Q. 2nd ECHELON

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~

*Omit where ...vening Officer ...Commanding ...er or is of ...d Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not ...able.

* ~~I am unable to appoint~~

~~*(1. Three Officers to form the Court)~~

~~*(2. A Field Officer as President)~~

~~for the following reasons, namely:~~

(10)

PROCEEDINGS REVIEWED 26 Jun 44

REVIEWING OFFICER, JAG BRANCH

President.

Rank.	Name.	Regiment.
Major	J B Lawson	4 Cdn Recce Regt

Members.

Rank.	Name.	Regiment.
Captain	H C Mitchell	R C A P C
Lieutenant	R Crisafio	1 Cdn Div Sp Bn (SLI)

*Signed (W H Montague) Lt.-col.

Commanding RCASC 1 Cdn Div

Convening Officer

G 24

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.51551 Private Clements DEMERS Royal 22e Regiment	First Charge AA Sec 18 (2)	Not guilty	Guilty	
	Second Charge AA Sec 40	Not guilty	Not guilty.	
			18 months in prison with hard labour	Confirmed. [signature] Lt Col 7 Apr 44

The Deputy Judge Advocate General, Canadian Military Headquarters, having advised that the petition of the accused dated 26 Apr 44 be allowed, I, being a Superior Military Authority, hereby direct under the authority vested in me by KR(Can) 574 (notified in Overseas RO 4605) that the record of the conviction on the charge in these proceedings be and the same is hereby removed and the accused relieved from all consequences of his trial thereon.

P J Montague

London

Jun 44

(P J Montague) Major-General
In Charge of Administration
Canadian Military Headquarters

Promulgated and extracts taken in the case of C-51551 Pte Demers, C., R 22e Regt.

(Dated) 9 JUN 1944 (Signed) [signature] Adjutant
1 Bn 1 Cdn Base Reinforcement Depot

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Seventh day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this Seventh day of April 1944

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

[signature] Lt Col

Signed this 7th day of April 1944

[signature] Lt Col
Confirming Officer.

Promulgated and extracts taken in the case of C 51551 Pte Demers, C.

(a) (Dated) 10 Apr 44 (Signed) [signature] Capt & Adjt 1 Cdn Div Ad Bn (Sec)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A. Army Form A 9.

**Form of Proceedings for General and District Courts - Martial.

Proceedings of a Field General Court-Martial held at Field on the 7th day of 17 Jan 1944 by order of Lt Col. W.H. MONTAGUE

Commanding Royal Canadian Army Service Corps, 1st Cdn Div

Dated the thirty-first day of March 1944

President.

J.B. Lawson. Major 4 Cdn Recce Regt (4 PLDG)

Members.

Capt. H.C. Mitchell, RCAPC

Lieut. R. ~~Cdn~~ Cornatio. 1 Cdn Div Sp Bn (SLI)

Trial of* ~~Judge Advocate~~,

C 51551 Pte Clement DEMERS, C.I.C.

Canadian Army Overseas, C.M.F.

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

The Court satisfy themselves that and is not available to serve owing to M.A.

Mil, waiting member takes his place as a member of Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court

Prosecutor, † Lieut GIROLAMI J.A. R.22R.

Counsel § or defending officer † Lieut DUSSAULT, A.R. R.22R.

At 09.50 o'clock the Trial commences.

The order convening the Court is read, and is marked F signed by the President, and attached to the proceedings.

The names of the President and members of the Court read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B. – If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.

* Here insert No., Rank, full Name, Regiment, and Appointment (if any)

† Here state Rank and Name, and Regiment (if any)

§ Qualification to be stated.

[illegible] PMRJ/[illegible]

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

~~nil~~

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Question to the accused

Not guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

Answer.

Not guilty

Are you guilty or not guilty of the third charge against you, which you have heard read?

Question

Answer.

N/A

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Question.

Answer.

N/A

The accused having pleaded Guilty to nil charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which where is a plea of Not Guilty, the Court will not proceed upon the record of a plea of Guilty, until after the finding on that other charge.

Instruction.

(35)

CHARGE SHEET

The accused No C 51551 Pte Clements DEMERS - Royal 22e Regiment, a soldier of the Canadian Army Overseas, is charged with:-

1st CHARGE
Army Act
Sec 18(2)

WHILE ON ACTIVE SERVICE
WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he
in the field, on 23 MARCH 1944, while a soldier under sentence in 1 Cdn Div Field Punishment Camp, by discharging a T.S.M.G. wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

2nd CHARGE
Army Act
Sec 40

WHILE ON ACTIVE SERVICE
NEGLECT TO THE PREDJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
in the field on 23 MARCH 1944, so negligently handled a T.S.M.G. as to cause it to be discharged and thereby injured his left foot and rendered himself temporarily unfit for service.

Signed by me, in the field, this twenty-eighth day of March 1944.

L.F. Trudeau Major
Camp Commandant
1 Cdn Div Field Punishment Camp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
31 Mar 44

(W H Montague) Lt.-col.
CRASC 1 Cdn Div

MEDICAL OFFICER'S CERTIFICATE
KR (CAN) PARA [illegible]

I certify that I have this morning examined

No. C51551 Rank. PTE Name. DEMERS C

Of. 1 CDN F.P.C. and in my opinion is

FIT/[illegible] to undergo trial by Court Martial.

Station. FIELD

Date 7 APR 44

[signature]
(Medical Officer)
1 Cdn Fd Dressing Station, RCAMC

*Instruction. (See R. P. 30 (A))

Question.

C

Proceedings on Plea Not Guilty.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

The prosecutor makes an opening address (hands in a written address which is read, marked nil, signed by the President, and attached to the proceedings.)

The prosecutor proceeds to call witnesses.

First witness for prosecution. Capt. J.E. Harry, Saskatoon Light Infantry

being duly sworn, is examined by the prosecutor.

The accused Sir is Pte Demers whom I recognized as a soldier under sentence in the 1st Cdn Div Field Punishment Camp.

On the afternoon of the 23rd of March a soldier pte Rogers who was acting as a guard at the F.P. Camp which I was then acting as adjutant came to my office at about 1515 hrs in result of what he told me I proceed with him to a room which was used as a billet by the same of the [illegible] in the F.P. Camp just inside the door. I saw the accused pte Demers whom I recognized he was lying on the floor ~~[illegible]~~ on his back and the soldier was endeavouring to cut his left boot I assisted the

soldier and when the boot was removed I saw that the accused had been shot in the left foot after applying First Aid I questioned the accused. He told me that he had been sweeping by a bed when a T.S.M.G. had fallen off the bed discharged and shot him through the foot. I am not sure whether he said fallen off the bed or fallen down. I went to the corner of the room where the accused had told me the Tommy Gun had shot him ~~the~~ a T.S.M.G. was lying on a bed and I examined it. The change lever was at single shot the safety was on fire the magazine was removed and the bolt was forward on the muzzle there was fresh blood ~~as~~ black greasy substance resembling Rubber and some muck. I further examined the boot we had cut from the accused's foot on the left inside surface where the bullet appeared to have entered the leather appeared to be burnt ~~over~~ over an area of approx. one inch and a half around the end of the sole. I ordered the Remains sent to the 5th Fd. Amb.

~~[illegible]~~

The prosecuting officer presents the court the left Issue boot marked Exhibit A and T.S.M.G. marked exhibit B

Question by prosecution — Can you recognize this boot?

Answer — I recognize this boot to be the boot that another soldier and I removed from the left foot of the accused after he had been wounded.

Question by the prosecution. Do you recognize this Tommy gun

Answer This Tompson sub machine gun. Sir has the same No. 192332 as the one which I examined the day the accused was ~~injured~~ wounded. It still seems to have the dark greasy substance resembling dubbers as it had the same day the accused was wounded.

Cross questioning by the Defence.

Ques. Where did you find the Thompson machine gun after entering in the room where the accused was lying?

Answer. On a bed in the corner about 10 yards from the accused

Cross questioned by the court.

Capt Hanycon you tell me the height of that bed

Answer. ~~I believe it was a bed spring~~ (delete)

The height was approx 2 feet.

Ques. ~~Could you place that Tommy gun on that bed~~ (delete)

Second Witness for the prosecution.
C 70301 Gnr. Chamagne A. R.C.A.
Having been duly sworn states
On March 23 1944 the morning I was off duty proceeding to my unit for a battle Press. Coming back from my unit to the castle through the garden. ~~[illegible]~~
The adjutant showed me a Tommy gun I looked at the no. and it was the no. of my own Tommy gun no. 19332.
Questioned by the prosecution
Ques: When and where did you least see the Tommy gun before the adj. showed it to you
Answer: Under my blanket on my bed the morning of 23 Mar 1944 at 0640 hrs.

~~[illegible]~~
Cross examined ~~[illegible]~~ by the Defence
Questioned by the accused.
Ques: Why did you leave your Tommy gun on your bed under a blanket?
Answer: In our battery we were told often never to leave the Tommy gun in the open because other foolish men or soldiers could come in drunk and play with your tommy gun and shoot themselves and also I have taken the precaution of putting my Tommy gun under my first blanket to keep the dust out of the working parts.

9

Ques 2 How many men on guard sleep in your room?

ans 2 There are two men sleeping in the room.

Cross Examined by the court

Ques 1 You changed all your names this Tommy gun. Do that your Tommy gun?

ans 1 Yes.

Ques 2 Was it loaded or unloaded when you put it on your bed?

ans 2 The magazine was on. It was on Safety and single rounds. It was NOT cocked.

Ques 3 What position was it on the bed?

ans 3 The muzzle of the Tommy gun was pointing to the wall. The accused demonstrates — the bed was in the corner of the room the muzzle of the Tommy gun pointing into the same corner.

Ques 4 Where these bullets in the mag? ~~There were bullets~~ Yet the magazine was loaded.

Cross examined by the accused

Ques 1 It as there anybody else ~~who~~ knew that the Tommy gun was placed in the position that you demonstrated?

Ans 1 Yes. Many of the boys saw me making putting my Tommy gun under the first blanket on my bed.

1

1.

Third witness for the ~~accused~~ prosecution.

M 106 999 Pte Rogers G.J. - PPC L.I.

having been duly sworn states

~~[illegible]~~ I recognize the accused.

~~[illegible]~~ I am employed as a guard at the 7 Camp

on the afternoon of 23 Mar I received

Pte Demers ~~[illegible]~~ Sgt Matthews to

clean our billet for approximately the

first hour he shined boots in my billet.

He started to sweep the room on the

opposite side from the door. I told him

to go to the other end of the room and

sweep it out. I told him to move the

pits but not the beds. I then left the

room to go to my room. upon returning

I heard a shot when I was approx.

10 pares from the door. I stopped and

then continued on to the door where I met

Pte Demers holding his foot he said

he had been shot and I asked him how

it happened. he said a rifle had fallen

and shot him while he was sweeping

behind the rifle. I then went to ~~get~~ private

~~room to~~ Green to watch him while I went

for the M.O. I returned with Capt Harry

and Sgt Pugh while they were fixing

Pte Demers. I went to look at the gun.

I found it on the floor half ways under

the bed with the muzzle pointing

towards the wall. Seeing it was cocked.

I picked it up took the magazine off

and eased the action forward.

VI

I then laid it on the bed,

Cross Examined by the defence.

ques 1. When did you leave the accused in the room?

ans 1. When I told him to survey from the other end of the room

ques 2. For how long did you leave him?

ans 2. Anywhere from one half minute to a minute I wouldn't be quite sure on that

Cross Examined by the Court

ques 1. Will you describe the gun

ans 1. It was a Tommy gun and it was carried with a magazine on it.

ques 2. Did you see a Tommy gun on the bed when you went out?

ans 2. No

ques 3. Was the bed disarranged when you came back?

ans 3. I did not notice

The witness demonstrates the position of the Tommy gun and states "There was blood on the floor and past from the butt of the Tommy gun."

ques 4. Did you notice the Tommy gun on the walls or floor and did you find any bullets?

ans 4. I just found the spent case and no mark on the wall or floor.

The prosecution is closed

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) when the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and address which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page *(see overleaf.)*

(Where the accused does not give evidence upon oath)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says †

(hands in written address which is read, marked signed by the President and attached to the proceedings.)

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

D 2

The accused C51551 Pte Pemers C having been warned in accordance with R. P. 40 elects to give evidence on oath.

The accused C51551 Pte Clement Pemers having been duly sworn states.

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

On 23 Mar 1944 I was detailed to work in the billet where the guards sleep. I cleaned several pairs of boots and asked my guard Pte Rogers if that was all. He answered that I also had to mop up and wash the floor of the room. I started sweeping from the near left hand side corner as you come in, but the guard told me to go and start from the corner opposite the door, which I did. I started sweeping and noticed a T. S. M. G. which was leaning on the wall, but down. I swept around it but must have misplaced it with my broom as it fell to the floor between my two feet and a shot went. At first I didn't realize what had happened and then felt a pain stinging my left foot. I then noticed I was wounded. I ran to the door with a view to notifying the guard. As I approached the door the guard was arriving and I told him that I had just been wounded

~~[illegible]~~ D3 1

The ~~accused~~ accused demonstrates the position of the T. S. M. G. showing it to be eighteen inches from the bed with butt on the floor and the muzzle resting against the wall. The defending officer demonstrates the position that the accused was standing in and shows how the Tommy gun was knocked over. The accused had his left foot approx the length of the Tommy gun from the wall.

The prosecuting officer declines to cross examine the accused.

Cross Examination by the Court

Ques 1 Did you recognize this boot (Exhibit A) as the boot you were wearing at the time you were wounded.

Ans 1 Yes

Ques 2 ~~[illegible]~~ Where did the bullet enter & come out of the boot

Ans 2 It entered in the hole on the right hand side of the boot and came out of the hole on the left hand side.

Ques 3 In evidence of Capt Harry he states — quote — "I questioned the accused, he told me that he had been sweeping by a bed when a T. S. M. G. had fallen off the bed discharged and shot him through the foot." Did you tell Capt Harry this?

Ans 3 It is possible ~~[illegible]~~ that I told him this because I was suffering from pain and could not express myself well in English

Exhibit D4

Ques 4. Was there any one else in the room at the time this boy opened

Ans 4 No one else

Ques 5 Can you suggest how it is possible for a shot to go through the boot in that manner if you were standing as you say

Ans 5. No.

Court adjourned for lunch at 1200 hrs - 1330 hrs

IX.

Expert Witness called by the court Capt C.E. Campbell, RCAMC having been duly sworn states:-

Quest by the Court
Is it possible from your observation of the wound in Pte Demers foot to tell the angle of impact and the course the bullet took through his foot

Ans The wound of entry was over the medial side of the foot approx three inches above the sole just in front of the ankle. The wound track went forward laterally and downwards and the wound of exit was over the "cuboid bone" near the sole of the foot.

X

Summing up address by the prosecuting officer

"The Evidence has shown that the T.S.M.C. was placed on a bed by Gnr Champagne also that pte Rogers did not notice a T.S.M.C. on the floor as stated by the accused. Therefore the accused deliberately picked the weapon from the bed and shot himself in the left foot. The path followed by the bullet cannot be explained by the accused nor is it feasable if as the accused has stated it was fired when the weapon fell to the floor.

Summing up address by the defending officer

If pte Rogers had remained with the accused, Rogers would have seen that the whole thing was an accident. Rogers would have remained in the room and would have seen the accident happen.

Prosecuting officer objects on the grounds that the accused is not justified to say whether or not he was supposed to show objection sustained.

X

Summing up address by the prosecuting officer

"The Evidence has shown that the T.S.M.C was placed on a bed by Gnr Champagne also that pte Rogers did not realise a T.S.M.C on the floor as stated by the accused. Therefore the accused deliberately picked the weapon from the bed and shot himself in the left foot. The path followed by the bullet cannot be explained by the accused war is it feasable if as the accused has stated it was fired when the weapon fell to the floor.

Summing up address by the defending officer.

If pte Rogers had remained with the accused Rogers would have seen that the whole thing was an accident. Rogers should have remained in the room and he would have seen the accident happen.

Prosecuting officer objects on the grounds that the accused is not qualified to say whether or not Rogers was supposed to stay Court. objection sustained

E

Findings.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty"

The Court is closed for the consideration of the finding.

The Court find that the accused

Guilty of first charge

Not guilty of second charge, Finding of Not Guilty on second charge announced in open Court.

Court orders Exhibits A + B returned to Prosecuting officer.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it

Lt. J. A. Girolami R 22 R.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by Witness.* Yes. MFM6 and AFB 296

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked G signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No, but I recognize the signature on the statement as being that of Major J. F. Tindeau

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* I dont know

Instruction — If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to this fact, and the Court must inquire into the nature and amount of that additional punishment.

Cross-examined by the accused.

The accused declines to cross examine

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence

F

Sentence.

The Court sentence the accused

Sentence.

Eighteen months imprisonment with hard labour, to be ~~and concurrently with~~ ~~present sentence~~

List of witnesses for Prosecution and Defence in the case of:-

C 51551 Pte DEMERS C - Royal 22e Regiment

WITNESSES for PROSECUTION

Capt W H Sutherland - R C A M C 5 Cdn Fd Amb

✓ Capt J E Harry - 1 Cdn Div Sp Bn (Sask L I)
(attached Field Punishment Camp)

C 65257 Sgt Matthews H I - Carlt & York Regt
(attached Field Punishment Camp)

✓ C 10301 Gnr Champagne A - 1 Cdn A/Tk Regt., R C A
(attached Field Punishment Camp)

✓ M 106999 Pte Rogers G J - P P C L I
(attached Field Punishment Camp)

P 8855 Sgt Pugh R T - 1 Cdn Fd Regt., RCHA
(attached Field Punishment Camp)

I request that Lieut. Beaudoin R.R.A. be assigned to represent me at the trial.

C. Dames

List of Exhibits in the case of:-

C 51551 Pte DEMERS C - Royal 22e Regiment

T S M C No 192522 labelled exhibit "A"

Black boot labelled exhibit "B"

SUMMARY OF EVIDENCE

In the case of C.51551 Private Clement DEMERS, C.I.C., Canadian Army Overseas, CMF, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution

Capt. W.H. Sutherland, RCAMC, No. 5 Cdn Field Ambulance, having been duly sworn states:-

" I am Capt. W.H. Sutherland, of RCAMC, No 5 Cdn Field Ambulance.

On the afternoon of 23 Mar 1944, C.51551 pte Clement DEMERS was admitted to the M.I. Room, No 5 Field Ambulance. He was suffering from a through and through gun shot wound of the left foot. On examination and on inquiring as to the cause fo the accident, I felt that there was adequate reason to label the case self inflicted wound. The Field Punishment Camp was so informed.

The accused cross examines the witness.

Q.1 Why do you say that you felt my wound was self inflicted ?
A.1 That had the TSMG fall out to the floor and exploded as stated I would not have suspected the track of the bullet to go from above down in lateral direction.

W.H. Sutherland Capt.

2nd Witness For Prosecution

Capt. J.E. Harry, Sask. L.I. having been duly sworn, states:-

" I am Capt. J.E. Harry, of Sask L.I. acting in capacity of Adjutant in the 1st Cdn Field Punishment Camp.

At approximately 1515 hrs on the afternoon of 23 Mar 44 M.106999 pte Rogers G.J., a guard at the FPC asked me to come with him to look after a prisoner who had been shot. I went with him and found the accused C.51551 pte Demers C. whom I now recognize, lying on the floor of a room which is used as a billet by the guard of the FPC. He had been shot in the left foot. After applying the First Aid I questioned the accused. He told me he had been sweeping the floor and a TSMG had fallen over and shot him. In order to administer the First Aid the left boot of the accused was removed. I recognize this boot to be Exhibit "A". At the spot the bullet had entered the boot, the leather was burned. I examined the TSMG which had shot the man, the change lever was at single shot and the safety at fire. The magazine was removed and the action was forward. On the foresight there was blck dubbin, fresh blood and mud. There was also mud on the boot that was removed from the accused's foot. I recognize the TSMG to be Exhibit "B". After having bandaged the accused I ordered him to be despatched to the Field Ambulance.

The accused declined to cross examine the witness.

Capt.

3rd Witness For Prosecution

C.65257 Sgt Matthews H.I. Carlton & York R. on Staff of 1st Cdn Field Punishment Camp, having been duly sworn states:

" I am C.65257 Sgt Matthews H.I. of Carlt & York R. on the Staff of 1st Cdn Fd Punishment Camp.

At approximately 1430 hrs on 23 Mar 1944, I detailed C.51551 Pte Clement DEMERS to go with M.106999 pte Rogers G.J. who is a guard in FPC to clean up the guards quarters.

The accused declined to cross examine the witness.

H.I. Matthews Sgt.

4th Witness For Prosecution

C.10301 Gnr Champagne A. 1st A/Tk Regt, RCA, guard on the staff of 1st Cdn Field Punishmmnt Camp, having been duly sworn states:

" I am C.10301 Gnr Champagne A. of 1st A/Tk Regt, RCA, a guard on the staff of 1st Cdn FPC.

On 23 Mar 1944, I left my TSMG on my bed under my first ~~xxx~~ blanket. That day I was off duty to proceed to my unit to get a uniform. Coming back from my Battery I heard in the guard room that one man had been shot in our room so I asked the sgt to be paraded in front of the major or captain to see if the TSMG did belong to me. When I left, in the morning the TSMG was on " safety " the magazine and the muzzle of the TSMG pointing to the wall. I asked the officer to have a look on the serial no. and the no. was 19332, so I said to the officer: " Yes, sir, it is my TSMG.

Q.1 At what time did you leave your TSMG under your blanket ?
A.1 At about 0640 hrs.

Q.2 How many guards sleep in your room ?
A.2 Ten men

Q.3 Could it be possible for any other guard of your room to have played with your TSMG.
A.3 No, it could not have happened because every men in our room was on guard.

Q.4 Why did you place your TSMG under your blanket ?
A.4 Because we were told in our battery never to leave your TSMG in the open, because other foolish men could come in drunk and play with it and shoot themselves and also to keep the dust off the working parts.

Q.5 Is it possible to look the door of your quarters ?
A.5 No, because there is no door at all.

The accused declined to cross examine the witness.

A. Champagne Gnr

5th Witness for Prosecution

M.106999 Pte Rogers G.J.Guard on the staff of 1st Cdn FPC having been duly sworn states:

I am M.106999 Pte Rogers G.J. a guard on the staff of 1st Cdn FPC.

I was the guard in charge of C.51551 pte Clement DEMERS on the afternoon of 23 Mar 1944. I received him from M.65257 Sgt Matthews H.I., at 1430 hrs that afternoon. For approximately the first hour he was polishing boots in my billet; I then took him out with two four gallon water cans to the castle to have them filled; we then returned to the room where the guard are sleeping. I told him to move the kits and sweep the floor. I left the room and went to my room leaving C.51551 Pte Clement DEMERS to sweep the room. Upon returning to the men's quarters I heard a shot when I was approximately ten paces from the door. I paused, continued on to the door, where I met Pte Demers who was holding his foot. He said: " I have been shot ". I asked him how this had happened. He said he had knocked a rifle on the floor while sweeping behind it. I thentold him to stay there. I went to the room and got Pte Green to watch him while I went for the M.O. I brought back Capt. Harry and Sgt Pugh, while they were dressing his wound I went to see the rifle, I found a TSMG laying on the floor, half way under the bed muzzle pointed towards the wall and picked it up. Seeing it was cocked I took the magazine off and eased the action forward. His broom was on the bed.

The accused cross examines the witness.

Q.1 From which part of the room did I start to sweep ?
A.1 You started from the opposite side of the door and then I told you to go to the farthest end of the room and sweep it out.

Q.2 Did you see a TSMG on the wall before the accident ?
A.2 No.

Q.3 Did you come with me at the other end of the room ?
A.3 No

Q.4 Why did you leave the room and left me there alone ?
A.4 I was to take a clothes line back to an Italian house.

Q.5 Were you supposed to leave me there alone ?
A.5 No

Q.6 Was I nervous when you saw me after the accident had happened ?
A.6 No, you were in pain.

G.J. Rogers. Pte

6th Witness for Prosecution

P.8805 Sgt Pugh R.T. Sgt on the Staff of 1st Cdn FPC, having been duly sworn states:-

I am P.8805 Sgt Pugh R.T. of the staff of 1st Cdn FPC. On the afternoon of 23 Mar 1944, Pte Rogers reported to the adjutant and myself that there was a man shot. I proceeded with the adjutant to the men's billet; on arriving there I saw the accused laying on the floor. The adjutant applied first aid. I, then followed the adjutant to where the gun laid; the adjutant picked it up and I saw that there

5th Witness (Cont'd)
for Prosecution

was blood, mud and some sort of grease on the foresight. It was set at " fire " and signle shot. The bolt was forward. I saw the boot which had two holes through it.

The accused declined to cross examine the witness.

R T Pugh. Sgt

C.51551 Pte Clement DEMERS having been duly cautioned in accordance with RP 4 (a), (b), (c), (d) and (e) elects to make the following statement under oath.

" On 23 Mar 1944 I was detailed to work in the billet where the guards sleep. I cleaned several pairs of boots and asked my guard Pte Rogers if that was all. He answered that I also had to mup and wash the floor of the room. I started sweeping from the near left hand side corner as you come in, but the guard told me to go and start from the corner opposite the door, which I did. I started sweeping and noticed a TSMG which was leaning on the wall, butt down. I swept around it but must have misplaced it with my broom as it fell to the floor and a shot went. At first I didn't realize what had happened and then felt a pain stinging my left foot. I then noticed I was wounded. I ran to the door with a view to notifying the guard. As I approached the door the guard was arriving and I told him that I had just been wounded ".

C. Demers pte

I certify that the foregoing Summary of Evidence consisting of 4 (four) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

Lieut.
Officer taking Summary

In the Field
25 Mar 44

Sheet destroyed 19 dec. 42

No. C51557 Name Demers C. Sqn., Battery, or Company D Corps P.B.O.R. Date of enlistment 31 may 40 G.C. Badges Service or Proficiency Pay

M.F.M. 6* (A.F. B.122) 40/P & /S136 (2065)

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Period not reckoning towards freedom from extra fine Nil Sheet No. One for Signature O.C. Company, etc. J M Cantelhient Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	3 Mar 41	Pte		A.W.L. from 0700 hrs 28/4/41 till 0600 hrs 14/5/41 Total 15 days 23 hrs A.A. sec 15(1)	R.S.M. Cranford	14 days detention	14/5/41		Forfeits 16 days pay

Certified true Copy January 31st 1941 J M Cantelhient

Jamson Maj C.1

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13.12.43	Pte	nil	When on active service, absenting himself without leave, in that he in the Field, on the 13 Dec 43, absented himself without leave at about 1800 hours until he surrendered himself to the Military Police at Bari about 1500 hours on the 5 Jan 44. Total absence:-22 days 21 hours. AA Sec 15(1)		Two years IMPRISONMENT with hard labour and reduced to the rank of Pte.	17.2.44	F G C M	
Field	11.1.44	Pte	nil	When on active service, absenting himself without leave, in that he, in the field, on the 11 Jan 44, absented himself while in arrest at 0800 hours until he was apprehended by Military Police at Cassalbordino at 1400 hrs 21 Jan 44. Total absence:- 10 days 6 hours. AA Sec 15(1)					

ARMY FORM B 2[illegible].

(C 2)

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C 51551	Pte	Clement DEMERS	Royal 22e Regiment

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ M F M 6 ~~[illegible]~~ battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The number, rank, name and regiment should correspond with the particulars of entries in the conduct sheets, programme letter given to the accused person, officer in civil entry, and to any recommended special rate of duties by or disapproved conduct.

Instructions.—If the charge is for drunkenness or a like offence the number of drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15(1)	nil times	one times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for two years beginning on the 17 day of February 1944

4. The accused has been in confinement, awaiting trial on the present charges, for No days in civil custody, and ~~six~~ seven days in military custody, making a total of six days, of which ~~six~~ seven days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper Own statement is 22 years

6. The date of his ~~[illegible]~~ attestation specified in his ~~record of service~~ M F M 6 attestation paper is 31 May 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)) Canadian Volunteer Medal and Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated and in his regiment (*or corps or department*) the rank of dated

PRINTED [illegible] A.G.R.W. Ltd. Cp.4[illegible]

(6)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C 51551 Rank Pte Name Clements DEMERS of R 22e R Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F G C M	17 Feburary 1944	AA Sec 15(1) Total absence 22 days	21 hours	
	In the Field	AA Sec 15(1) Total absence 10 days	6 hours	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the ~~Regimental books~~ M.F.M. 6 in my custody.

Signed this 28 day of March 1944

[signature]

11. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years.

In the rank of years.

In the rank of years.

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Spare copy -
PPP-9.

CERTIFIED TRUE COPY
(R. Cordeau) Capt.

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTY-FIRST day of MARCH, 1944.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Army Service Corps - 1 Cdn Division ---------, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

"WHM" Lt Col

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

"WHM Lt Col"

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J B Lawson	4 Cdn Recce Regt

Members.

Rank.	Name.	Regiment.
Captain	H C Mitchell	R C A P C
Lieutenant	R Crisafio	1 Cdn Div Sp Bn (SLI)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "WH Montague" Lt.-Col
(W H Montague)
Commanding RCASC 1 Cdn Div
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.51551 Private Clements DEMERS Royal 22e Regiment	First Charge AA Sec 18 (2)	Not Guilty	GUILTY	
	Second Charge AA Sec 40	Not Guilty	NOT GUILTY	
			18 months imprisonment with hard labour "JB Lawson Major"	"Confirmed WH Montague Lt Col 7 Apr 44"

Quashed 7 Jan 44 Maj Gen Montague M.B.D. Crittle see minute on file

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) "WH Montague" Lt.-Col. (W H Montague) (Signed) "JB Lawson Major"
Commanding RCASC 1 Cdn Div
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the seventh day of April 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(~~3. The Interpreter~~)
*(~~4. The officers under instruction~~)
were duly sworn.

*Omit if not applicable.

Signed this seventh day of April 19 44.

"(J B Lawson) Major"
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*[illegible] "WHM" Lt-Col

Signed this 7th day of April 19 44.

("W H Montague Lt.Col"
Confirming Officer.

Promulgated and extracts taken in the case of C-51551 Pte Demers, C.

(a) (Dated) 10 Apr 44 (Signed) "H Borani" Capt & Adjt 1 Cdn Div Sp Bn(SLI)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B/ J B Lawson major"

CHARGE SHEET

The accused No C 51551 Pte Clements DEMERS - Royal 22e Regiment, a soldier of the Canadian Army Overseas, is charged with:-

1st CHARGE
Army Act
Sec 18(2)

WHILE ON ACTIVE SERVICE
WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he
in the field, on 23 MARCH 1944, while a soldier under sentence in 1 Cdn Div Field Punishment Camp, by discharging a T.S.M.G. wilfully injured himself by shooting himself in the left foot with intent thereby to render himself unfit for service.

2nd CHARGE
Army Act
Sec 40

WHILE ON ACTIVE SERVICE
NEGLECT TO THE PREDJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
in the field on 23 MARCH 1944, so negligently handled a T.S.M.G. as to cause it to be discharged and thereby injured his left foot and rendered himself temporarily unfit for service.

Signed by me, in the field, this twenty-eighth day of March 1944.

"L.F.Trudeau "
(L.F. Trudeau) Major
Camp Commandant
1 Cdn Div Field Punishment Camp

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
31 Mar 44

"WH Montague"
(W H Montague) Lt.-col.
CRASC 1 Cdn Div

MEDICAL OFFICER'S CERTIFICATE
KR (CAN) PARA 557

I certify that I have this morning examined

No C51551 Rank Pte Name DEMERS C

Of 1 Cdn F.P.C. and in my opinion is

FIT /~~UNFIT~~ to undergo trial by Court Martial.

Station Field

Date 7 April 44 "JBL"

"Al Jacobs Capt"
(Medical Officer)
1 Cdn Fd Dressing Station, RCAMC

Army Form A 9.

A

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at Field on the 7th day of April 19 44 by order of Lt.Col. W.H. Montagure

Commanding Royal Canadian Army Service Corps 1st Cdn Div dated the 31st day of March 19 44.

President.

J.B. Lawson, Major 4 Cdn Recce Regt (4 PLDC)

Members.

Capt. H.C. Mitchell RCAPC
Lieut. R. Crisafio 1 Cdn Div Sp Bn (SLI)

"JBL" [illegible]

Trial of*

C 51551 Pte Clement DEMERS C.I.C.
Canadian Army Overseas C.M.P.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves that Nil is not available to serve owing to N.A.

Nil, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut GIROLAMI J.A. R22R.

Counsel‡ or defending officer† Lieut. Dussault A.R. R22R.

At 0950 o'clock the Trial commences.

The order convening the Court is read, and is marked F signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

"JBL"
The President, members and judge advocate are duly sworn.

~~The following officers under instruction are duly sworn~~ "JBL"

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read? *Question to the accused.*

Not guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Not guilty

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

N/A

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

N/A

The accused having pleaded Guilty to nil charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

The prosecutor makes an opening address (hands in a written address which is read, marked nil., signed by the President, and attached to the proceedings.)

The prosecuting officer declines to make an opening address.

The prosecutor proceeds to call witnesses.

First witness for prosecution. Capt. J.E. Harry. Saskatoon Light Infantry

being duly sworn, is examined by the prosecutor.

The accused, Sir is Pte Demers whom I recognized as a soldier under sentence in the 1st Cdn Div Field Punishment Camp.
On the afternoon of the 23rd of March a soldier Pte Rogers who was acting as a guard at the P.P. Camp of which I was then acting as adjutant came to my office at about 1515 hrs as a result of what he told me I proceed with him to a room which was used as a billet by some of the guards in the P.P. Camp just inside the door I saw the accused Pte Demers whom I recognize He was lying on the floor on his back and a soldier was endeavouring to cut off his left boot. I assisted the soldier and when the boot was removed I saw that the accused had been shot in the left foot. After applying First Aid I questioned the accused. He told me that he had been sweeping by a bed when a T.S.M.G. had fallen off the bed discharged and shot him through the foot. I am not sure whether he said fallen off the bed or fallen down. I went to the corner of the room where the accused had told me the Tommy Gun had shot him. A T.S M.C. was lying on a bed and I examined it. The change lever was at single shot, the safety was on fire the magazine was removed and the bolt was forward on the muzzle there was fresh blood black greasy substance resembling Dubbin and some mudk. I further examined the boot we had cut from the accused's foot on the left inside surface where the bullet appeared to have entered the leather appeared to be burnt over an area of approx. one inch and a half around the end of the sole. I ordered Pte Demers sent to the 5th Fd Amb. The prosecuting officer presents the court the left issue boot marked Exhibit A and T.S.M.G. marked exhibit B.

Q. by the Prosecution - Can you recognize this boot?
A. I recognize this boot to be the boot that another soldier and I removed from the left foot of the accused after he had been wounded.

Q.2 by the Prosecution. - Do you recognize this Tommy gun?
A.2 This Tompson sub machine gun sir has the same No. 192332 as the one which I examined the day the accused was wounded. It still seems to have the dark greasy substance resembling dubbin as it had the same day the accused was wounded.

Cross questioned by the Defence.
Q.1 Where did you find the Thompson machine gun after entering in the room where the accused was lying?
A.1 On a bed in the corner about 10 yards from the accused.

Cross questioned by the court.

Q. Capt. Harry can you tell me the height of that bed?
A. The height was approx 2 feet.

2nd Witness for the Prosecution.
C10301 Gnr. Champagne A. R.C.A. having been duly sworn states:
On March 23, 1944 the morning I was off duty proceeding to my unit for a battle Dress. Coming back from my unit to the castle through the Garden. The Adjutant showed me a Tommy gun. no. of my own Tommy Gun No. 19332. Questioned by the Prosecutor.
Q. 1 When and where did you last see the Tommy gun before the adj. showed it to you.
A. 1 Under my blanket on my bed the morning of 23 Mar 1944 at 0640 hrs.

Cross examined by the Defence
Questioned by the Accused.
Q.1 Why did you leave your Tommy gun on your bed under a blanket?
A.1 In our battery we were told often never to leave the Tommy Gun in the open because other foolish men or soldiers could come in drunk and play with your Toommy gun and shoot themselves and also I have taken the precaution of putting my Tommy gun under my first blanket to keep the dust out of the working parts.

Q.2. How many men or guards sleep in your room?
A.2 There are ten men sleeping in one room.

Cross examined by the court.
Q.1 Gnr. Champagne will you examine this Tommy gun. Is that your Tommy gun?
A.1 Yes.

Q.2 Was it loaded or unloaded when you put it on your bed?
A.2 The magazine was on. It was on safety and single rounds. It was NOT cocked.

Q.3 What position was it on the bed?
A.3 The muzzle of the Tommy gun was pointing to the wall. The accused demonstrates - The bed was in the corner of the room the muzzle of the Tommy gun pointing into the same corner.

Q.4 Where there bullets in the mag?
A.4 Yes. The magazine was loaded.

Cross-examined by the accused.

Q.1 Was there anybody else knew that the Tommy gun was placed in the position that you demonstrated?
A.1 Yes. Many of the boys saw me every morning putting my Tommy gun under the first blanket on my bed.

Third Witness for the prosecution:
M106999 Pte Rogers G.J. PPCLI having been duly sworn states:
I recognize the accused. I am employed as a guard at the P.P. Camp. On the afternoon of 23 Mar I received Pte Demers from Sgt Matthews to clean our billet for approximately the first hour he shined boots in my billets. He started to sweep the room on the opposite side from the door. I told him to go to the other end of the room and sweep it and I told him to move the kits but not the beds. I then left the room to to to my room. Upon returning I heard a shot when I was approx. 10 paces from the door. I stopped and then continued on to the door where I met Pte Demers holding his foot. He said he had been shot and I asked him how it happened. He said a rifle had fallen and shot him while he was sweeping behind the rifle. I then went to get Private Green to watch him

for the M.P. returned with Capt. Harvey and Sgt. Pugh. While they were giving Pte Dermer I went.

while I went to look at the gun. I found it on the floor half ways under the bed with the muzzle pointing towards the wall. Seeing it was cocked I picked it up took the magazine off and eased the action forward. I then laid it on the bed.

Cross examined by the Defence.

Q.1 When did you leave the accused? in the room?
A.1 When I told him to sweep from the other end of the room.

Q.2 For how long did you leave him?
A.2 Anywhere from one half minute to a minute. I wouldn't be quite sure on that .

Cross examination by the court.

Q.1 Will you describe the gun.
A.1 It was a Tommy gun and it was cocked with a magazine on it.

Q.2 Did you see a Tommy gun on the bed when you went out?
A.2 No.

Q.3 Was the bed disarranged when you came back.
A.3 I did not notice.

The witness demonstrates the position of the Tommy gun and states: "There was blood on the floor one foot from the butt of the Tommy gun."

Q.4 Did you notice any damage to thewalls or floor and did you find any bullet?
A.4 I just found the spent case and no mark on the wall or floor.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. ~~yes~~ no.

Question. Do you intend to call any other witness in your defence?

Answer. ~~yes~~ No

Question. Is he a witness as to character only? *Answer.* n/a

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* **Instructions to the Court above**.)

D 2

C51551 Pte Demers C

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

The accused C51551 Pte Demers C having been warned in accordance with R.P. 40 elects to give evidence on oath.

The accused C51551 Pte Clement Demers having been duly sworn states:

" On 23 Mar 1944 I was detailed towork in the billet where the guards sleep. I cleaned several pairs of boots and asked my guard Pte Rogers if that was all. ~~Xxx~~ He answered that I also has to mop up and wash the floor of the room. I started sweeping from the near left hand side corner as you come in, but the guard told me to go and start from the corner opposite the door, which I did. I started sweeping and noticed a T.S.M.G. which was leaning on the wall, butt down. I swept around it but must have misplaced it with my broom as it fell to the floor between my two feet and a shot went. At first I didn't realize what had happened and then felt a pain [illegible] left foot. I then noticed I was wounded. I ran to the door with a view to notifying the guard. As I approached the door the guard was arriving and I told him that I had just been wounded. The accused demonstrates the position of the T.S.M.G. showing it to be eighteen inches from the bed with butt, on the floor and the muzzle resting against the wall. The defending officer demonstrates the position that the accused was standing in and shows how the Tommy gun was knocked over. The accused had his left foot approx the length of the Tommy gun from the wall.
The prosecuting officer declines to cross examine the accused.
Cross Examination by the court.

Ques. Did you recognize this boot (Exhibit A) as the boot you were wearing at the time you were wounded.
Ans.1 Yes.

Que 2 Where did the bullet enter & come out of the boot
Ans 2 It entered in the hole on the right hand side of the boot and came out of the hole on the left hand side.

Que 3 In evidence of Capt Harry he states - quote - "I questioned the accused, he told me that he had been sweeping by a bed when a T.S.M.G. had fallen off the bed discharged and shot him through the foot." Did you tell Capt Harry this?
Ans 3 It is possible that I told him this because I was suffering from pain and could not express myself well in English.

Que 4 Was there any one else in the room at the time this happened
Ans 4 No one else.

Que 5 Can you suggest how it is possible for a shot to go through the boot in that ~~xxx~~ manner if you were standing as you say.
Ans 5 No.

Court adjourned for lunch at 1200 hrs - 1330 hrs

Expert Witness called by the court, Capt C.E. Campbell RCAMC having been duly sworn states -:

Ques by the court
1 Is it possible from your observation of the wound in Pte Demers foot to tell the angle of impact and the course the bullet took through his foot.
Ans 1 The wound of entry was over the medial side of the foot approx three inches above the sole just in front of the ankle. The wound track went forward laterally and downwards and the wound of exit was over the "caboid bone" near the sole of the foot.

(Cont)

Summing up address by the prosecuting officer :

"The Evidence has shown that the T.S.M.C. was placed on a bed by Gnr Chassagne also that Pte Rogers did not notice a T.S.M.C. on the floor as stated by the accused. Therefore the accused deliberately picked the weapon from the bed and shot himself in the left foot. The path followed by the bullet cannot be explained by the accused nor is it feasable if as the accused has stated it was fired when the weapon fell to the floor.

Summing up address by the defending officer:

If Pte Rogers had remained with the accused, Rogers would have seen that the whole thing was an accident. Rogers should have remained in the room and he would have seen the accident happen.

Prosecuting officer objects on the grounds that the accused is not qualified to say whether or not Rogers supposed to stay

Court. objection sustained.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Guilty of first charge

Not guilty of second charge, Finding of Not Guilty on second charge announced in open Court.

Court orders Exhibits A & B returned to Prosecuting Officer.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Lt. J.A. Girolami R22 R. is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes. I.F.M 6 and AFB 266

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked G signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* No, but I recognize the signature on the statement as being that of Major JF Trudeau

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. I dont know.

[Instructions.—If by reason of the nature of the service of the accused in a separate unit or district, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and ground of the exceptional punishment.]

Cross-examined by the accused.

The accused declines to cross examine.

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused *Sentence.*

Eighteen months imprisonment with hard labour.

GGG-87
PTE DEMERS C.

Entered in Records of C.M. 666-89

A.2.

E-17

Army Form A.3.

FORM FOR ASSEMBLY AND PROCEEDINGS OF FIELD GENERAL COURT MARTIAL ON ACTIVE SERVICE

Certified true copy of original proceedings herein. 26 Mar 45
J.A.G. Branch

P R O C E E D I N G S

A. Order convening the Court

ON ACTIVE SERVICE, this Fifteenth day of February, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the person named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

I hereby convene a Field General Court Martial to try the said person and to consist of the Officers appointed or detailed hereunder.

"Proceedings Reviewed
"R. Dean Wills Capt."
11 Apr 44
Reviewing Officer, JAG BRANCH, CMHQ."

	PRESIDENT	
RANK.	NAME.	REGIMENT.
Major	F. Trudeau	R 22e R
	MEMBERS.	
RANK.	NAME.	REGIMENT.
Captain	C E Petepiece	Carlt & York R
Captain	J M Bursey	Carlt & York R
Waiting Captain	W H P David	West NSR

Signed "T. G. Gibson" Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

E17

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C51551 Pte (A/L/Cpl) Clement DEMERS, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty	Confirmed.
	Second Charge Sec 15(1) AA	Guilty	Guilty	Confirmed
			2 years imprisonment with hard labour	"T. G. Gibson" Brigadier.

Question to be asked of accused, if he pleads not guilty (R. of P.39(A)):-

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):-

(Signed) "T. G. Gibson" Brigadier (Signed) "Fernand Trudeau" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Fd Gen Court-Martial held at In the Fd

on the 17 day of Feb 1944 by order of

Brigadier T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 15 day of Feb 1944

President.

Major F. Trudeau R 22e R

Members

Capt C. E. Petepiere C.Y.H.

Capt J. H. Bursey, C.Y.H.

Judge Advocate

Trial of* C51551 A/L/Cpl Demers, Clement.
Royal 22e Regt.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that "P.T." is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor† Lt J.A. Girolami Royal 22e Regt

Counsel‡ or defending officer† Lt J. Leclerc. Royal 22e Regt.

At 1000o clock the Trial commences.

The order convening the Court is read, and is marked A2 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Questions by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. No.

"Fernand Trudeau"
Major.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

E17

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C51551 Pte (A/L/Cpl) Clement DEMERS, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty	Confirmed.
	Second Charge Sec 15(1) AA	Guilty	Guilty 2 years imprisonment with hard labour	Confirmed "T. G. Gibson" Brigadier.

Question to be asked of accused, if he pleads not guilty (R. of P.39(A)):-

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):-

(Signed) "T. G. Gibson" Brigadier (Signed) "Fernand Trudeau" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Entered in Records of C.M. 666-89 A.2.

E-17

Army Form A.3.

FORM FOR ASSEMBLY AND PROCEEDINGS OF FIELD GENERAL COURT MARTIAL ON ACTIVE SERVICE

Certified true copy of original proceedings herein. 26 Mar 45 J.A.G. Branch

P R O C E E D I N G S A. Order convening the Court

ON ACTIVE SERVICE, this Fifteenth day of February, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the person named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

I hereby convene a Field General Court Martial to try the said person and to consist of the Officers appointed or detailed hereunder.

"Proceedings Reviewed
"R. Dean Wills Capt."
11 Apr 44
Reviewing Officer, JAG BRANCH, CMHQ."

PRESIDENT

RANK.	NAME.	REGIMENT.
Major	F. Tendeau	R 22e R

MEMBERS.

RANK.	NAME.	REGIMENT.
Captain	C E Petepiece	Carlt & York R
Captain	J M Bursey	Carlt & York R
Captain	W H P David	West NSR

Waiting

Signed "T. G. Gibson" Brigadier
Commanding 3 Cdn Inf Bde
Convening Officer.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Fd Gen Court-Martial held at In the Fd on the 17 day of Feb 1944 by order of

Brigadier T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 15 day of Feb 1944

President.

Major F. Trudeau R 22e R

Members

Capt C. E. Petepiere C.Y.H.

Capt J. H. Bursey, C.Y.H.

Judge Advocate.

Trial of* C51551 A/L/Cpl Demers, Clement. Royal 22e Regt.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court

The Court satisfy themselves that "F.T." is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court

Prosecutor,† Lt J.A. Girolami Royal 22e Regt

Counsel‡ or defending officer† Lt J. Leclerc. Royal 22e Regt.

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked A2 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

"Fernand Trudeau" Major.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members ~~and judge-advocate~~ are duly sworn

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The medical Officer's certificate is signed by the President, marked B.3 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read ? *Question to the accused.*

Guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Guilty. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ? *Question.*

Answer.

The accused having pleaded Guilty to both charges the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"Fernand Trudeau" Major.

The accused elected trial by Court-Martial

CHARGE SHEET

The accused C.51551 Pte (A/L/Cpl) Clement DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF On Active Service is charged with:- B.2 "F.T."

1st Charge
A.A.Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on the 13th December, 1943. absented himself without leave at about 1800 hours, until he surrendered himself to the Military Police at Bari about 1500 hours on the 5th Jan 1944.

Total absence: 22 days, 21 hours.

2nd Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on the 11th January 1944 absented himself while in arrest at 0800 hours until he was apprehended by Military Police at Cassalbordino at 1400 hours on 21st January 1944.

Total absence 10 days 6 hrs.

"J. V. Allard"
(J. V. Allard) Lt-Col.
Commanding Royal 22e Regiment.

In the Field 29th Jan 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
11 Feb 44

"T. G. Gibson"
(T. G. Gibson) Brigadier
Commanding 3 Cdn Inf Bde.

S C.

"Fernand Trudeau"
Major.

MEDICAL OFFICERS CERTIFICATE B.3

I certify that I have this morning examined No. C.51551, Rank - L/Cpl, Name - Demers C. of Royal 22e Regt and in my opinion he is fit to undergo Trial by Court Martial.

Station...In the Field

Date..... 17 Fev. 1944

"John E. McGovern" Major
Medical Officer.

"Fernand Trudeau"
Major.

CC

Proceedings on Plea of Guilty.

* To be struck out in case the plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" F.T. read to him again.]

The accused C.51551 A/L/Cpl Deners, C.
is found guilty of Absence Without Leave (AA Sec 15(1)).

†The summary ~~(or abstract)~~ of evidence is read, marked 3C signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:— No.

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

M.A.

"Fernand Trudeau"
Major.

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No.

Answer.

Evidence as to character.

"Fernand Trudeau" Major.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

F.T.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~

Lt. J. A. Girolami is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E.2 & E.3, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Cross-examined by the accused. No.

[Instruction.—If by reason of the nature of the service of the accused in a departmental force, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire with the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

"Fernand Trudeau" Major.

F

Sentence.

~~The Court sentence the accused C.51551 A/L/Cpl Demers, C., Sentenced~~
Royal 22e Regt to 3 yrs Penal Servitude.

F.T

"Fernand Trudeau" Major
"J. M. Bursey" Capt
~~"C.E.Petepiere" Capt.~~

SENTENCE

The court sentence the accused, C.51551 A/L/Cpl Demers C.
Royal 22e Regiment to 2 years imprisonnement with hard labour.

"Fernand Trudeau" Major.

D. Coy. Ref 4/21/G

Certificate of apprehension under A.A. Sec; 105.(1)(JJ).

I certify that No E51551 L/Cpl DEMERS. C. Royal 22nd Regt(Can) was arrested at CASALBORDINO on 21st Jan 44. at about 1400 hrs.

"??????????" Capt.
O.C. 49 Coy; C.M.P.
(Officer into whose custody the above named person was taken on arrest.)

Field.
21 Jan. 44

"B".

INLIEU OF A.F.B252 Ref. 1/1/6

CHARGE

Royal Rand (Canadian) Regiment

Company.

Charge against No. E51551 Rank L/Cpl

Name DEMERS. C.

Place Field. Date of Offence 21 Jan 44.

Offence W.O.A.S.

Absent from his unit from until apprehended by Military Police at CASALBORDINO at about 1400 hrs on 21 44.

Names of Witnesses : 6024002 L/Cpl Butcher C.M.Police
4395707 L/Cpl Gatenby C.M.Police

Signature of O.C. Company

Punishment Awarded

By whom Awarded

Adjutant

Statement of evidence in the case of

No 051551 L/Cpl Demers G.
"B" Coy, [redacted] Royal 22nd Regt (Can)

Sir,

At CASALBORDINO on the 21st Jan.44. at about 1400 hrs I was on duty, in the company of L/Cpl Gatenby, C.M.Police, on the CASALBORDINO = VASTO Rd, when I saw the a/m N.C.O. in company with No B5726 Pte Gagne.R. of the same unit, in a hut.

I asked the a/m N.C.O. if he had any means of identification and he produced his MB I. I asked him if he had permission to be absent from his unit and he admitted he was an absentee.

I arrested him and conducted him to my Section HQ, where he was handed over to the N.C.O. i/c Detachment to be detained.

Field.
21 Jan. 44.

6024002 W. T. Butcher. L/Cpl
C.M.Police.

I have read over and corroborate the above statement.

Field.
21 Jan.44.

4393707 G. Gatenby L/Cpl
C.M.Police.

Forward
Trudeau

COPY. "???"

CHARGE

Army Form B 252
(See King's Regulations)

ROYAL CANADIAN ARMY. 22nd. Regiment

'D' Battery / Squadron / Troop or Company

CHARGE against No. C.51551. Rank L/C.

Name DEMERS, C.

Place Date of Offence

OFFENCE M.O.A.B. Absent from ? until surrendering himself to the Military Police at C.M.POLICE H.Q., BARI at about 1500 hrs. on the 5th. Jan. 44.

"A".

Names of Witnesses:—

CPL. BILLUPS. C.M.POLICE.

L/C. McKAY. C.M.POLICE.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

"??????????" Capt.

D.A.P.M. 6 BASE SUB. AREA.

COPY.

CERTIFICATE OF SURRENDER UNDER A.A. 163 (1) (j).

I, Capt. G. F. Hunt, Certify that No. C81551 Rank L/C. Name DEMERS, C. Unit 22nd. REGT. ROYAL CANADIAN ARMY surrendered himself to No. 2120710 Rank. CPL. Name BILLUPS. Unit C.M.POLICE at BARI at about 1500 hrs. on the 5th day of JAN. 1944, as a deserter (absentee without leave). He was dressed in Uniform.

"A"

5th. JAN. 1944.

"G. F. Hunt" Captain.
Officer Commanding.
230 L of C Provost Company.
Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made.

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

C.81551 Private (A/L/C) Clement DEMERS, Royal 22e Regt.

FOR THE PROSECUTION

D51078 A/CSM Drapeau L.R.

E.4591 P/Sgt. Despres R.O.

E.4286 L/Cpl Mercier P.

Capt. J. B. Rousseau

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

Exhibit "A" A.F.B. 252 - Signed by Capt. L. P. Hunt, O.C. 230 L of C Provost Coy.

Exhibit "B" Certificate signed by 6024002 L/C Butcher M.T. 4393707 L/C Gatenby G. of the C.M.P.

I hereby acknowledge the receipt of a true copy of the Summary of Evidence taken prior to my trial by F.G.C.M. I, furthermore acknowledge receipt of a true copy of a Charge Sheet upon which I am being brought into Court-Martial.

I desire the services of an Officer to represent me at my trial.

I desire the services of Lieut. M. Coutre, R. 22e R, if he is available.

"C. Demers" Pte.

In the Field
29th Jan 1944

Lieut. M. Courte being evacuated
Lt. J. Leclerc had to replaced him.

"Fernand Trudeau" Major.

"Fernand Trudeau"
Major.

SUMMARY OF EVIDENCE

In the case of C.51551 Private (A/L/C) Clement DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.M.F. On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution — D.51078 a/C.S.M. Drapeau L.R. "B" Coy. Royal 22e Regiment, having been duly sworn states:-

"I am D.51078 a/C.S.M. Drapeau L.R. of R.22e.R. posted to "B" Coy. On the 13th December, 1943, at about 1800 hrs, after the company had been shelled, I made a roll call to ascertain casualties and found that C.51551 Pte (A/L/Cpl) Demers C. was absent and I did not see him again until he was brought back.

The accused declines to cross-examine the witness.

"L.R.Drapeau" CSM.

2nd Witness For Prosecution — E.4591 P/Sgt. Despres R.O. Provost Section, Royal 22e Regiment, having been duly sworn states:-

"I am E.4591 P/Sgt Despres R.O. of R.22e.R. and posted to Provost Section. At 0800 hours on the 11th January 1944 I made a roll call of personnel in detention and found that C.51551 Pte (A/L/Cpl) Demers C. was absent.

The accused declines to cross-examine the witness.

"Despres, R.O." P/Sgt.

3rd Witness For Prosecution — E.4286 L/Cpl Mercier P. Provost Section, Royal 22e Regiment, having been duly sworn states:-

" I am E.4286 L/C Mercier P. of R.22e.R. posted to Provost Section. As assistant to E.4591 P/Sgt Despres R.O., I was present when he made a roll call of personnel in detention and found that C.51551 Pte (A/L/Cpl) Demers C. was absent.

The accused declines to cross-examine the witness.

"Mercier P." L/Cpl.

4th Witness For Prosecution — Capt. J. B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

" I, Captain J. B. Rousseau, of Royal 22e Regiment posted as Adjutant, hereby produce certificates of apprehension in the case of C.51551 Pte (A/L/Cpl) Demers C. whom I now recognize. These certificates are marked Exhibits "A" and "B" and signed by 6024002 L/Cpl Butcher H.T., 4393707 L/Cpl Gatenby G. and O.C. 49 Coy. C.M.P., respectively of the Military Police.

"J.B.Rousseau" Capt.

In the Field.

"Fernand Trudeau"
Major.

In the case of C.51551 Private (A/L/Cpl) Clement DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF. On Active Service.

In view of the loss of time and expenses involved, it is not necessary, in my opinion, to have the presence of L/Cpl Butcher, L/Cpl Gatenby G. and the O.C. 49 Coy. CMP, in the mking of this Summary of Evidence.

"J.A.Girolami" Lieut.

The accused does not request the presence of L/Cpl Butcher M.T., L/Cpl Gatenby G., and O.C. 49 Coy CMP.

"C. Demers" Pte.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages has been taken down by me in the presence and hearing of the accused and that rules of procedure 4(c), (d), (e), (f) and (g) were duly complied with.

"J. A. Girolami" Lieut.
Officer taking Summary.

In the Field
29th Jan 1944.

"Fernand Trudeau" Major.

Sheet destroyed 19 Dec 42.

No C51551 Name Demers C. | Sqn, Battery, or Company D | Corps R 22 R | Date of enlistment 3 May 40 | GC Badges | E-2. Service or Proficiency Pay | MFM 6 (AFB 122) 49/P&S/136 (3438)

Date of last entry in Company Conduct Sheet nil | No and date of last drunk | Period not reckoning towards freedom from extra fine nil | Sheet No 1. | for Signature OC Company, etc M. Coutre Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28 Apr 41	Pte.		A.W.L. from 0700 hrs 28-4-41 till 0600 hrs 14-5-41 Total 15 days 23 hrs A.A. Sec 15(1)	R.S.M. Crawford	14-5-41			Forfeit 16 days pay.

"Fernand Trudeau"
Major

Certified true copy January 31st 1944" M. C??????? Lieut.
"J.R.Rousseau, Capt & Adjt.

(PTO)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment
C.51551	Pte.(A/L/Cpl)	Demers, C.	Royal 22e Regiment.

The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court and of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within Last 12 months		Since Enlistment	
For	A.W.L. AA Sec 15(1)	Times	One (1)	Times

etc
etc
etc.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or,

Previous convictions of the accused by a court martial or a civil court and of summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

The accused is not under sentence at the present time, or

The accused at the present time is under sentence for

n/a beginning on the day of

The accused has been in confinement awaiting trial on the present charges for nil days in civil custody and 5 days in military custody making a total of 5 days of which nil days were spent in hospital.

The present age of the accused according to his record of service is 27 years.

The date of his attestation specified in his record of service is 3 May 1940.

The service which the accused is allowed to reckon towards discharge or transfer to the service is N/A.

The accused is entitled to deferred pay or gratuity in respect of N/A service.

The accused is entitled to reckon n/a service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to no military decoration or military award (or is in possession of or entitled to (state any military decoration or award).

11. (If the accused is a warrant officer, The accused before he was made a warrant officer last held the regimental rank of.....

12. (In the case of an officer) The accused holds in the army the rank of n/a dated n/a and in his regiment (or corps or department) the rank of dated

29 Jan 1944. "Fernand Trudeau" Major "J. R. Rousseau" Capt. Adj.

I certify that the above Court assembled on the 17th day of February 1944, and duly tried the person named in the Schedule and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. B.

I also certify that:-

1. The members of the Court.

2. The witnesses.

were duly sworn.

Signed this 17th day of February 1944.

"Fernand Trudeau, Major"
President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. D

Signed this 22 day of Feb 1944.

"T. G. Gibson" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of C.51551 Pte. (A/L/Cpl) Demers, C. (R.22eR). Dated 28 Feb 44. Signed "J.A.Girolami" Lieut. R. 22e R.

CERTIFIED TRUE COPY Spare copy A 2

R. Cordeau CAPT
(R. CORDEAU.)
RECORDED AT CMHQ IN AB 160

GGG-89.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Fifteenth day of February, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the person~~s~~ named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[illegible]~~ "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said person~~s~~ and to consist of the Officers appointed or detailed hereunder.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~ "TGG"

~~[illegible]~~

*Omit if not applicable.

(2)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c. of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F. Trudeau	R 22e R

Members.

Rank.	Name.	Regiment.
Captain	C.E. Petepiece	Carlt & York R
Captain	J.M. Bursey	Carlt & York R
Captain	W.H.P. David	West NSR

Waiting

*Must be signed personally by the Officer actually in command at the time and all alterations in the composition of the Court to be initialed by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C51551 Pte(A/L/Cpl) Clement DEMERS, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty	Confirmed
	Second Charge Sec 15(1) AA	Guilty	Guilty 2 years imprisonment with hard labour	Confirmed "T.G. Gibson" Brig. "FT"

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) "T.G. Gibson" Brigadier (Signed) "Fernand Trudeau," Major.
Commanding 3 Cdn Inf Bde President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of February, 1944, and duly tried the person named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~3. The Interpreter~~ "FT"
~~4. The officers under instruction~~

were duly sworn.

Signed this 17th day of February 1944

"Fernand Trudeau, Major"
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 765 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has or authority to commit to prison or detention barrack, or having such authority recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

"TGG"

Signed this 22 day of Feb 19 44.

"T.G. Gibson Brig."
Confirming Officer.

Promulgated and extracts taken in the case of C51551 Pte(A/L/Cpl) Demers, C R 22e R

(a) (Dated) 28 Feb 44 (Signed) "J.A. Girolami, Lieut" R 22e R

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

The accused elected trial by Court-Martial

CHARGE SHEET

The accused C.51551 Pte (A/L/C) Clement DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF On Active Service is charged with:-

1st Charge
A.A.Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

B 2.

in that he,

In the Field, on the 13th December 1943. absented himself without Leave at about 1800 hours, until he surrenedered himself to the Military Police at Bari about 1500 hours on the 5th Jan 1944.

Total absence: 22 days, 21 hours.

2nd Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, on the 11th January 1944 absented himself while in arrest at 0800 hours until he was apprehended by Military Police at Cassalbordino at 1400 hours on 21st January 1944.

Total absence: 10 days, 6 hrs.

"Jeanallard"
(J.V. Allard) Lt.-Col.
Commanding Royal 22e Regiment.

In the Field
29th Jan 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
11 Jan 44

"J.G. Gibson"
(JG Gibson) Brigadier
Commanding 3 Can Inf Bde.

"Fernand Trudeau"
Major.

3 C.

MEDICAL OFFICERS CERTIFICATE B 2

I certify that I have this morning examined No c.51551 Rank L/Cpl Name DEMERS, C. of Royal 22e Regt and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

Station IN THE FIELD

Date 17 Feb 1944

"John E. Mc Gouern, Major"
Medical Officer.

"Fernand Trudeau, Major"

Army Form A 9.

A

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Fd Gen Court-Martial held at In the Field on the 17 day of Feb 1944 by order of Brig. T.G. Gibson

Commanding 3 Cdn Inf Bde.

dated the 15 day of Feb 1944

President.

Major F. Trudeau R 22e R

Members.

Capt. C.E. Petepiece C.Y.R.

Capt. J.M. Bursey C.Y.R.

, ~~Judge Advocate~~

Trial of* C.51551 A/L/Cpl Demers, Clement.
Royal 22e Regt.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that ~~is not available to serve owing to~~ ~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. J.A. Girolami, Royal 22e Regt.

Counsel‡ or defending officer† Lt. J. Teclerc Royal 22e Regt.

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked A 2 signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"Fernand Trudeau
Major"

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible]

B

The President, members ~~and judge advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 77 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The medical Officer's certificate is signed by the President marked B 3 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to both charges the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"Fernand Trudeau Major"

CC

Proceedings on Plea of Guilty.

* To be struck out if case on plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" is read to him again.]

The accused C.51551 A/L/Cpl Demers, C.
is found guilty of Absent without leave (A.A. Sec 15 (1))

3 C

†The summary (~~or abstract~~) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says :— No

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

N/A

"Fernand Trudeau Maj."

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No

Answer.

Evidence as to character

"Fernand Trudeau Major"

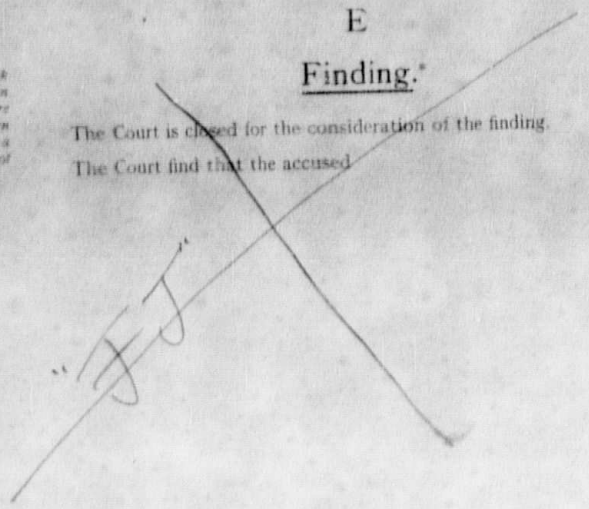
E

Finding.*

*To be struck out except on cases where trial has taken place on a plea of "Not Guilty"

The Court is closed for the consideration of the finding.

The Court find that the accused



Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, etc.

~~*The Court being re-opened the accused is again brought before it.~~

Lt. J.A. Girolami is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E 2 & E 3 signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused. No

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

(3)

"Fernand Trudeau Major"

F

Sentence.

~~The Court sentence the accused C.51551 A/L/Cpl Demers G.~~ Sentence
Royal 22e Regt to 3 yrs penal Servitude
"
"Fernand Trudeau Major"
"J.M. Bursey Capt"
~~"G.B. Petepiece Capt"~~

SENTENCE

The court sentence the accused C.51551 A/L/Cpl Demers G.
Royal 22e Regiment to 2 years Imprisonment with hard
labour

"Fernand Trudeau Major"

E 3

M.F.B. 385
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C.51551	Pte(A/L/Cpl)	Demers C.	Royal 22e Regiment

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For AWL AA Sec 15 (1)	~~times~~	One (1) times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military / Air Force custody, making a total of 5 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 27 years

6. The date of his commission specified in his record of service is / attestation paper is / attestation paper 3 May 1940

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force / military decoration, or air force / military reward (or is in possession of or entitled to). State any air force / military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number..... Rank..... Unit Regiment

Name..... of.....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29 day of Jan 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

"Fernand Trudeau Major"

"J.B. Rousseau Capt Adjt"

E 2

M.F.M. 6 (A.F. B.122) 40/P & /8196 (2955)

Sheet destroyed 19 Dec 42

No. C51551 Name Demers C. | Sqn., Battery, or Company D | Corps R22R | Date of enlistment 3 May 40 | C.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Nil | No. and date of last drunk | Period not reckoning towards freedom from extra fine Nil | Sheet No. One for | Signature O.C. Company, etc. M Coutu Lieut | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28 Apr 41	Pte		AWL from 0700 hrs 28-4-41 till 0600 hrs 14-5-41 Total 15 days 23 hrs AA Sec 15(1)	RSM Crawford	14 days Detention	14-5-41		Forfeit 16 days Pay

"Fernand Trudeau Major"

Certified true copy January 31st 1944 "M. Coutu Lieut"

J R Rousseau Capt & Adjt

(P.T.O.)

SUMMARY OF EVIDENCE

In the case of C.51551 Private A/L/Cpl Clement DEMERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.M.F. On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution

D.51078 a/C.S.M. Drapeau L.R. "B" Coy. Royal 22e Regiment, having been duly sworn states:-

" I am D.51078 a/C.S.M. Drapeau L.R. of R.22e.R posted to "B" Coy. on the 13th December 1943, at about 1800 hrs after the company had been shelled, I made a roll call to ascertain casualties and found that C.51551 Pte (A/L/Cpl) Demers, C. was absent and I did not see him again until he was brought back.

The accused declines to cross-examine the witness.

"L.R. Drapeau." CSM

2nd Witness For Prosecution

E.4591 P/Sgt Despres R.O. Provost Section, Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 P/Sgt Despres R.O. of R.22e.R. and posted to Provost Section. At 0800 hours on the 11th January 1944 I made a roll call of personnel in detention and found that C.51551 Pte (A/L/Cpl) Demers C. was absent.

The accused declines to cross-examine the witness.

"Despres, R.O." P/Sgt.

3rd Witness For Prosecution

E.4286 L/Cpl Mercier P. Provost Section, Royal 22e Regiment, having been duly sworn states:-

" I am E.4286 L/C Mercier P. of R.22e.R. posted to Provost Section. As assistant to E.4591 P/Sgt Despres R.O., I was present when he made a roll call of personnel in detention and found that C.51551 Pte (A/L/Cpl) Demers C. was absent.

The accused declines to cross-examine the witness.

"Mercier, P." L/Cpl.

4th Witness For Prosecution

Capt J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

" I, Captain J.B. Rousseau, of Royal 22e Regiment posted as Adjutant, hereby produce certificates of apprehension in the case of C.51551 Pte (A/L/Cpl) Demers C. whom I now recognize. These certificates are marked Exhibits "A" and "B" and signed by 6024702 L/Cpl Butcher M.T., 4393707 L/Cpl Gatenby G. and C.C. 49 Coy. C.M.P., respectively of the Military Police.

"J.B. Rousseau" Capt.

"Fernand Trudeau, Maj."

In the Field

In the case of C.51551 Private (A/L/C Clement DEMERS, a soldier of the Royal 22e Regiment, Canaddan Army Overseas, CMP. On Active Service.

In view of the loss of time and expenses involved, it is not necessary, in my opinion, to have the presence of L/Cpl Butcher, L/Cpl Gatenby G. and the O.C. 49 Coy. CMP, in the taking of this Summary of Evidence.

"J.A. Girolami" Lieut

The accused does not request the presence of L/Cpl Butcher M.T., L/Cpl Gatenby G., and O.C. 49 Coy CMP.

"C. Demers" Pte

The accused having been d ly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages has been taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

"J.A. Girolami, Lieut"
Officer taking Summary

In the Field
29th Jan 1944

"Fernand Trudeau Maj."

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

C.51551 Private (A/L/C Clement DEMERS, Royal 22e R egt.

FOR THE PROSECUTION	D.51078	A/CSM Drapeau	L.R.
	E.4591	P/Sgt Despres	R.O.
	E.4286	L/Cpl Mercier	P.
	Capt.	J.B. Rousseau	
FOR THE DEFENCE	NIL		

LIST OF EXHIBITS

Exhibits "A"	A.F.B. 252 -	Signed by Capt. L.F. Hunt, O.C. 230 L of C Provost Coy.
Exhibits "B"	Certificate	signed by 6024002 L/C Butcher M.T. 439707 L/C Gatenby G. of the C.M.P.

I hereby acknowledge the receipt of a true copy of the Summary of Evidence taken prior to my trial by F.G.C.M. I, furthermore acknowledge receipt of a true copy of a Charge Sheet upon which I am being brought into Court-Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of Lieut M. Coutu, R.22e.R.

if he is available.

"C. Demers" Pte

In the Field
29th Jan 1944

"Fernand Trudeau Maj."

Lieut M. Coutu being evacuated Lt. J Leclerc had to replace him.

"Fernand Trudeau Major"

COPY.

CERTIFICATE OF SURRENDER UNDER A.A. 163 (1) (1)

I, Capt. G.F. Hunt certify that No. C51551 Rank L/C. Name DEMERS, C. Unit 22nd. Regt Royal surrendered himself to No. 2120710 Rank Cpl. Canadian Army Name Billups. Unit C.M. Police at Bari at about 1500 hrs. on the 5th day of Jan 1944 as a deserter (absentee without leave). He was dressed in Uniform. ~~Civilian Clothes~~.

"A"

5th Jan 1944

"G.F. Hunt" Captain.
Officer Commanding
230 L of C Provost Company
Commanding Officer of the person or portion of His Majesty's Force to whom surrender was made.

IN LIEU OF A.F. B252 Ref 6/21/G

CHARGE

Royal 22nd (Canadian) Regiment

"B" Company

Charge against No. E51551 Rank L/Cpl

Name DEMERS. C.

Place Field Date of Offence 21 Jan 44

Offence W.O.A.S.

Absent from his unit from ?
until apprehended by Military
Police at CASALBORDING at about
1400 hrs on 21 44

Names of Witnesses 6024002 L/Cpl Butcher C.M. Police
4393707 L/Cpl Gatenby C.M. Police

Signature of O.C. Company

Punishment awarded

By whom Awarded

Adjutant

Statement of evidence in the case of

No C51551 L/Cpl Demers G.
"B" Coy Royal 22nd Regt (Can)

Sir,

At CASALBORDINO on the 21st Jan 44 at about 1400 hrs I was on duty, in the company of L/Cpl Gatenby, C.M. Police, on the CASALBORDINO VASTO Rd, when I saw the a/m N.C.O. in company with No E5726 Ste Gagne.R. of the same unit, in a hut.

I asked the a/m N.C.O. if he had any means of identification and he produced his MB 1. I asked him if he had permission to be absent from his unit and he admitted he was an absentee.

I arrested him conducted him to my Section HQ, where he was handed over to the N.C.O. i/c Detachment to be detained.

Field
21 Jan 44

6024002K H.T. Butcher L/Cpl.
C.M. Police.

I have read over and corroborated the above statement.

Field
21 Jan 44

4393707 G. Gatenby L/Cpl
C.M. Police.

Statemant of evidence in the case of

No C51551 L/Cpl Demers G.
"B" Coy Royal 22nd Regt (Can)

Sir,

At CASALBORDINO on then21st Jan 44 at about 1400 hrs I was on duty, in the company of L/Cpl Gatenby, C.M. Police, on the CASALBORDINO VASTO Rd, when I saw the a/m N.C.O. in company with No E5726 Pte Gagne.R. of the same unit, in a hut.

I asked the a/m N.C.O. if he had any means of identification and he produced his MB 1. I asked him if he had permission to be absent from his unit and he admitted he was an absentee.

I arrested him conducted him to my Section HQ, where he was handed over to the N.C.O. i/c Detachment to be detained.

Field
21 Jan 44

6024002X H.T. Butcher L/Cpl.
C.M. Police.

I have read over and corroborated the above statement.

Field
21 Jan 44

4393707 G. Gatenby L/Cpl
C.M. Police.

. . .

INLIEU OF A.F. 1252 Ref 6/21/0

CHARGE

Royal 22nd (Canadian) Regiment

"HQ" Company

Charge against No. E51751 Rank L/Cpl

Name DEMERS. C.

Place Field Date of Offence 21 Jan 44

Offence W.O.A.S.

Absent from his unit from ?
until apprehended by Military
Police at CASALBORDING at about
1400 hrs on 21 44

Names of Witnesses 6024002 L/Cpl Butcher C.M. Police
4393707 L/Cpl Gatenby C.M. Police

Signature of O.C. Company

Punishment awarded

By whom Awarded

Adjutant

IN LIEU OF A.F. B252

Ref 6/21/C

CHARGE

Royal 22nd (Canadian) Regiment

"B" Company

Charge against No. B51551 Rank L/Cpl

Name DEMERS, C.

Place Field Date of Offence 21 Jan 44

Offence W.O.A.S.

Absent from his unit from ?
until apprehended by Military
Police at CASALBORDINO at about
1400 hrs on 21 44

Names of Witnesses 6024002 L/Cpl Butcher C.M. Police
4393707 L/Cpl Catenby C.M. Police

Signature of O.C. Company

Punishment awarded

By whom Awarded

Adjutant

Statement of evidence in the case of

No C51551 L/Cpl Demers G.
"B" Coy Royal 22nd Regt (Can)

Sir,

At CASALBORDINO on the 21st Jan 44 at about 1400 hrs I was on duty, in the company of L/Cpl Gatenby, C.M. Police, on the CASALBORDINO VASTO Rd, when I saw the a/m N.C.O. in company with No E5726 Pte Gagne.R. of the same unit, in a hut.

I asked the a/m N.C.O. if he had any means of identification and he produced his MB 1. I asked him if he had permission to be absent from his unit and he admitted he was an absentee.

I arrested him conducted him to my Section HQ, where he was handed over to the N.C.O. i/c Detachment to be detained.

Field
21 Jan 44

6024032K R.T. Butcher L/Cpl.
C.M. Police.

I have read over and corroborated the above statement.

Field
21 Jan 44

4393707 G. Gatenby L/Cpl
C.M. Police.

CHARGE

COPY. "JER"

Army Form B 252
(See King's Regulations)

ROYAL CANADIAN ARMY. 22nd. Regiment
Battery
Squadron
Troop or
Company

'D'

CHARGE against No. C 51551. Rank L/C.

Name DEMERS, C.

Place Date of Offence

OFFENCE W.O.A.S. Absent from ? until surrendering himself to the Military Police at C.M.Police H.Q., BARI at about 1500 hrs on the 5th Jan 44

"A"

Names of Witnesses :—

Cpl. BILLUPS C.M.POLICE

L/C. McKAY. C.M.POLICE

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

"Undesipherable"

Capt

D.A.P.M. 6 BASE SUB. AREA

P.T.O.

D. Coy

Ref 4/2/6

Certificate of apprehension under A.A. Sec; 163 (1)(jj)

I certify that No E51551 L/Cpl DEMERS.C. Royal 22nd Regt(Can) was arrested at CASALBORDINO on 21st Jan 44. at about 1400 hrs

Field
21 Jan.44

"Undesipherable" Capt.
O.C. 49 Coy; C.M.P.
(Officer into whose custody the above named person was taken on arrest.)

"B"

5 T- 148
Pte. Demers, E.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B 102081 Pte Demers, E.J. 4 Cdn Base Rft Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Not Guilty	Not Guilty	Noted "J G Spragge"
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) "Gordon H Jermyn" Major 2 Oct 45 (Sgd) "H J Mosley" Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(G) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 137, MML p 64. Minute of confirmative or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date .....
Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 2

ST 148

FIELD GENERAL COURT-MARTIAL

CFAO6 (In lieu of AFAM 40/P & S/1606 40/00)

38B

Convened by Order of Brig J G Spragge Comd 2 Cdn Base Rft Gp dated 30 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 102081	Pte	Eugene Joseph	DEMERS	4 Cdn Base Rft Bn

CERTIFIED TRUE COPY
"L.J. Brady" Maj
PROCEEDINGS REVIEWED
Certified true copy of original proceedings herein.
R Livingstone Capt
10 0845

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 2 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 37/142

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened[1] and constituted[2], accused is (are) amenable to military law, and each charge discloses an offence.[3]
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For ~~charge~~ plea KR Can 563(c). Delete, if not applicable.

A5. President to accused : Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 48(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	H J MOSLEY	13 Cdn Base Rft Bn
Member	Capt	E E TEAGLE	13 Cdn Base Rft Bn
Member	Lt	W L BARNEY	13 Cdn Base Rft Bn
Judge-Advocate	Major	G H JERMYN	HQ 2 Cdn Base Rft Gp
Prosecutor	Lt	L VANASSE	4 Cdn Base Rft Bn
Defending Offr	Lt	J B TAPPIN	4 Cdn Base Rft Bn

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 23.)

A8. The accused B 102081 Pte Demers, E.J. before arraignment make(s) (no) (~~a~~) plea (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).)* *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35(*B*) *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP* 37(*B*). *2. RP* 17(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 17(*E*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B6 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *duly making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s). The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes on Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(*3*) (*b*), *RP* 45, 120(*A*). *2. AA* 54(*3*), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 27(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. AFB* 255 *or AFB* 296. *2. MFM* 6. *3. RP* 46, *KR Can* 158. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried sequentially see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 40. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-564, *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

2 October 45.

This is to certify that Pte Demers, E.J. # B.102081, has been examined to-day and is fit to stand trial by Court-Martial.

"G.M.Blais" Capt.
R.C.A.M.C.

4/71 CFA 170

PLEASE WRITE ON BOTH SIDES

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 85(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 85(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 96 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply *so far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 965(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 105, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 980. As to certified copies of regimental books see AA 163 (1) (g) (A).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 102081	Pte		Eugene, Joseph	DEMERS	(Perth Regt) 4 Cdn Base Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 30 Sep 45 endorsed by me, ~~xxxxxxxxxxxxxxxxxxxxxx~~ To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~xxxxxxxxxxxxxxxxxxxx

CHARGE SHEET

THE ACCUSED B102081 PRIVATE DEMERS, Eugene Joseph 4 CDN RFT BN., A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH:

1st Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE
NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at Nijmegen, Holland at about 0540 hrs 8 Jun 45 so negligently handled a "Schmeiser" automatic pistol which he was carrying loaded in his kit bag as to cause it to be discharged resulting in injuries to his left shoulder.

In the Field
27 Sep 45

(L.J. FLYNN) Lt-Col.,
Commanding,
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

To be tried by Field General Court Martial.

"J G Spragge"
(J G SPRAGGE) Brig
Comd - 2 Cdn BaseRft Gp

In the Field
30 Sep 45

D-2

Mr President, Members of the Court

This is a case where the facts are simple and uncontroverted. The accused, a soldier with over 3½ years in the Army, arrived at 4 Bn early in June on a Far East Draft. At about 0530 hours, on 8 June 45 the accused fell out with his draft ready to move off. He had two kit bags and in one of the kit bags was a loaded Schmeiser automatic weapon that th e accused intended to take home.

Capt Dowds the 2 i/c of 22 Coy, being the coy that was holding the accused's draft, will give evidence that at about 0540 hrs that same morning he heard a shot in his lines. On investigating he found that the accused had been taken to the MIR. He thereupon witnessed the opening of the accused's kit bag and saw the Schmeiser weapon which was wrapped in a blanket. The weapon was cleared and a 9 m.m. empty casing was ejected.

The prosecution will also produce Medical evidence that the accused was treated for a gun shot wound in the same morning and that the proper conclusion is that the accused's injury was received as a result of the firing of the Schmesier.

Although handicapped by the absence of an eye witness who was on the same draft as the accused and who is now in Canada, nevertheless the prosecution submits that there will be sufficient evidence produced to put the accused on his defence.

At this point the prosecution is prepared to concede that it is not able to prove knowledge on the part of the accused of Cdn RO (21 Army Gp) 657 which prohibits the retention of enemy weapons. This RO is dated 1 Dec 44 at which time the accused was in Italy. Whether this RO was republished in the Part I or standing orders of the accused's unit which it would be necessary to do in order to fix him with knowledge is something the prosecution is unable to do.

But the prosecution does submit that the presence of a loaded automatic weapon, irrespective of its make, in the kit bag of the accused, the firing of which caused this soldier's injury does establish a strong case of careless handling against the accused, which it will be his obligation to explain to this court.

L JANASSE Pt

D-3

PROSECUTION:

1st Witness

Capt C.P. DOWDS, sworn states:

I am 2 i/c of "A" Coy 4 CBR Bn. I recognize the accused Pte Demers. On 8 June 45 at about 0530 hrs I was despatching 2 serials of CFEF drafts from our coy. I heard a shot from the area of our lines. I ran to where the draft was forming up I was Capt Robertson. He had a kit bag which he proceeded to empty. In it we found a Schmeiser automatic wrapped up in a blanket. Capt Robertson cleared the weapon and it ejected a 9 mm empty casing. There was some 9 mm ammo in the kit bag. This is the Schmeiser found in the kit. (Produced marked Ex A) This is the empty casing (Produced marked Exhibit B). The kit bag was marked with Pte Demers number name and rank.

Cross-examination.

I recognize the weapon by the tag. I delivered it to the Adjt I did not see it tagged. I did not see Pte Demers handling the weapon. There was no mag on it when Capt Robertson took it from the kit bag. I did not examine the blanket.

R P 83 (b) complied with.

2nd Witness

Capt F L Woodman, RCAMC sworn states:

I am a MO presently employed at 16 CGH. I recognize Pte Demers. On 8 June 45 I was RMO at 4 CBR Bn. About 0600 hrs I was called to the RAP where Pte Demers had been taken. He had received a gun shot wound in the left shoulder. He had received first aid treatment which I checked and then ordered him evacuated to 1 CGH. It was a gun shot wound which entered his left arm at going from below upwards and backwards and emerging above the left shoulder blade. The injry may interfere with his future efficiency.

Cross-examination.

I recognized it as a gun shot wound because I was told he had been shot. I saw no powder marks. In my opinion his condition will improve. He may however lose some of the use of his left arm. It may get worse or better. There is some disability at the present time.

By the Court

A through and through wound by a bullet or piece of shrapnel is characterised by a small hole of entry and a large hole of exit. This condition was present.

R P 83(b) complied with.

JM

DEFENDING OFFICER

No prima facie case. Can't handle a Schmeiser in a kit bag.

Prosecuting Officer

Does not make any reply.

Judge Advocate

The question for the court to decide at this time is whether or not the prosecution has produced evidence on which the accused could although not necessarily would be found guilty of the charge. The charge is reads charge and the particulars are (reads particulars). There is evidence that a shot was heard. That there was taken from a kit bag a Schmeiser from which was ejected an empty shell. The kit bag had the accused's name on it. About the same time or shortly after the accused was admitted to the RAP with a wound that had the appearance of a gun shot wound. On that evidence has the prosecution made out a prima facie case or in other words a case which requires an answer by the accused..

"G H Jermyn" Maj
JA

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused B-102081 Pte Clemens E.J. 4 Cdn Base Repl Depot

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	noted
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ~~nil~~ days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) Gordon H. Jermyn Judge-Advocate, if any. Major — 2 Oct 45 Date awarded. — (Sgd) H.J. Morley President. Major (RP 45, 46)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ORDER AT CMHQ IN AB 160 5T-149

FIELD GENERAL COURT-MARTIAL

CPA86 (To line 7 of AA51) 40-P-Ar-12-[illegible] (40-0) 4/38B-

RECEIVED 10 OCT 1945 JAG BRANCH O.M.H.Q.

Convened by Order of Brig J.E. Sprague Comd 2 Cdn Base Repl Depot dated 30 Sep 45

ACCUSED.

Number (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Rk.

B-102081 Pte Eugene Joseph Clemens 4 Cdn Base Repl Depot

PROCEEDINGS REVIEWED

10 Oct 45 L.J. Brabazon Maj

REVIEWING OFFICER, JAG BRANCH, O.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 2 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~nil~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Lt~~ as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.J. Morley	13 Cdn Base Repl Depot
Member	Capt	E.E. Teagle	13 Cdn Base Repl Depot
Member	Lt	W.L. Berkley	13 Cdn Base Repl Depot
Judge-Advocate	Major	G.H. Jermyn	HQ 2 Cdn Base Repl Depot
Prosecutor	Lt	L. Parsons	4 Cdn Base Repl Depot
Defending Offr	Lt	J.L. Tappin	4 Cdn Base Repl Depot

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instrs will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2d p 3.)

A8. The accused B-102081 Pte Clemens E.J. before arraignment make(s) (no) ~~a~~ plea(s) .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is informed~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 2 CBRG VOL VIII P. 42.

HQ C.F.N.A. 8 Jan 46

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making the appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here loose sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (his) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1 ST charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ~~1 ST~~ charge(s), and allowed on the 1 ST charge(s), and that, ~~accordingly, the trial will proceed on the former, but~~ the accused is found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 50(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....

Do you intend to call witnesses on your behalf ?

Ans.....

Are they witnesses as to character only ? Ans.....

Ans.....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *HP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes to Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) *Or*, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*d*). *RP* 45, 120(*A*). 2. *AA* 54(3). *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans.....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*l*) (*g*) (*b*), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *MFR* 315 *or AFB* 296. 2. *MFM* 9. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*B*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(3). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(4), *KR Con* 358, 330, 563-566. *Overseas RO* 1623, *MML p* 66, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(15), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(2), *KR Con* 564. 2. *RP* 50. *As to release from arrest see Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

2 October 45

This is to certify that Pte. Demers C.J. # B102081 has been examined to-day and is fit to stand trial by court martial.

G. M. Blois Capt
R.C.A.M.C.

4/71 CFA 170

PLEASE WRITE ON BOTH SIDES

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 95(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. *(RP 95 fn 1.)* If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. *(RP 60(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. *(See RP 41 fn 3, 46 fn 1, 80.)*

(iii) Evidence of witnesses for accused as to facts or his character or both. *(See RP 46 fn 1.)*

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court *(RP 86(B))*, or to prove previous convictions when accused has called witnesses as to character. *(RP 86(C).)*

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. *(See RP 40 fns 8-12, 87(C), 92(C) (D).)* But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. *(When accused charged jointly see RP 61.)*

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).)*

(vii) Summing up by JA, if any. *(RP 62.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. *(On top.)*

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). *(KR Can 567.)*

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting in evidence a certified copy in lieu of original see KR Can 569. As to certified copies of documents books see AA 143 (1) (g) (h).)*

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. *(AA 53(2), RP 118(C), MML p 759.)*

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

CFA05 (In lieu of AFA8)
40/FAS/1697 (D668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 102081	Pte		Eugene, Joseph	DEMERS	(Perth Regt) 4 Cdn Base Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 30 Sep 45 endorsed by me, (~~and endorsed by the undersigned~~). "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and whereas the undersigned is not precluded by RP 105(C) from convening a FGCM~~.
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~And whereas it appears to me that the exigencies of the service render it necessary that the accused should be tried without delay, I direct that the trial shall take place notwithstanding that 3 days have not elapsed since the service upon the accused of the charge sheet.~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

MAJOR (Rank.)	H J	MORLEY (Must be named. RP 106.)	X4 LIST	CIC	13 CBR Bn (Unit.)

MEMBERS.

CAPT	E E	TEAGLE	CIC PE	13 CBR Bn
LT (Rank.)	W L	BARKEY (Named or detailed. RP 106.)	CIC PE	13 CBR Bn (Unit.)

WAITING MEMBER.

LT (Rank.)	HE	BRAZER (Named or detailed, if any. RP 106.)	CIC PE	13 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Maj (Rank.)	G.H. Jermyn (Must be named, if any. RP 106.)	HQ 2 CBR Gp (Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed per~~sonally~~ RP 105(C).)

Brigadier (Rank.)

Date 30 Sep 45

Commanding ~ 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

CHARGE SHEET

THE ACCUSED B102081 PRIVATE DEMERS, Eugene Joseph 4 CDN RFT BN., A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH:

1st Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE
NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at Nijmegen, Holland at about 0540 hrs 8 Jun 45 so negligently handled a "Schmeiser" automatic pistol which he was carrying loaded in his kit bag as to cause it to be discharged resulting in injuries to his left shoulder.

L. J. Flynn

In the Field
27 Sep 45

(L.J. FLYNN) Lt-Col.,
Commanding,
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

To be tried by Field General Court Martial.

(J G SPRAGGE) Brig
Comd - 2 Cdn Base Rft Gp

In the Field
30 Sep 45

Bn

P 2.

Mr President, Members of the Court

This is a case where the facts are simple and uncontradicted. The accused, a soldier with over 3½ years in the Army, arrived at 4 Bn early in June on a Far East Draft. At about 0530 hours, on 8 June 45 the accused fell out with his draft ready to move off. He had two kit bags and in one of the kit bags was a loaded Schmeiser automatic weapon that the accused intended to take home. ~~He seized the weapon visibly because he had used it in action.~~

Capt Dowds the 2 i/c of 22 Coy, being the coy that was holding the accused's draft, will give evidence that at about 0540 hrs that same morning he heard a shot in his lines. On investigating he found that the accused had been taken to the MIR. He thereupon witnessed the opening of the accused's kit bag and saw the Schmeiser weapon which was wrapped in a blanket. The weapon was cleared and a 9 m.m. empty casing was ejected.

The prosecution will also produce Medical evidence that the accused was treated for a gun shot wound in the same morning and that the proper conclusion is that the accused's injury was received as a result of the firing of the Schmeiser.

Although handicapped by the absence of an eye witness who was on the same draft as the accused and who is now in Canada, nevertheless the prosecution submits that there will be sufficient evidence produced to put the accused on his defence.

At this point the prosecution is prepared to concede that it is not able to prove knowledge on the part of the accused of Can RO (21 Army Gp) 657 which prohibits the retention of enemy weapons. This RO is dated 1 Dec 44 at which time the accused was in Italy. Whether this RO was republished in the Part I or standing orders of the accused's unit which it would be necessary to do in order to fix him with knowledge is something the prosecution is unable to do.

But the prosecution does submit that the presence of a loaded automatic weapon, irrespective of its make, in the kit bag of the accused, the firing of which caused this soldier's injury does establish a strong case of careless handling and against the accused which it will be his obligation to explain to this Court.

D-3

Prosecution

1st Witness

Capt C.P. Howds. sworn states,

I am 2 1/2 of "A" Coy 4 C BR Bn. I recognise the accused Pte Hemers. On 8 June 45 at about 0530 hrs I was despatching 2 serials of CFEF drafts from our Coy. I heard a shot from the area of our lines. I ran to where the draft was forming up. I saw Capt Robertson. He had a kit bag which he proceeded to empty. In it we found a Schmeiser automatic wrapped up in a blanket. Capt Robertson cleared the weapon and it ejected a 9 mm empty casing. There was some 9 mm ammo. in the kit bag. This is the Schmeiser found in the kit. (Produced marked Ex A) This is the empty casing (Produced marked Exhibit B). The kit bag was marked with Pte Hemers number name and rank.

Cross-examination

I recognise the weapon by the tag. I delivered it to the adjt. I did not see it tagged. I did not see Pte Hemers handling the weapon. There was no mag. on it when Capt Robertson took it from the kit bag. I did not examine the blanket.

RP 83 (b) complied with

2nd Witness

Capt F.L. Woodman, RCAMC sworn states

I am a MO presently employed at 16 CGH. I recognise Pte Hemers. On 8 June 45 I was RMO at 4 CBR Bn. about 0600 hrs I was called to the RAP where Pte Hemers had been taken. He had received a gun shot wound in the left shoulder. He had received first aid treatment which I checked and then ordered him evacuated to 1 C.G.H. It was a gun shot wound which entered his left arm pit going from below upwards and backwards and emerging above the left shoulder blade. The injury may interfere with his future efficiency

Cross-examination

I recognised it as a gun shot wound because I was told he had been shot. I saw no powder marks. In my opinion his condition will improve. He may however lose some of the use of his left arm. It may get worse or better. There is some disability at the present time.

~~[illegible]~~

By the Court

A through and through wound by a bullet or piece of shrapnel is characterised by a small hole of entry and a large hole of exit. This condition was present.

RP 83 (b) complied with.

Defending Officer

No prima facie case. Can't handle a Schmeiser in a kit bag.

Prosecuting Officer

Does not make any reply.

Judge Advocate

The question for the Court to decide at this time is whether or not the prosecution has produced evidence on which the accused could although not necessarily would be found guilty of the charge. The charge is reads charge and the particulars are (reads particulars). There is evidence that a shot was heard. That there was taken from a kit bag a Schmeiser from which was ejected an empty shell. The kit bag had the accused's name on it. About the same time or shortly after the accused was admitted to the R.A.P. with a wound that had the appearance of a gun shot wound. On that evidence ~~[illegible]~~ has the prosecution made out a prima facie case or in other words a case which requires an answer by the accused.

G. Farmyn maj
J.A.

SUMMARY OF EVIDENCE in the case of B 102081 Pte Demers, Eugene, Joseph (Perth Regt) 4 Cdn Base Rft Bn 2 CBRG.

By direction of the CO, the Evidence is taken on OATH.

1st Witness — Capt CP Dowds, RWR, 2 i/c 22 Coy 4 Cdn Rft Bn, 2 CBRG having been duly sworn, states:

I am Capt CP Dowds, 2 i/c 22 Coy 4 Cdn Rft Bn, 2 Cdn Base Rft Gp. On the morning of the 8 Jun 45 at approx 0540 hrs while I was despatching Cdn Far East Forces Drafts Nos 41 and 42, I heard a shot in 22 Coy lines. When I arrived where No 42 draft was formed up I inquired of A/Capt AWB Robertson (Perth Regt) what had happened. A/Capt Robertson had a kit bag which he was proceeding to open and which he asked me to witness the contents. On opening the kit bag he produced a Schmeiser automatic sub-machine gun, which was wrapped up inside a large blanket in the kit bag. A/Capt Robertson proceeded to clear the weapon, in my presence and a 9 m.m. empty casing was ejected from the chamber. I produce this empty casing (Exhibit 'A'.) and Schmeiser automatic sub-machine gun (Exhibit 'B'.) When I first arrived at the scene the injured man had been already taken to M I R I examined the contents of the kit bag in question and found miscellaneous soldier's articles, a pouch of 9 m.m. ammunition, but no other weapons. This kit bag was marked Pte Demers, E. J. B 102081 in indelible pencil on the outside.

C P Dowds Capt

(C P Dowds) Captain

RP 83 (b) complied with.

The accused declines to cross-examine the witness.

2nd Witness — Capt FL Woodman (RCAMC) MO 16 Cdn Gen Hosp formerly with 4 Bn 2 CBRG having been duly sworn, states:

I am Capt FL Woodman (RCAMC) MO 16 Cdn Gen Hosp formerly with 4 Bn 2 CBRG. At approx 0600 hrs 8 Jun 45 I was called to the RAP at 4 Bn to see Pte Demers E J. He was suffering from a through and through gun shot wound entering the left axilla. Wound of exit in the left scapular region. After "First Aid" treatment he was despatched immediately by ambulance to No 1 Cdn Gen Hosp.

The injury may interfere with his future efficiency as a soldier.

F L Woodman Capt RCAMC

(F L Woodman) Capt RCAMC

RP 83 (b) complied with

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so; but whatsoever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answered by accused:
I do not wish to make a statement

I certify that the foregoing summary of evidence consisting of one (1) page was taken down in writing by me in the presence and hearing of the accused.

I certify that RP 4(c)(d)(e) and (f) have been complied with.

C Vanasse Lt

(C Vanasse) Lieut
Offr detailed to take
Summary of Evidence

List of Witnesses for prosecution:

Capt CP Dowds (RWR) 4 Cdn Rft Bn

Capt FL Woodman (RCAMC) 16 Cdn Gen Hosp

List of Witnesses for defence:

NIL

List of Exhibits:

Exhibit "A" Empty casing

Exhibit "B" Schmeiser sub-machine Gun

RECEIPT FOR CHARGE SHEET AND SUMMARY OF EVIDENCE (MML Ch 5 Sec 5 SS24)

I hereby acknowledge that I have this date 27 Sep 1945 received from 4 Bn - 2 C.B.R. Gp. (unit) one copy of Charge Sheet and Summary of Evidence referring to charge(s) of Neglect to Prejudice and Good Order.

for which I was remanded for Court Martial.

E J Demers
Signature of Accused

REQUEST FOR DEFENDING OFFICER (MML Ch 5 Sec 5 SS 27)

I hereby request that _____ if available, act in my defence. If this Officer is not available, I request the Commanding Officer of 4 Bn - 2 C.B.R. Gp. (unit) appoint an officer to act on my behalf.

E J Demers
(Signature of Accused)

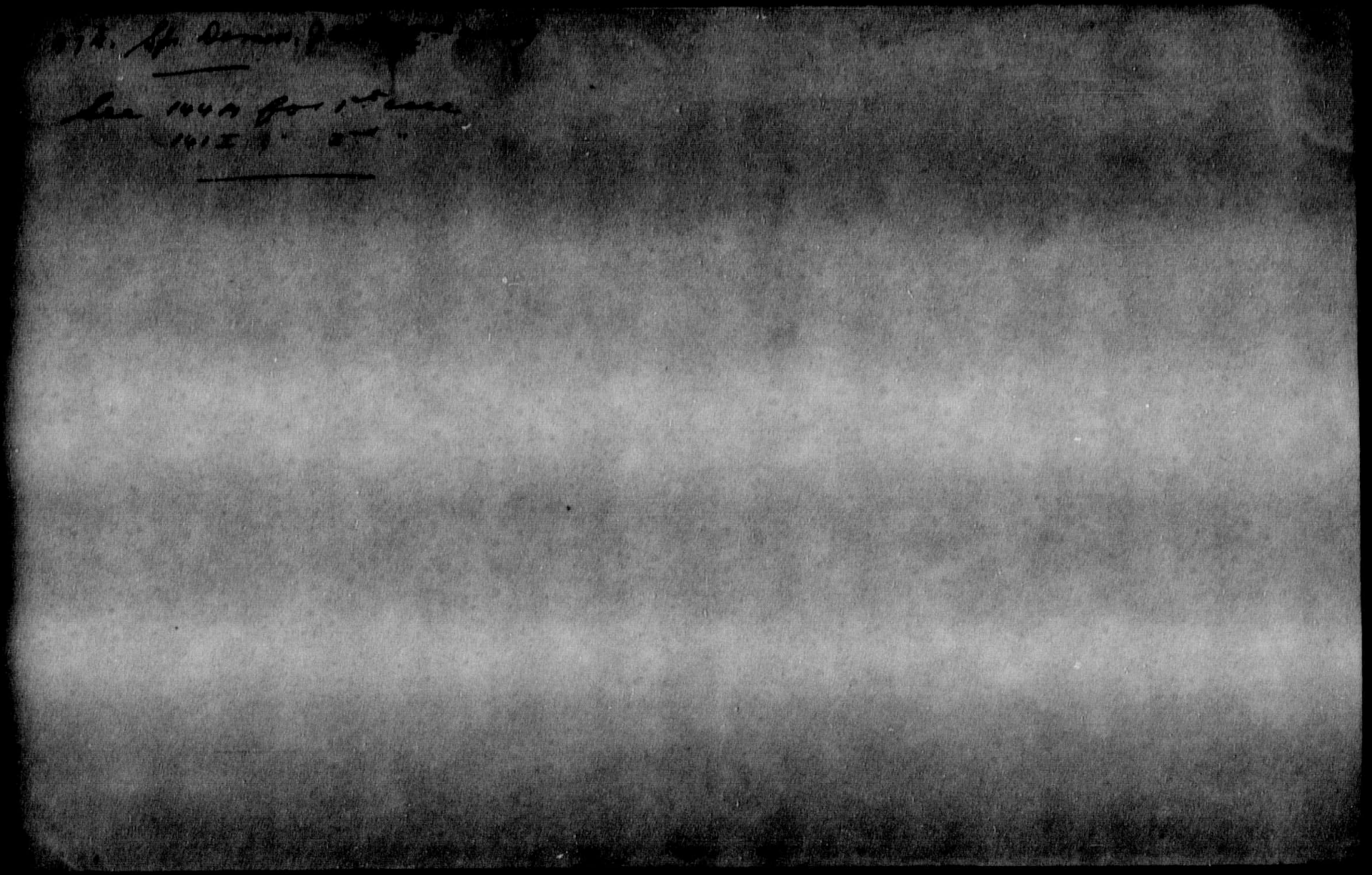
I hereby certify that LIEUT J.E. TAPPIN (rank & name) was appointed to defend B102081 Pte, DEMERS, R. (number, rank and name) J. at his forthcoming trial by Court Martial and that the said LIEUT J.E. TAPPIN (rank and name) was notified that he was to act as defending officer on _____ (date)

L P J Mongeon Capt
(L.P.J. MONGEON) Capt.
Adjt of Unit
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

WHEN PROSECUTING OFFICER POSSESSES LEGAL QUALIFICATIONS (MML Ch 5 Sec 5 SS 25)

I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

_____
(Signature of Accused)



5-3-32

97D

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 28th. day of September, 1941.

Whereas it appears to me, the undersigned, ~~an officer in Command of~~ Chief Engineer, Canadian Corps.

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint~~:—

*(1. ~~Three Officers to form the Court.~~)

*(2. ~~A Field Officer as President.~~)

*(3. ~~Three Officers having more than one year's service.~~)

~~for the following reasons, namely:—~~]

President.

Rank.	Name.	Regiment.
Major	H.A. Jones	14 Cdn A Fd Coy

Members.

Rank.	Name.	Regiment.
Lieut.	J.J. Dussault	1 Bn. R.C.E.
Lieut.	J.F. Miles	14 Cdn A Fd Coy.

*Signed G.L. Stutzbury Brigadier.

Commanding Chief Engineer, Canadian Corps.

Convening Officer.

PROCEEDINGS REVIEWED.

Correspondence to be PINNED here.

11/11/41

Remembering Officer (Pte. S. [illegible])

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H.25054 Spr. Demers, J.A.F, 1 Bn. R.C.E.	1st Charge A.A. Sec. 15 (1) as per charge sheet attached.	Guilty	Guilty of all Three Charges. ~~Automatically forfeits all pay since going Absent 1st time and the~~ Court sentences ~~him~~ the accused To 139 days. Detention. (being on the basis of 28 days for escaping arrest and 108 days for being A.B.L. 37 days in all)	I vary the sentence to read "to undergo detention for a period of 139 days" and I confirm the finding and sentence as so varied.
	2nd Charge A.A. Sec. 22 as per charge sheet attached.	Guilty		
	3rd Charge A.A. Sec. 15 (1) as per charge sheet attached.	Guilty.		

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) C.S.L. Hertzberg (C.S.L. Hertzberg) Brigadier
Commanding C.E. Cdn Corps.
Convening Officer (e)

(Signed) [signature] Major, R.C.E.
OC. 14 Cd & A Fd Coy. C.E.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 2nd day of October 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter) 4. The Stenographer.
~~*(4. The officers under instruction)~~

* Omit if not applicable.

were duly sworn.

Signed this 2nd day of October 1941

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify ~~that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

Signed this Seventh day of October 1941.

C.S.L. Hertzberg Brigadier,
Chief Engineer Canadian Corps.
Confirming Officer.

Promulgated and extracts taken in the case of
(a) (Dated) 10 Oct. 41. ~~10 Sep 41~~ (Signed) [signature] Capt. Assistant
1st Batalion, R.C.E. - C.A.

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

FORM OF PROCEEDINGS

THE TRIAL OF H25054, SAPPER DEMERS, J.A.F. 1 BN. R.C.E.

(1) The Order convening the Court,(Marked App.1), the Charge Sheet, (Marked App.2), Medical Certificate, (Marked App.3), and the Summary of Evidence, (Marked App.4), was laid before the Court.

(2) The Court satisfy themselves as to R.P. 22 and 23, as qualified by R.P. 106, and I have satisfied myself that none of the Officers detailed as members of this Court have previously served on any Court of Inquiry respecting the matters forming the subject of the charges before this Court-Martial.

(3) The accused was brought before the Court; Prosecutor, Captain R.B. Fraser, 1 Bn. RCE; Defending Officer, Captain E.H. Webb, 1 Bn. RCE., and the trial commenced at 1015 hrs.

(4) Order convening the Court was read (Marked App.1), signed by the President and attached to the proceedings.

(5) The names of the President and Members of the Court were read over to the accused and each answered their names.

(6) Question by the Court, to the accused.

Q-1: Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over?

A-1: No, Sir.

(7) The President, Members, Stenographer and interpreter were duly sworn, following which all witnesses withdrew.

(8) The accused was arraigned on each charge in the above mentioned charge sheet.

Question by the Court to accused.

Q-2: Are you guilty or not guilty of First Charge against you, which you have heard read?
A-2: Guilty, Sir.
Q-3: Are you guilty or not guilty of Second Charge against you, which you have heard read?
A-3: Guilty, Sir.
Q-4: Are you guilty or not guilty of Third Charge against you, which you have heard read?
A-4: Guilty, Sir.

(9) The accused having pleaded guilty the provisions of R.P.35 (b) were complied with.

(10) The summary of evidence as read,(Marked App.4), signed by the President and attached to the proceedings, but on request of the Defence Council this summary of evidence was transalated into French for the benefit of the accused.

(11) Question by the Court to the Accused.

Q-5: Do you wish to make any statement in mitigation of punishment?
A-5: Yes, Sir. (On behalf of the accused the Defending Council made the following short address).

"I have known Spr. Demers, for over 2 years, and enlisted him, and I know that he is capable of being a good soldier, and desires to be a good soldier.

In his original unit, 1st.Cdn. Corps Field Park Coy.,RCE., Spr. Demers never got into trouble. Knowing Spr. Demers as well as I do I am able to state that he is a man that is easily led and if he falls in with the wrong people he is easily led astray.

On the First Charge of A.W.L. there was another man who went A.W.L. at approximately the same time, and I submit to the Court that

/Spr.Demers

Page 2. Proceedings

/Court that

Spr. Demers was possibly talked into going A.W.L. by this man.

As regards the Second Charge, that of escaping, at that time there were two men in our detention compound. One of them had a very bad record both civil and military and I submit to the court that this man attempted to escape. Spr. Demers seeing this and again being easily led went out the same open window.

Had Spr. Demers intended to remain A.W.L. he certainly would have never surrendered himself, and I submit to the court that if Spr. Demers was given proper care and attention he would never go A.W.L. This man has not a very clean "onduct Sheet but that is because he has not been locked after properly".

(12) Question by the Court to Accused.

Q-6: Do you wish to give evidence yourself or call any witnesses as to character?
A-6: No, Sir.

(13) Captain R.B. Fraser, 1 Bn. R.C.E., is duly sworn.

Question by the Court.

Q-7: Have you any evidence to produce as to particulars of Service and character of the Accused?
A-7: Yes, Sir.

The above statement being Army Form B296 is read (Marked App.5), signed by the president and attached to the proceedings.

(14) Question by the Court.

Q-8: Is the accused the person named in the statement?
A-8: Yes, Sir.
Q-9: Are they true extracts from Regimental Books and is the statement of entries in the conduct sheet a fair and true summary in entries?
A-9: Yes, Sir.

(15) The accused declines to cross-examine.

(16) Question by the Court To the accused. ~~Ct~~

Q-10: Do you wish to address the Court?
A-10: No, Sir.

(17) The Court is closed for consideration of Sentence.

NOTE: All questions, etc., were put forward to the accused in French by interpreter or by the French-Canadian Member of the Court, Lieut. Dussault.

A.F.B. 252.

Appendix (2)

CHARGE SHEET

The accused, No. H.25054, Sapper Demers, J.A.F., 1st. Battalion Royal Canadian Engineers, Canadian Army (Overseas), is charged with:-

First Charge
A.A.Sec. 15 (1)

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at NO. 70 THURSLEY TEnted Camp, at 0600 hrs on 18th. July, 1941, absented himself without leave from duty until he surrendered himself to the N.C.O. i/c Guard at Wentworth Hall at 1030 hrs on 2nd Aug. 41. Time absent 15 days, 4 hrs, 30 mins.

Second Charge
A.A.Sec. 22

WHILE ON ACTIVE SERVICE

WHEN IN LAWFUL CUSTODY, ESCAPING

in that he,

at Wentworth Hall, during the night 3rd/4th August 1941, when in close arrest in the Battalion Guard Detention Room, escaped.

Third Charge
A.A.Sec. 15(1)

WHILE ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

at Wentworth Hall at 0600 hrs on 4th August 1941 absented himself without leave [redacted] until he surrendered himself at 2230 hrs on 24th. August 1942 at Blackstock Rd, Highbury, LONDON, N.5.
Time absent 20 days, 16 hrs, 30 mins.

Signature of Commanding Officer: [signature] 4 Bde

To be tried by F.G.C.M.

28 Sep 41

[signature]
.....Brigadier,
Chief Engineer, Canadian Corps.

Appendix. (3)

MEDICAL OFFICER'S CERTIFICATE

K.R(CAN) PARA. 557

I certify that I have this morning examined

No. H.25054 Sapper Demers, J.A.F.

of 1st. Battalion R.C.E. and in my opinion he

is fit to undergo Trial by Court Martial.

Station. Field

Date. 2 October 41.

H. A. Brown ....Capt.,
Medical Officer.

Appendix

SUMMARY OF EVIDENCE

IN THE CASE OF

H-25054 SPR. DEMERS, J. A. F.

TAKEN BY LIEUT. J. M. S. PATTON, G.C.

ON INSTRUCTIONS OF

LT.-COL. H. R. LYNN

EVIDENCE NOT TAKEN ON OATH

1st Witness:- I, B-26005, Cpl. Bissett, A..T. was N.C.O. in charge of No. 5 Section on 18 Jul 41. At about 0730 hrs. on that date Sgt. Cooper, i/c Men's Mess reported to me that Spr. Demers had failed to report for duty at 0600 hrs. that morning. I immediately went to Spr. Demers tent and made inquiries around the camp and failed to locate Spr. Demers. I then reported to A/C.S.M. Sutherland that Spr. Demers had failed to report for duty and could not be found in camp.

Accused declines to cross-examine.

A.B. Bissett

2nd Witness:- I, M-5206 Sgt. Cooper, W. D. Was in charge of the men's mess, 1st Bn., R.C.A. On 18 July. At 0600 hrs. Spr. Demers was absent from his duty ... necessary for another man to be detailed to take his place.

Accused declines to cross-examine this witness.

W.D. Cooper

(M-5206 Sgt. Cooper, W. D.)

HEADQUARTERS COMPANY 1st Battalion, R.C.E., C.E.

Absentee REPORT 18-7-41.

No.	Rank	Name	(If no absentees mark report "NIL")
H 25054	Spr.	Demers, J. A.	

Absent from a duty at 06.00 hrs 18.7.41.

Witness

A L Bissett Cpl.

Sgt. Cooper W.D.

3rd Witness:- I, M-7315 A/C.S.M. Sutherland, H. of H.Q. Coy., 1st Bn., R.C.E. on 18 Jul 41 Cpl. Bissett reported to me that Spr. Demers was absent. An absentee report was made out to this effect. Spr. Demers was on detail to the kitchen. I instructed Cpl. Bissett to have this man replaced. Spr. Demers continued to be reported absent until 2 Aug 41.

The accused declines to cross-examine this witness.

M 7315 A/C.S.M. Sutherland H.

(M-7315 A/C.S.M. Sutherland, H.)

4th Witness:- I, M-5005, L/Sgt. Duke, N. R. P. was Sgt. of the Guard on 2 Aug 41 at Wentworhh Hall when Spr. Demers reported in to me at 1030 hrs. I immediately notified his Company Sergeant-Major, C.S.M. Sutherland, who instructed me to place Spr. Demers in close arrest. I placed him in close arrest and together with other prisoners turned him over to relieving Guard Commander.

The accused declines to cross-examine this witness.

N.R.P. Duke

M-5005 L/Sgt. Duke, N. R. P.

5th Witness:- I, B-26027, Cpl. Bleakley, A. was Guard Commander on 4 Aug 41 at approximately 0230 hrs. Spr. Demers was in the cell. Periodically I looked into the cell and it looked to me as though Spr. Demers was still there. His clothes, etc., were folded up to look as though he was in bed. At 0600 hrs. reveille I banged on the door and got no response. On going into the cell I found Spr. Demers had gone out of the window. The window was sitting on the floor of the cell having been lifted off its two hinges. I reported this to the Orderly Officer.

The accused declines to cross-examine this witness.

A. Bleakley

B-26027, Cpl. Bleakley, A.

6th Witness:- I, M-7315 A/C.S.M. Sutherland, H. was C.S.M., H.Q. Coy. at this time. Major Sucharov, my Commanding Officer instructed me to have Spr. Demers up for orders on 4 Aug 41. I happened to be out on a week-end pass this weekend. On my return on Monday morning Spr. Demers was not available for orders. This man continued to be absent from this time until the Battalion was reorganized doing away with H.Q. Coy. My connection with these duties ceased at that time.

The Accused declines to cross-examine this witness.

M7315 A/CSM Sutherland H.

(M-7315 A/C.S.M. Sutherland, H.)

7th Witness:- I, Lieut. V. I. McCallum, A/Quartermaster, 1st Bn., R.C.E. have in my possession Army Form C.1617 Certificate of surrender to the Civil Police of a deserter or absentee without leave and certificate in accordance with Section 163 (1) (m) of the Army Act, which I now produce. I will produce these again as required. These documents give a discription of H-25084 Spr. Demers, J.A.P. and state that he surrendered to P.C. 524 M. Peacock at Blackstock Road at 1030 P.M. on 24th day of August 1941.

V. I. McCallum

(V. I. McCallum) Lieut.

6 Sept

4th Witness;- I, E-2001 Sgt. Mosher, E. was detailed by RSM Morison at 1330 hrs. on the 25th day Aug. 41 to go to I Cdn. Corps Reception Camp at REDHILL with an escort to bring back one, Spr. Demers, J. With L/Cpl. MacDonald, D. M. and Spr. MacDonald, R. I proceeded to REDHILL and Spr. Demers was turned over to me by Provost, and arrived back at 1540 hrs. turning Spr. Demers over to N.C.O. i/c Guard. I supervise the Guard Detention Compound and Spr. Demers has been there since.

The accused declines to cross-examine this witness.

Sgt E Mosher
(E-2001 Sgt. Mosher, E.)

The accused declines to make a statement

"Taken down by me on this 12th day of September 1941 in the presence of the accused. Rule of procedure 4 complied with."

J M S Patton Lieut

(J. M. S. Patton) Lieut.

Seventh Witness:-
Highbury Vale Station. "K" Division.

8/9/41

At 10-55 pm. on 24th. August 1941 I was on duty at Blackstock Road, Highbury. N.5., when H.2506-4 Sapper Joseph Alfred F. DIMMER of 1st. Canadian Pioneer Corps R.C.E. surrendered himself to me as an absentee from his unit then stationed at Chertsey, Surrey, since 15th. July 1941.

Dimmer was dressed in uniform.

J Peacock P.C.634"K"



The defending officer does not require the witnesses above to be present at Court.

John Sutherland 10/9/41

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army Lists.

(15905) W1.57439/757 25,000 9/40 A.& E.W.Ltd. Gp.698 Forms/O.1617/12

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C.504"H" Peacock

at Blackstock Road at (hour) 10-30pm on the 24th day of August 1941, as being No. H.25054

(Rank and Name) Sapper Joseph Alfred Felicion [illegible]

~~a deserter~~ (or absentee without leave) from 1st Canadian Pioneer Battalion R.C.E.

and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 27 Height 5 Feet 11 Inches

Complexion Ruddy Hair Dark Eyes Dark

Marks

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	7/9/39 Winnipeg, Manitoba.
Probable Date of Desertion or beginning of absence, and from what place	Since 15th July 1941. Thursley, Surrey.

~~Hamilton~~ Cart

J.E.A.P.M.

CANADIAN MILITARY P.C.

P.C.

Signature of Officer of Police in charge of Highway Vale Station.

24th August 1941

Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

NIL			

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(m) of the ARMY ACT.

I certify that the person whose description is given below was ~~arrested~~ (or surrendered) at Blackstock Rd. at 10:30pm on the 24th day of August 1941.

Regimental particulars of officer or soldier reffered to above.

No. H. 25054
Rank Sapper
Name Joseph Demers
Unit 1st Canadian Pioneer Battalion. R.C.E.

Description.

Age 24
Height 5/11
Complexion ruddy
Hair dark
Eyes dark
Marks

Signature of officer of police in charge of police station where the above named person was taken or placed in custody, on arrest or surrender.

Chapel P.S. 54 N.
In charge of Highbury Vale Police Station

METROPOLITAN POLICE HIGHBURY VALE N. DIVISION

[signature] D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA.

CHARGE

Army Form B 252
(See King's Regulations

1st. Btn. R.C.E. Regiment

M/Q. Coy. Battery / Squadron / Troop or Company

CHARGE against No. H-[illegible] Rank Spr.

Name Demers, J.A.F.

Place London Date of Offence [illegible]

OFFENCE [illegible] Absent without leave from 0230 HRS 4 AUG 41 until surrendering himself to the Civil Police on Blackstock Rd. at about [illegible] hrs on the [illegible] Aug. 41. (ABSENT 20 DAYS (20 HRS)

SEC. 15 (A) [illegible] D.A.P.M.

AA. CANADIAN MILITARY POLICE

LONDON AREA.

Names of Witnesses :—

P.C. [illegible] Peacock, Metropolitan Police.

L/Cpl. Sause, Can. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company — Remanded 26/8/41 [illegible]

Punishment Awarded — Remanded for [illegible] [illegible] HRL - 27/8/41

By whom Awarded

Adjutant.

P.T.O

Statement of **EVIDENCE** in the case of

H-25054 Spr. Demers, J.A.F.
H/Q. Coy. 1st. Btn. R.C.E.

Sir:

At London on the 24 Aug. 41. at about 23.00 hrs, I was on duty at Cdn. Provost Corps H.Q. when acting on instructions received I proceeded to Highbury Vale Police Station, where I saw the A/m soldier. He had surrendered himself to P.C. Peacock, Met. Police on Blackstock Rd. at about 22.00 hrs on the 24 Aug. 41. as being an absentee from the Cdn. Army. He was handed over to me and I conducted him to Cdn. Provost Corps H.Q. where I handed him over to the K.C.O. i/c of cells to be detained. Metropolitan Police form attached.

London
24 Aug. 41.

D. House ...1/Cpl
(C-[illegible] House, D.K.)

Sir:

I was K.C.O. i/c of cells when the a/m soldier was brought in to be detained.

London
24 Aug. 41.

Wm. McHardy ...1/Cpl
(H-[illegible]171 McHardy, W.)

REMARKS

The m/n has no complaints

[illegible]

Eighth Witness;-

Sir;

At London on the 24 Aug. 41. at about 2300 hrs. I was on duty at Cdn. Provost Corps H.Q. when acting on instructions received I proceeded to Highbury Vale Police Station, where I saw the a/m soldier. He had surrendered himself to P.C. Peacock, Met. Police on Blackstock Rd. at about 2230 hrs. on the 24 Aug. 41. as being an absentee from the Cdn. Army. He was handed over to me and I conducted him to Cdn. Provost Corps H.Q. where I handed him over to the N.C.O. in charge of cells to be detained. Metropolitan Police form attached.

London
24 Aug. 41

D. House ... L/Cpl.
(C5436 House, D.H.)

Ninth Witness;-

Sir;

I was N.C.O. i/c of cells when the a/m soldier was brought in to be detained.

London
24 Aug. 41

W. J. McHardy ... L/Cpl.
(R-51271 McHardy, W.J.)

The defending Officer does not require the witnesses above to be present at Court.

John Patterson Lewis
18/9/41

Appendix (5)
Interrogatory Part

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-28054.	Spr.	Demers, J. A. F.	1st. Bn., R.C.E. C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge sheet drunkenness the entries for drunkenness must be stated to parately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	Escaping From Lawful Custody	1. times	1.	times.
For	A.W.L.	1. times	3.	times.
For		times		times.
For		times		times.
For		times		times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time *or* The accused at the present time is under sentence for ~~imprisonment~~ beginning on the ~~day~~ day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil. days in civil custody, and 23 days in military custody, making a total of 23 days, of which Nil. days were spent in hospital.

Plus 14 days to Oct 2/41 or 37 days in all to date

5. The present age of the accused according to his ~~record of service~~ attestation paper is 27

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 7-9-39.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of $ 53.00 service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). Nil.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or* corps *or* department) the rank of dated

(Printed) WILLIAMS[illegible] 71,500 12/40 A.G.R.W.2nd Qu.400

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. H-25054 Rank Spr. Name Demers, J. A. F. of 1 Bn. R.C.E. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G. C.M.	28 Jan 41	W.O.A.S.- Stealing property belonging to a person subject to Military Law.	90 days Detention 21 " remitted	23 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of Sep 41

W.S. Dalton Lieut

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	years,
In the rank of	years
In the rank of	years,

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs completed under proper knowledge.)

No. N.25054 Name DEMERS. J.A.P. Squad, Battery, or Company 1st Battalion Corps R.C.E. Date of enlistment 7-9-39 G.C. Badges Nil Service or Proficiency Pay Nil

M.F.M. 6 A.F.B. 122- 30M—6-39 (1708) H.Q. 177-44-32

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Nil Sheet No. 1 Signature O.C. Company, etc. Colquhoun Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending with date	By whom awarded	Remarks
WINNIPEG	30/9/40	Spr.		Absent Without Leave	C.S.M. J. Bowe	7 days C.B.	Part 2 Order 87	Maj. W.A.C.	Forfeits 10 days pay. Sd W.A.C.
Pangbourne	26/9/40	"		A.W.L. Absent 4H hrs	Cpl. Rawdon N.	168 hrs	170 d/7-11-40	Major Skinner	Forfeits 2 days pay
Berks. ENG					Sjmdt D.K.	Detention	28/11/40	O.C. "B" Coy	and 7 days pay under F.R.J. 1179
FIELD	12-10-40	SPR.		(1)					
7 Corps Tng				W.O.A.S. A.W.L. FROM 1400 hrs 12-10-40	C.S.M. Osborne	27 DAYS	16-11-40	LT. COL. F.R. HENSHAW	
				T.O. 1730 hrs 22-10-40 (10 days, 3 hrs, 30 mins)	Cpl. Barley J.	DETENTION		C.O.	
				and from 1730 hrs 23-10-40 to 1615 hrs 17-11-40	L/c MONK, D.S.				
				(19 Days, 22 hrs, 40 mins.) Total Absence	Cpl Falconer V.R.				
				30 days, 2 hrs, 20 mins	L/c Marchment S.				
				(2) W.O.A.S. Escaping from Lawful Custody	Cpl Barley J.	Released from the DETENTION BARRACKS Aldershot on 12 DEC. 1940 Sentence HAVING EXPIRED.			
				AT 1730 hrs 22-10-40					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field Cdn. Corps Area	28 Jan 1941	Spr		W.O.A.S. Stealing property belonging to a person subject to Military Law	H 13136 Spr Hanstock H 25177 Lapt Davidson E 5049 Spr Adams E 2019 Spr Angt B 26286 Sgt Quie B 26275 Lapt Green E 2002 Spr Andet E 2022 " Wright E 2164 Sgt Breton B 94750 Spr Finch E 2141 Cpl Hess E 2075 Spr Breton	90 DAYS detention 21 days remitted	17 Feb 41	Field General Court Martial	Forfeits 21 days F.R. 1 149 - 1 (6) Forfeits 69 days F.R. 1 149 1 (6) Total Forfeiture 90 days
						Released from the Detention Barrack Aldershot on 3-4-1941 Sentence having expired. Remission earned under "Rules for detention Barracks and Military Prisons" 23 days Commandant's Initials			

Certified true copy
[illegible]
18 Sep 41

B 25154 Spr Demers Jd 7

O. H. M. S.

M. F. B. 370

H. 25054 Spr. Demers, J.A.F.
No.1 Cdn. Eng. R.U.

5N.

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 14th day of August, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[I am unable to appoint—~~

*~~(1) Three Officers to form the Court~~

*~~(2) A Field Officer as President~~

~~for the following reasons, namely~~

*Omit if not applicable.

PROCEEDINGS REVIEWED

[signature]
Reviewing Officer
9 Sep 42.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	Gagnon, A.	R.C.A.S.C. 1 ASCRU.

Members.

Rank.	Name.	Regiment.
A Captain		#1 Cdn. Gen. R.U.
A Lieutenant		#1 Cdn. Sigs. R.U.

*Signed [signature] BRIGADIER

Commanding "B" GROUP CDN. REINF. UNITS.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H.25054 SPR. DEMERS, JOSEPH, ALFRED, FELICIEN, No.1 Cdn. Eng. R.U.	First Charge A.A. Sec 22	Guilty	Guilty	Finding and sentence confirmed [illegible] Brigadier
	Second Charge A.A. Sec 15(1)	Guilty	Guilty	
	Third Charge A.A. Sec 40	Guilty	Guilty	19/8/42
	See charge sheet attached.		To undergo detention for a period of 18 months imprisonment ~~with hard labour~~ Alex Cagnon Major President 17th Aug. 1942	

* Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [illegible] BRIGADIER (Signed) Alex Cagnon Major
Commanding "B" GROUP CDN.REINF.UNITS. President.
Convening Officer (*e*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court assembled on the seventeenth day of August 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Alex G
*(4. ~~The officers under instruction~~) Alex G

were duly sworn.

* Omit if not applicable.

Signed this 17th day of August 1942

Alex Cagnon Major
President of the Court Martial.

* See footnote (*b*) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** Certificate in case of death sentence.

Signed this day of 19

Alex G
President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 19 day of August 1942

[illegible]
Confirming Officer.

Promulgated and extracts taken in the case of H-25054 Spr. Demers, J.A.F.

(*a*) (Dated) #1 C.E.R.U. D.O. # 166 d/22-8-42 (Signed) (G.D. GIBSON) Capt., R.E., Records Officer, Commanding Officer, No. 1 C.E.R.U. C.A.(o.s.)
for

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Alex Ferguson Major
President
17th, August, 1942

CHARGE SHEET

The accused, H 25054, Sapper Joseph Alfred Felicien Demers, No 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army(Overseas) is charged with,

First charge A.A. Sec. 22. WHILE ON ACTIVE SERVICE, WHEN IN LAWFUL CUSTODY EASAPING

in that he,

At Guillemont Barracks, Cove, Hants, on the 15th day of June 1942, at about 0620 hours, whem in lawful custody escaped.

Second charge A.A. 15 (i) WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

At Guillemont Barracks, Cove, Hants, absented himself without leave on the 15th day of June 1942 at about 0620 hours, until apprehended on the 6th day of August 1942, at about 1510 hours at Hammersmith, London.

Third charge A.A. Sec 40 WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

At Hammersmith, London, on the 6th day of August 1942, at about 1510 hours, was improperly in possession of a pass, the property on B 67862 Rfn. Murphy, A.C. of Headquarters Company, Queen's Own Rifles Of Canada

C.N. Mitchell
.....
(C.N.MITCHELL) LT.COL. R.C.E.
A/Commanding Officer,
No.1 Cdn. Engr. Reinf. Unit,
Canadian Army (Overseas).

Cove, Hants,
11th, day Aug. 42.

To be tried by Field General Court Martial

Brigadier
Commanding "B" GROUP CDN.REINF.UNITS
CONVENING OFFICER

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined No. H.25054 Spr Demers J.A.F. of No. 1 C.E.R.U. and in my opinion he is fit to undergo Trial by Court Martial.

Station Cove

Date 17 Aug. 1942

Jidy Dennis S.G. Capt.
Medical Officer.

Alex Pagnan Major
President
17th August, 1942

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT Trailleamont Rhe Cuvon THE 17 DAY OF Aug 42

TRIAL OF:- No H-76054 Sapper Dennis R.A.F Unit #1 C.E.R.U.
The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.
The Court satisfy themselves as provided by R.P. 22 & 23.
The accused is brought before the Court.
Prosecutor:- (Name) Lieut L.D. Mear (Unit) #1 C.E.R.U.
Defending Officer:- (Name) Lieut L.P. Belanger (Unit) #1 C.E.R.U.
At 1045 hrs the trial commences.
The order convening the court is read, signed by the President and attached to the proceedings.
The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.
Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No Sir.
The President, members and judge-advocate (if any) are duly sworn.
The following constitutes the Court:

President Major ... (Unit) 1 CA & E-RU
Members CAPT ... (Unit) 1 CE R.U.
Lieut R.H. MacLean (Unit) 1 CE R.U.

The officers under instruction are duly sworn.
Q2 Do you object to ..... acting as shorthand writer? A2.-
The shorthand writer is duly sworn.
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(3) is duly complied with. (Plead in language)
The summary of evidence is read, signed by the President, and attached to the proceedings.
Court is closed to consider the finding. Court is re-opened.
Name ... (Unit) ... sworn, produces AFB 296 and MFM 6 and upon being questioned by Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.
Q3. (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes
Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4 - no

---

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

By defending Officer

Accused - a shoemaker in civilian life - had a good job. - Was 11 months with clean conduct sheet while in Canada.
Complaints that he asked and was promised to be transfered to a female section of his arm. - Says he cannot follow instructions in English and get discouraged.

Alex Fagnan major
President

Alex Lagueux
Major
President

LIST OF WITNESSES

List of witnesses in the case of H-25054 Spr. Joseph Alfred Felicien Demers, No.1 Cdn. Engr. Reinf. Unit, a soldier of the Canadian Army (Overseas).

For the Prosecution:

A/Capt. G.D.Gibson, No.1 Cdn. Engr. Reinf. Unit.

C-2166 L/Cpl. Fox J.A., No.1 Cdn. Engr. Reinf. Unit.

B-25100 Sgt. Dickson R. No.1 Cdn. Engr. Reinf. Unit.

For the Defence:

Nil.

LIST OF EXHIBITS

List of exhibits in the case of H-25054 Spr. Joseph Alfred Felicien Demers, No.1 Cdn Engr. Reinf. Unit, a soldier of the Canadian Army (Overseas).

"A" Record of Declaration of Court of Inquiry held on the 10th day of July 1942.

"B" Army Form B-252 charge sheet.

"C" Army Form B-295 pass.

"D" Certificate in accordance with P.C. 2797 of the 10th of April, 1942.

Description of Court by which trial, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11 day of Aug 42

[signature] Capt

Alex. Gagnon
Major
President

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

H25054 Spr.DEMERS, J.A.F. of the No. 1 Cdn. Engineer Reinf. Unit,

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.	*Since Enlistment.
For AA Sec 15(1) A.W.L.	1 times	4 times.
For Sec. 22 Escape	0 times	1 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct:~~ [signature]

or,

~~There are no entries in the Conduct sheets of the accused:~~ [signature]

2. ~~The accused has not been previously convicted:~~ [signature]

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

[illegible]

3 ~~The accused is not under sentence of the present date.~~

or,

The accused at the present time is under sentence for nine months detention beginning on the 4th day of JUNE, 1942.

4. The accused has been in confinement, awaiting trial on the present charges

for days in Civil Custody,

and [illegible] days in Military Custody.

Total [illegible] days.

Of which -- days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 5/12 yrs.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 7 Sep., 1939.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 11/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 2 11/12 years' service.

9. The accused is entitled to reckon 2.11/12 years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [~~or is in possession of or entitled to~~]

~~11 (If the accused is a warrant officer) The accused before he was made a warrant officer last held the regimental rank of~~

~~12 (If the case of an officer) The accused held in the army the rank of dated and in his regiment (or corps) the rank of dated~~

~~13 The accused has served as commissioned officer continuously without reduction to the present date.~~

~~Date of Promotion~~

~~to the rank of~~ ~~year~~

~~in the rank of~~ ~~month~~

~~in the rank of~~ ~~date~~

~~in the rank of~~ ~~date~~

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name H-25064 Spr. DEMERS, J.A.F. of the No. 1 Cdn. Engineer Reinforcement Unit, C.A.(OS)

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	Field, Cdn. Corps Area. 28 Jan, 1941.	A.A. Sec. 22. A Soldier CAOS WOAS. Stealing property belonging to a person subject to Military Law.	90 days detention	23 days.
F.G.C.M.	Field 18/7/41.	A.A. Sec 15(1) A Soldier CAOS WOAS. A.W.L. from 0600 hrs. 18 Jul 41 until 1030 hrs 2 Aug 41 (Absent 15 days 4 hrs 30 mins).	139 days Detention	46 days.
		A.A. Sec 22. A Soldier CAOS WOAS. When in close arrest in Bn. Guard Detention Room at Wentworth Hall, during the night 3rd/4th Aug 41 Escaped.		
		A.A. Sec 15(1). A Soldier CAOS WOAS A.W.L. from 0600 hrs. 4 Aug 41 until 2230 hrs. 24 Aug 41. (Absent 20 days 16 hrs 30 mins.).		
F.G.C.M.	COVE, Hants 6/4/42.	A.A. Sec 15(1). A Soldier CAOS WOAS A.W.L. from 0600 hrs. 6/4/42 till 1240 hrs. 21/5/42.	Found guilty on all charges sentence to imprisonment with hard labour for nine months. Sentence commuted to 9 months detention.	
		A.A. Sec. 40 -- Conduct to the prej. being in possession of another soldier's pass, ticket and personal property.		
		A.A. Sec. 40 -- Conduct to the Prej. When requested to produce his pass and pay book, produced the pass and pay-book of Gnr. Brooker.		

(Continued overleaf.

M.F.M. 6
(A.F.B. 122)
125M—7-41 (1312-30)
H.Q. 1772-30-1652

No. H25054 Name DEMERS, J.A.F. Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 7/9/39 — G.C. Badges Nil — Service or Proficiency Pay Nil

Date of last entry in Company Conduct Sheet Nil — No. and date of last drunk Nil — Period not reckoning towards freedom from extra fine Nil — Sheet No. 1. — Signature O.C. Company, etc. W.A.Capell Major — Character Good.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Winnipeg	30/3/40	Spr		Absent Without Leave	CSM J.Borse	7 days C.B.	Ft.II O. #27 d/ 6-4-40.	Maj W.A.C.	Forfeits 10 days pay.
Panghourne, Yorks, Eng.	20/8/40	Spr		AWOL. Absent 44 hrs.	Cpl.Rawden, H Cpl.Bissett	168 hrs.Det	23/8/40	Maj Flexman C.C. B Coy 1 Bn.	Forfeits 2 days pay and 7 days pay under FRI 149.
Field 7 Corps Area	12/10/40	Spr.		WOAS AWL from 1400 hrs 12/10/40 to 1730 hrs 22.10.40 (10 days 3 hrs 30 mins) and from 1730 hrs 23.10.40 to 1610 hrs 12.11.40 (19 days 22 hrs 40 min) Total Absence 30 days, 2 hrs 20 mins. WOAS. Escaping from Lawful Custody at 1730 hrs 3/10/40.	C.S.M.Osborne Cpl.Bailey J L/CMonk D.S. Cpl. Falconer L/C.Marchment	27 dys Detention Released from the Aldershot 12 Def 40 Sentence having expired.	16/11/40	Lt.Col. Henshaw M. C.C.	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field Cdn Corps Area	28 Jan 41	Spr		WOAS Stealing property belonging to a person subject to military law	Documentary	90 dys detention 21 dys remitted	17 Feb 41	F.G.C.M.	Forfeits 21 dys FRI 149 (1) (a) Forfeits 69 dys FRI 149 (1) (b) Total Forfeiture 90 dys

Released from Detention Barracks Aldershot on 3-4-41 Sentence having expired
Remission earned under Rules for Detention Barracks and Military Prisons 23 dys
Commandants Initials ????????

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Gordon, Eng.	5/2/42	Spr.		AA Sec 40. WOAS Conduct to the prejudice of Good Order and Mil. Discipline.	Documentery	28 days Det.	20-3-42	Lt.Col.Smith.	28 days pay& Allowances under FR & I 149 1(b)
				AA Sec 15(1) WOAS AWL from 2200 hrs. 5 Feb 42 to 1430 hrs 11/2/42 (Absent 5 days 16 hrs 30 min)		Vide Charge(1)	20-3-42		6 days pay and allowances under FR & I 149 1(a).
	Released from the Military Detention Barracks, Barland, "Rules" for Detention Barracks and Military Prisons" 4 days.					SENTENCE HAVING EXPIRED. Commandants Initials	14/3/42.	Remission earned under ???.	
COVE, Hants	6/4/42	Spr.		AA Sec 15 (1) WOAS AWL from 1600 hrs. 6/4/42 till 1240 hrs 21/5/42		Found guilt on all charges sentenced to imprisonment with hard labour for nine months Sentence commuted to 9 mos. Detention	4/6/42	F.G.C.M.	Forfeits 45 days pay F.R.&.I. 149 1(a)
				AA Sec 40 - Conduct to the Prej. being in possession of another soldier's pass, ticket and personal property.					
				AA Sec 40 - Conduct to the Prej. When requested to produce his pass and pay book, produced the pass and pay book of Gnr. Brooker.					

M.F.M. 6
(A.F.B. 122)
78M—7-41 (1219-30)
H.Q. 1772-39-1852

No. H-2505 Name DEMERS J.A.F. Sqn., Battery, or Company } 1 Bn RCorps Date of enlistment } 7-9-39 G.C. Badges } Nil. Service or Proficiency Pay } Nil.

Date of last entry in Company Conduct Sheet } No. and date of last drunk } Nil. Period not reckoning towards freedom from extra fine } Nil. Sheet No. 2 Signature O.C. Company, etc. } ?????? Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18-7 41	Spr.		(1) WOAS AWL from 0600 hrs. 18-Jul 41 until 1030 hrs. 2 Aug 41 (Absent 15 dys 4 hrs. 30 mins) A.A.15(1) (2) WOAS When in close arrest in Battalion Guard Dten. Room at Wentworth Hall, during the night 3-4 Aug 41 escaped A.A.22 (3)WOAS AWL from 0600 hrs. 4 Aug 41 until 2230 hrs. 24 Aug 41 (Absent 20 dys 16 hrs. 30 mins) A.A.15(1)	Lt.McCallum CP.Bissett CSM Sutherland Sgt. Duke Cpl. Bleakly	139 dys Detn.	2 Aug 41	F.G.C.M.	F'fts. 40 dys pay FRI 149(1) (c)(i) F'fts. 36 dys pay FRI 149 (1 (a) .F'fts 139 dys ~~pay~~ FRI 149 (1)(b) Total Forfeiture 215 dys pay

Released from Detention Barracks Witley Jan 2 1942 Sentence having expired . Remission earned under Rules for Detention Barracks and Military Prisons 46 dys. Commandants Initials ???????

(P.T.O.)

Chas. Gagnon
Major
President
17th August, 1942

-- SUMMARY OF EVIDENCE --

Summary of Evidence in the case of No. H-25054 Spr. Joseph Alfred Felicien DEMERS, No. 1 Cdn. Engineer Reinforcement Unit, a Soldier of the Canadian Army (OS).

Evidence taken on oath by order of Lieut.-Colonel C.N. Mitchell, Acting Commanding Officer, No. 1 Cdn. Engineer Reinforcement Unit.

FIRST WITNESS: A/Capt. G.D. Gibson, Records Officer, No. 1 Cdn. Eng. Reinforcement Unit, having been duly sworn, states:

I am Records Officer, No. 1 Canadian Engineer Reinforcement Unit. I submit the following documents, which I am satisfied refer to the accused.

(A) Record of Declaration of Court of Inquiry held on 10th day of July, 1942.
(B) Army Form B-252 Charge Sheet.
(C) F " " B-295 Pass.
(D) Certificate in accordance with P.C. 2797 of 10th April, 1942.

G.D. Gibson ..... CAPTAIN.

SECOND WITNESS: C-2168 L/Cpl. Fox, J.A., No. 1 Cdn. Engineer Reinforcement Unit, having been duly sworn states:

I was in charge of escort sent to the Men's Kitchen to draw breakfast for men in Detention Barracks on the 15th June, 1942. While in the kitchen about 0620 hours, Spr. Demers the accused whom I now recognize escaped from my custody. I immediately reported to the Detention Barracks his absence.

L/Cpl. Fox J.A. ..... L/Cpl.

The accused declines to cross-examine this witness.

THIRD WITNESS: B-25100 Sgt. Dickson R. A/C.S.M. of "A" Company, No 1 Cdn. Engr. Reinf. Unit, having been duly sworn states:

I am at present A/C.S.M. of "A" Coy. and do hereby state that H-25054 Spr. Demers J.A.P., the accused, was carried on the strength of "A" Coy. as A.W.L. from 0620 hours on the 15th of June 1942 until S.O.S. to Records as an illegal absentee on the 24th of July 1942, at which time we ceased to carry the accused on the strength of "A" Coy.

R. Dickson .....Sgt.

The accused declines to cross-examine this witness.

The accused after being cautioned in accordance with R.P. 4(C)(D)(E)and(F), declines to make any statement, reserving his defence.

Certified that R.P. 4(C)(D)(E) and(F) have been complied with.

Taken down before me in the presence and hearing of the accused, at Guillemont Barracks,Cove, Hants, this 10th day of August 1942.

J.D. Mear Lt.
.....
(J.D.Mear) Lieut. R.C.E.

"A" [illegible]

RECORD of the Declaration of a Court of Inquiry assembled at Guillemont Barracks, COVE, Hants on the 10th day of JULY, 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. H-25054 Spr. DEMERS, J.A.F.

-- D E C L A R A T I O N --

The Court declare, That H-25054, Spr. DEMERS, J.A.F. of the No. 1 Cdn. Engineer Reinforcement Unit, absented himself without leave from Detention, Guillemont Barracks, COVE, Hants, at 0620 hrs., on the 15th day of June, 1942, and is still so absent. H-25054, Spr. Demers, J.A.F. is deficient in kit valued at £ 6-7-11. (As Statement shown below).

DEFICIENCY OF KIT ON H-25054 SPR. DEMERS, J.A.F.

16 June 42.

		TOTAL			75%		
		£	S	D	£	S	D
Battle Dress Blouses Serge	1	1	7	8	1	0	9
Battle Dress Trousers Serge	1 pr.	1	7	11	1	0	11½
Boots Ankle	1 pr.	1	1	6		16	1½
Braces	1 pr.		1	3½			11½
Cap Field Service	1		3	8		2	9
Combs Hair	1			2			1½
Discs Identity	3			3			2½
Dressing Field	1		1	1			10
Forks N.S.	1			5			4
Knife Clasp & Lanyard	1		5	2½		3	11
Knife Table	1			9½			7
Socks Worsted	2		3	4		2	6
Spoon Table	1			4½			3½
Shorts Cotton Gym	1 pr.		1	11		1	5½
Vest Cotton Gym	2		3	0		2	3
Bags Ration	1			1½			1
Ointment A/Gas #2 tins	1			9½			7
Cape A/Gas Camouflaged	1	1	3	6½		17	8
		5	3	½	4	12	4½

SIGNED at Guillemont Barracks, COVE, Hants, this 10th day of July 1942.

Lieut. T. G. Clendenning, No. 1 C.E.R.U. - PRESIDENT.
Lieut. A.R. Tulk, No. 1 C.E.R.U. - MEMBER.
M-5004 C.S.M. Benoy, G.H., No. 1 C.E.R.U.- MEMBER.

Signature of Commanding Officer (G.H.WHYTE) COLONEL R.C.E.
Commanding Officer,
No. 1 Cdn. Engineer Reinf. Unit,
Canadian Army (Overseas)

certified true copy
C C Hunter Major
Adjt
1 C. Eng. R.U.

CHARGE

"B" Army Form B 252
(See King's Regulations)

No 1 C.E.R.U. Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. H-25054 Rank Spr.

Name Demers, J.A.F.

Place London Date of Offence 6-Aug-42

OFFENCE W.O.A.S. Being in possession of a pass to which he was not entitled, it being the property of B-67862 Rfmn. Murphy, A.C. at Hammersmith, London, at about 1510 hrs. on the 6-Aug-42.

Lieut
O. i/c Detention Room
No. 6 Provost Company

Names of Witnesses :—

L/Cpl. Snider, Canadian Provost Corps.

L/Cpl. Dickenson, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of **EVIDENCE** in the case of
H-25054 Spr. Demers, J.A.F.
No 1 C.E.R.U.

Sir;

At London on the 6-Aug-42 at about 1510 hrs. I was on duty in Hammersmith, London, in company with L/Cpl. Dickenson, where I saw the a/m soldier. I asked him to produce his pass. He produced one which had expired on the 5-Aug-42 and which was made out to B-67862 Rfmn. Murphy, A.C. On being questioned he admi admitted that he was not Murphy but Demers. I placed him under arrest and escorted him to No 6 Cdn. Prov. Coy. Hqrs. London, where I turned him over to the N.C.O. i/c of cells to be detained.

London
6-Aug-42 .....L/Cpl
(L-140 Snider, M.E.)

Sir;

I have read over and corroborate the above statement.

London
6-Aug-42 .....L/Cpl.
(D-93507 Dickenson, J.)

REMARKS

The a/m has no complaints

C. Demers
Lieut
O. Ic. Detention Room
No. 6 Provost Company.

"C"

In a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regimental .....

Army Form [illegible]
(In pads of 100)

PASS (NOT VALID FOR TRAVEL BY RAIL)

No. B67862 (Rank) Pte. (Name) Murphy, A.G.

has permission to be absent from his †quarters/duty, from

1700 hrs. 3-8-42 to 1700 hrs. 5-8-42

for the purpose of proceeding to London

(Station) In The Field

(Date) 3-8-42

Major

"H. Q." COMPANY
QUEEN'S OWN RIFLES OF CANADA

* Destination not required unless [illegible] is to exceed [illegible] hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket as obtained here.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

"D"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No H-25054.. Rank Spr. Name ..Demera, J.A.F.....

Unit No.1 C.E.R.U..... was arrested at Hammersmith (Place) London

at 1510..(Hour) on ...6-Aug-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian Clothes~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable)'

.....Lieut.
Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

I THE UNDERSIGNED REQUEST THAT AN OFFICER BE PRESENT TO

REPRESENT ME AT MY TRIAL.

I REQUEST THAT _____ OR _____

REPRESENT ME IF POSSIBLE.

[illegible signature]

4B-110
PTE DEMERS O.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E5104 Pte Demers, Ovila

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)	(a)GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 482 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of KR see RP 44 fn 6.)

[redacted] "MBJ" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 109 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for 18 (eighteen) months.

(Sgd) ..... Judge-Advocate, if any. 9 Oct 44 Date awarded. (Sgd) "MBJohn Major" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6-0(A)(B), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be entered before promulgation: RP 53, MML p 63. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

[redacted] "EWH" (1)

(1. AA 57A. Delete if not used.)

(Sgd) "E W Haldenby" Brig

Date 10 Oct 44 COMMANDER

Commanding 1 CDN BASE EFT GROUP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
E 5104 Pte Demers, O.	12-10-44	"Vincent McKenna Lt-col" Officer Commanding

1 Bn 1 Cdn Base Reinforcement depot.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

RECORDED AT CMHQ IN AB 160 4/3-110

(D.M. Owen) Capt

FIELD GENERAL COURT-MARTIAL

CFAFS (in lieu of AFA3)

Convened by Order of Cdn Sec GHQ 2 Ech AAI Col S.A. Lee MC T/Comd 1 CBRDp dated 6 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-5104	Pte	Ovila	DEMERS	1 Bn 1 CBRD

Proceedings Reviewed
25 Oct 44 "W P Taylor Major"
DJA

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) Cdn Sec GHQ 2 Ech AAI 9 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet [redacted] attached thereto (1) "MBJ" The Court is satisfied that it is properly convened and constituted(2), accused is [redacted] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [redacted] brought before the Court. At 0950 hours trial commences. "MBJ"

A4. The Prosecutor produces a Medical Certificate that accused is [redacted] fit to undergo trial by court-martial.(1) [redacted] "MBJ"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to D56918 Sgt Labont, E.T. interpreter? Ans No "MBJ"

The Interpreter is sworn.(1) [redacted] "MBJ"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	M B John	(CIC)	2 Cdn Reall Centre
Member	Lieut	A.J. Charette	(CIC)	2 Cdn Reall Centre
Member	Lieut	J.H. Pelletier	(CIC)	1 Bn 1 CBRD
Judge-Advocate				
Prosecutor	Lieut	W.J. Winn	(CIC)	1 Bn 1 CBRD
Defending Offr	Capt	J.R. Nicholson	(CIC)	1 Bn 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused E5104 Pte Demers, O. before arraignment makes(s) (no) [redacted] plea "MBJ" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [redacted] arraigned [redacted] on all charges in the charge sheet.(1) The accused does [redacted] "MBJ" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(A). *As to plea when sentence may be death see RP* 35(D).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37(A) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(C); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(A) (B); *duty and privileges of accused and Defending Offr see RP* 60(C), 87(C), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 84, 82; *questioning of accused see RP* 80, 87(C), 92(B), *and of witnesses and witnesses from Court see RP* 85; *calling or recalling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 87(E) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge[redacted](1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge[redacted] "MBJ" call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge[redacted].(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4) "MBJ"

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP* 37(B). 2. *RP* 37(D) *fn* 6. 3. *RP* 35(B) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on [redacted] charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on [redacted] charge(s). Part I of the Schedule is amended accordingly. "MBJ"
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge[redacted] to which the plea[redacted] of Guilty is [redacted]) not changed the President records finding[redacted] of "MBJ" Guilty in Part I of the Schedule.(1)
(1. *RP* 35(B). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(B). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(A) (B).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) "MBJ"
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing such paras D4 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(A) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(B), 60(A) (B), 90, 92(C) (D). *Record address per Notes, subject to RP* 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(C), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....
Do you intend to call witnesses on your behalf ?
Ans.....
Are they witnesses as to character only ? Ans.....
(1. *RP* 105. 2. *RP* 4C(4), *see* 8C(C). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fn* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 295. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(6) *fn* 1, 86(C). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(A). *See Notes in Part I of Schedule.* 2. *RP* 46(6).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (6), *RP* 45, 120(4). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable where there are pleas of Guilty outstanding and deals with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP* 37(C) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted] as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet[redacted](2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer "MBJ" to the accused, because (i) they purport to be signed in the manner required by AA 169(f) (g) (h), and (ii) they purport to refer to (a) soldier[redacted] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(1. *AFB* 255 *or AFB* 296. 2. *AFB* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement[redacted] and Conduct Sheet[redacted], and in "MBJ" mitigation of punishment ?(1) Ans Yes by the Defending Officer.
(1. *RP* 37(C), 46(5). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(F) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(9).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately, see RP* 7(D). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and the provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 136, 182, *RP* 46-50, 87, 118, 119(2), *KR Can* 326, 330, 563-566, *Overseas RO* 309, 2123, *MML p* 66, 237-239. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(1)(c), 60(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of accused after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"MRJ"

CHARGE SHEET

The accused, E 5104 Pte. DEMERS, Ovila
1 Canadian Base Reinforcement Battalion,
1 Canadian Base Reinforcement Depot,
a soldier of the Canadian Army Overseas,
is charged with:-

FIRST CHARGE
A.A. Sec 12(1)(a)

WHEN ON ACTIVE SERVICE,
DESERTING HIS MAJESTY'S SERVICE,

in that he,

In the Field, in Italy, absented himself without leave from 1030 hrs. 29 December, 1943, until he was apprehended at 2130 hrs. 22 Jun 1943.
(Total Absence: 176 days, 11 hours)

"RDClendenning" Major
(R.D.CLENDENNING)
T/Officer Commanding,
1 Cdn Base Rft Bn., 1 C.B.R.D.

In the Field
28 Sep 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
In Italy
6 Oct 44

"S.A. Lee"
(S.A. LEE) Colonel
T/Comd 1 Cdn Base Rft Gp
Cdn ARMY-CMF

FIELD GENERAL COURT-MARTIAL "MBJ"

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E5104	Pte		Ovila	DEMERS	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX] committed the offence[X] set forth in the Charge Sheet[X] attached and on (*date*) 6 Oct 44 endorsed by me, [redacted]), "To be tried by Field General Court-Martial". "SAL"

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; ([redacted] "SAL"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

4. [redacted] "SAL"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted] "SAL"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	M B HOHN	(CIC)	2 Cdn Reall Centre

MEMBERS.

Capt or Lieut to be detailed by OC 2 Cdn Reallocation Centre

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Lieut	J H PELLETIER	(CIC)	1 Bn 1 CBRD

WAITING MEMBER.

Capt or Lieut to be detailed by OC 2 Cdn Reallocation Centre
(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

[redacted] "SAL"

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy "S A Lee" Colonel
(Country.) (Signed personally. RP 105 fn 2.) (Rank.)
(S.A. LEE)

Date 6 Oct 44 T/Commanding 1 Cdn Base Rft Gp-CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAMS 11th Impl of AFAS) (See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA*) (*RP 40 fn 10*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 91.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D).* *Prosecutor has no right to address Court on subject of sentence except as provided by RP 48(E), KR Can 567(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting on evidence a certified copy in lieu of original see KR Can 560. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part 1 of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 788.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE "MBJ"
(KR (Can) 557)

I certify that I have this morning examined No R5104 Rank Pte Name DEMERS O. of R22R 1 Bn. and in my opinion he is fit to undergo trial by Court Martial.

In the Field
Date 9-10-44

"John M Fraser Capt"
(Medical Officer)

"MBJ"

Defending Officer:

In mitigation of sentence I'd like to bring to the attention of the court that the accused was severely wounded in Sicily. He spent three months in hospital and his nerves were quite low when released from hospital he intended to return to his regiment. He felt the need of an holiday in the meantime. He put off returning for a few days until he was feeling better. I feel that he had no intention of deserting and in considering the sentence I would ask the mercy of the court.

"MBJ"

Exhibit "C"

"MEF"

SUMMARY OF EVIDENCE

In the case of

E 5014 Pte DEMERS, O, 1 Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath:-

FIRST WITNESS for the Prosecution

D 95834 Pte MacLeod, D.D., 1 Battalion, 1 Canadian Base Reinforcement Depot, a Soldier of the Canadian Army Overseas, duly sworn, states,

I am a clerk at 1 Battalion, 1 Canadian Base Reinforcement Depot, Orderly Room, as such I produce herewith the following document under A.A. 163 (i)(m).
1. A certified true extract from Daily Order Part II Number 10, dated 3 March 1944, R22eRegt, issued by Cdn Sec CHQ 2nd Echelon (CMF) stating that the m/n soldier absented himself at 1030 hours 29 December, 1943. This document will be shown as Exhibit "A".
2. A certificate of arrestation under A.A. Sec.163 (i)(jj) signed by Capt Horton, D.A.P.M., 6j S.I.S., stating that the a/m soldier has been arrested at 2130 hours, 21 June 1944. This certificate is shown as Exhibit "B".

"Pte MacLeod, D.D."
(Signed)(D.D. MacLeod)

The accused declines to cross-examine the witness.

The two documents referred to by the witness, produced, read over to the accused, marked Exhibit "A" and "B" signed by me and attached hereto.

The accused having been duly and strictly cautioned in accordance with R.P. 4(e) elects to reserve his defence.

The accused does not demand any witness for the defence.

Summary of Evidnece composed of two pages and two exhibits are attached and marked "A" and "B", taken down by me before the accused this 12th day of August 1944. R.P.4(a)(d)(e)(f) and (g) have been complied with.

"D Mac"
Signed (D. Mac) Capt.,
Officer taking Summary

In the Field,
11 August 1944.

Exhibit "A"
"JAM" "MBJ"
Note Page 2 See 5K.

Last Order No. 9 25 Feb 44

ROYAL 22e REGIMENT
PART II ORDERS ISSUED BY
CANADIAN SECTION, G.H.Q., 2nd ECHELON (CMF)

No. 10
3 Mar 44

"B" OTHER RANKS

Page 2
"EXTRACT"

5. STRENGTH DECREASE:
(K) S.O.S. as a deserter wef 11 Feb 44 having been dec illegally absent by a Ct of Inq from 1030 hrs 29 Dec 43. Defincies in kit to the value of £3.6.9½

E 5104 Pte Demers, O.

Certified true copy of Royal 22e Regiment Part II Order No. 10, d/3 Mar 44.

"J.E. Campbell"
(J.E. Campbell) Captain,
for Officer i/c.,
Cdn Section G.H.Q., 2nd Echelon - A.A.I.

"MBJ"

Exhibit "B"

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SECTION 163(1)(ii)

I certify that No E5104 Pte Demmers, Ovila of the Royal 22nd Regiment, Canadian Army was arrested at Trinitapoli at 2130 hours, on 22nd June, 1944.

Signature of Provost Marshal, APM or other officer into whose custody the above-named person was taken on arrest.

"W G Horton"
W.G. Horton Captain
63 Special Investigation Section. D.A.P.M.

(Reverse side)

This exhibit B referred to in the Summary of Evidence in the Case of E5104 Pte Demers, Ovila taken before me this 17th day of Aug 44.

"D.Dion Capt"

"MBJ"

Army Form B 200.

Exhibit "D"

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank*	*Name.*	*Regiment (or as the case may be).*
F 5104	Pte.	DEMERS, C.	1 C.B.R.Bn., 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial the summary may be compiled from the field conduct sheet.

† The conduct sheet(s) mentioned should be attached to court's finding in court with the statement has not asserted to the properties.

‡ See para. 627, K.R.

* The evidence under section should not be given in the hearing of the accused three, and Minister being given to the most serious offence in each entry, and to several minor special with an indication by an (R) number of conduct.

Instructions.—In the character and conduct sheet, the entries for disciplinary award should be dated.

	* Within last 12 months.	Since Enlistment.
For A.A. Sec 11	2 times.	2 times.
For A.A. Sec 15(1)	1 times.	1 times.
For A.A. Sec 24(2)	1 time.	1 times.
For A.A. Sec 19	1 times.	1 times.
For	times.	times.

2. The accused has not been previously convicted, or "JAM"

"JAM"

3. The accused is not under sentence at the present time, or "JAM"

4. The accused has been in confinement, awaiting trial on the present charges, for 109 days in civil custody, and 109 days in military custody, making a total of 109 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his "JAM" attestation paper is 22

6. The date of his "JAM" attestation specified in his "JAM" attestation paper is 22 Feb 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award "JAM"

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N/A dated

12. (In the case of an officer.) The accused holds in the army the rank of N/A and in his regiment (or corps or department) the rank of N/A dated

(Signature, or initials, of officer who signs.)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court, or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9 day of Oct 1944

"JAMacDonald Capt"

19. The accused has served as a non-commissioned officer continuously, without reduction, to the present date. N/A

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Exhibit "E"
"MBJ"

No E5104 Name DEMERS,O. | Sqn, Battery or Company | Corps CIC | Date of enlistment 22/2/40 TEMPORARY | QC Badges | Service or Proficiency Pay | "MBJ" | MFM 6 (AFB 122) 40/P&S/136 (3436)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5/10 43	Pte		1. AA Sec 11 Beyond the limits of the camp without a pass 2. Neglecting to obey standing orders. Not wearing longs after sundown.	Documentary	10 days C.B.	7 Oct 43	Lt Col W.P. Bristowe	"DBD"
Field	19-10 43	Pte		AA Sec 15(1) AWL from 2215 hrs. 19 Oct 43 to 0900 hrs. 5 Nove 43 (Absent: 16 days, 10 hrs. 45 mi)	Cpl Belanger Sgt Whynot	28 days F.P. 28 days pay FR&I 149(2)	5 Nov 43	Lt Col W.P. Bristowe	Forf 17 da pay FR&I 149(1)a
Field	5 Nov 43	Pte		AA Sec 24(2)Losing by Neglect his Clothing etc to the value of $6.3.4.	CQMS Crochetiere	Put under stop pages to make good sum of $6.34	6 NOV 43	Lt Col W.P. Bristowe	"DBD"

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Dec 43	Pte		A.A. Sec 19 Drunkeness	Doc	Admonished 1st offence	16 Dec 43	Lt Col W.P. Bristowe.	

CERTIFIED TRUE COPY FROM
REGIMENTAL BOOKS IN MY CUSTODY "JAMacKonald Capt"
(Officer in custody of Regt'l Books

"MBJ"

STATEMENT BY THE ACCUSED

I certify having received free of charge, a copy of the Summary of Evidence, list of witnesses, list of Exhibits and Charge sheet.

I desire the services of an Officer to represent me at the trial.

Date 21 Sep 44 "Ovila Demers"

CHARGE SHEET

EEE-69

PTE DEMEULE A OR.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C/21470 Pte Arthur Joseph Roland DEMEULE, 9 Cdn Inf Bde Sp Gp (C H of O)

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA. Sec 15 (1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MANL p 483 fn 4 para 2, RP 44. special findings see RP 44 and MANL p 753, and in lieu of it see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF B296.)

Time in confinement awaiting present trial—a total of 21 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF 8355 or AF B296 admitted in evidence under 47.)

Sentence Awarded by the Court:

To undergo (45) forty five days ~~imprisonment~~ detention
To pay the incurred cost of event to the amount
of (£1-18-6) One pound eighteen shillings and six pence.

4 Feb 44 (Sgd) Geo Kippe Mjr
Date awarded. President. (RP 45, 50.)

(Sgd) ~~Judge Advocate, if any~~
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MANL p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 120(D) fn 6, 644(A), 54-56, 120, MANL pp 759-761, RR Can 567-577. Acquittals cannot be confirmed and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, accused may be tried again: AA 137, MANL p 66. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MANL p 65. Quashing after promulgation: RR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to ~~prison (detention barracks)~~ until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) R.O.G Morton Brigadier
Date 6 Feb 1944 Commanding 3 Cdn Inf Div
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, RR Can 576, 577.)

Accused: C/21470 Pte Demeule J.R. 9 Cdn Sp Bde (C.H. of O.)
Date: 12 Feb 44
Signature of Offr: [illegible] A/Comd
O.C. 3 Cdn Div Sp Bn (C.H. of O.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. 6669

C.F.Am. (In lieu of AFA3) 40/P.G. 87(1958) (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig R.O.G Morton A/ Comd 3 Cdn Div dated 2 Feb 44

ACCUSED.

(As to the total of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, RR Can 308, 328, 330.)

Number.	(a) Permt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C/21470	Pte	Arthur Joseph Roland	DEMEULE	9 Cdn Inf Bde Sp Gp (C H of O)

PROCEEDINGS REVIEWED
J.R. Miguelon Capt
20 Mar 44.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 17 Feb 44 AJAG FIRST CDN ARMY

Held in the Fd in (country) England on (date(s)) 1 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant form RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MANL pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for paths and instrs on how to transmit addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans
~~The interpreter is sworn.(1) Do you object to~~ as shorthand writer? Ans
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. SIR.(2)
(1. RP 110. 2. If no objection, ~~waiting Member~~ retires. RP 68(B). If objection see procedure AA 51, RP 25, 71, 18, MANL p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G L Tripp	3 Cdn Div Sp Bn (C H of O)
Member	Capt	B Fraser	3 Cdn Div Comp Coy (Assault) RCASC
Member	Capt	G Scattergood	22 Cdn Fd Amb, RCAMC
~~Waiting Member~~ Judge Advocate	Capt	J.F. LAMBERT	1st Bn C.H of O.
Prosecutor	Capt	H.S GILLIES	1st Bn C.H of O.
Defending Offr	Capt	D.M. Cowie	SASK L.I. attchd (C.H of O)

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (90) and fn 2 were not followed. See fn 1, p 83.

A8. The accused C/21470 Pte Demeule, A J R before arraignment makes(s) (no) ~~(no)~~ plea.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13(E), RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Manner. For forms of record see references or fns to RP cited. Insert in A8 such and more of the accused making the plea.)

A9. The accused is duly arraigned (re-arraigned) on all charges in the charge sheet.(1) The accused does ~~(does)~~ not object to any charge.(2) ~~The accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ The accused pleads to the charge sheet as follows:
~~plea in Part I of the Schedule.~~
(1. RP 32, 112. See para 1 of footnote p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and ~~file~~ prepare copies of CF A24 to record proceedings. 2. RP 32, RP 33. If admission, delete and make appropriate record para.)

A10. The Court ~~adjourns~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. YES IN MITIGATION OF SENTENCE.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~.(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s).~~ Part 2 of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "D", initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charge(s) dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....
Do you intend to call witnesses on your behalf ?
Ans.....
Are they witnesses as to character only ? Ans.....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(7) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO. SIR.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "E" and Ex "F" respectively.(3)
(*1. MFB 255 or MFB 256. 2. Ms as 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. YES SIR.
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(B).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 128, 132, RP 46-50, 69, 118, 119(A), KR Can 558, 230, 563-566, Overseas AO 309, 2323, RP 48. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 132. When accused MML p 66, 737-739. As to sentences consequent on conviction see AA 64(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by already under sentence of imprisonment or detention see AA 64(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see letters on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No C21470 pte DEMEULE, Arthur, Joseph, Roland, of 9 CDN INF BDE SP GP (CAMERON HIGHLANDERS OF OTTAWA) a soldier of the CANADIAN ARMY (Active Force) is charged : -

1st Charge

With WOAS Absenting himself without leave, in that he, in the field, on 29 Dec 43 did absent himself without leave from 1200 hrs 29 Dec 43 till apprehended by the Cdn Provost Corps at CENTRAL RAILWAY STATION, GLASGOW at about 20.30 hrs on 13 Jan 44.

(Total absence 15 days 8 hrs, 30 mins)

And incurred cost of escort to the amount of £ 1 - 18 - 6.

Roger Rowley Major

(R. ROWLEY) MAJOR
OFFICER COMMANDING
9 CDN INF BDE SP GP
(CHofO)

To be tried by Field General Court Martial.

In the Field

2 Feb Jan 44

R.O.I. Morton

(ROG MORTON) Brigadier
A/Comd 3 CDN INF DIV

CPA96 (In lieu of AF A3)
40/PAS/1607 (2000)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C/21470	Pte		Arthur Joseph Roland	DEMEULE	9 Cdn Inf Bde Sp Gp (C H of O)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 2 Feb 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G L Tripp	3 Cdn Div Sp Bn (C H of O)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	B Fraser	3 Cdn Div Comp Coy (Assault) RCASC
Capt	G Scattergood	22 Cdn Fd Amb, RCAMC

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 2 Feb 44 Commanding R. O. G. Morton
Convening Officer
A/Comd 3 Cdn Inf Div

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions *of* the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl R. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply *so far as* practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP 90(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 93.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 5 of CF A 96 in following order :

(i) Charge Sheet. (*See top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting an evidence a certified copy in lieu of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 85(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 750.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

C/CHO/5-2
4 Feb 44.

MEDICAL OFFICER'S CERTIFICATE

I certify that No C.21470 Pte Demeule A.J.R. of C CCY, CAMERON HIGHLANDERS OF OTTAWA (MG) is fit to undergo trial by Court-Martial.

Signature of Medical Officer.

DEFENDING OFF'S ADDRESS

Sir, I should have to point out to the court that the accused, C 21470 Pte Clemale A.T.P. has shown honesty and good intention by entering a plea of guilty. I maintain that his action was prompted by fear and worry and that he was therefore wholly responsible for his actions. He was aware that his wife was expecting a baby in January and when she suffered an attack of cramps he suspected that the baby was about to be born. Inasmuch as the accused is young and inexperienced there is no doubt in my mind that he became excited and that what he did named right to him namely that he should stay with his wife untill the baby was born.

The accused made the best attempt possible for him, under the circumstances and that was to get in touch with his orderly room by telephone. He believes the number supplied to him by the RTO was

Waterfoville 244 and receiving no satisfactory answer from there did what he thought to be the least thing and [illegible] with his ailing wife. I maintain that some lack of understanding of ~~[illegible]~~ spoken English and notability to read or write the language left him no other course [illegible].

The accused was absent to return to duty when apprehended by the provost corp again showing that when not worried he was anxious to maintain his reputation as a good soldier. Since his arrest he has attempted to receive confirmation of his statements from his sister-in-law, Mrs. Nancy Ingram - 137 West Graham St Glasgow but until now has been unsuccessful.

In view of his actions and sincerity I ask the court to deal with the accused with the utmost leniency possible

Ex A.

Army Form B 252
(See King's Regulations)

CHARGE

CAMERON HIGHLANDERS OF OTTAWA (Regiment / Battery / Squadron / Troop or Company)

9th C.I.B.

CHARGE against No. C-21470 Rank: Pte.

Name Demeule, A.J.R.

Place Glasgow Date of Offence 13-Jan-44.

OFFENCE W.O.A.S. Absent without leave from ? until apprehended by the Cdn. Provost Corps at CENTRAL RAILWAY STATION, GLASGOW, at about 20.30 hrs, on the 13-Jan-44.

for [illegible] CAPT.
E. GRAYSON D.A.P.M.
LONDON AREA

Names of Witnesses:

A-6060 L/Cpl. Prysky, P. Cdn. Provost Corps.

L-27070 L/Cpl. Hebert, B.S. Cdn. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of - EVIDENCE in the case of

C-21470 Pte.Demeule,A.J.R.
Cam.Highl's of Ottawa.

Sir:

At GLASGOW at about 20.30 hrs.on the 13-Jan-44,I was on duty at CENTRAL RAILWAY STN.accompanied by L/Cpl.Hebert,where I saw the a/m soldier.

I approached him and requested to see his pass,he could not produce one and admitted that he was A.W.L.

I placed him under arrest and conveyed him to the CENTRAL POLICE STATION,where I handed him over to the Officer i/c to be detained.

L/Cpl.
A-6060 Prysky,P.

Glasgow
13-Jan-44.

Sir:

I have read over and corroborate the above statement.

L/Cpl
1-27670 Hebert,B.S.

Glasgow
13-Jan-44.

REMARKS

Expense Voucher Re—: Ex B. Ref: K.R. & O. (Can) 539

Reg. No. C21470 Rank Pl. Name Demule, C.J. Unit C.H. of O.

The following expenses were incurred in apprehending and returning the M/M Soldier to ~~his Unit From~~ London from Glasgow

Date	Particulars 1/5 Portion	Amount		
15 Jan 44	Escorts return fare from LONDON To Glasgow	1	4	10
	Prisoners single fare to LONDON From Glasgow	Own Ticket		
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares 1/5 Portion		2	3
	Total £	1	7	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Smith Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:50
40/P & S/499(5057)

Expense Voucher Re—: Ex B. Ref: K.R. & O. (Can) 539

Reg. No. C21470 Rank Pte. Name Demeule, A. J. Unit C.H. of O.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
15 Jan 44	Escorts return fare from LONDON To Portsmouth		11	5
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Portsmouth	Own Ticket		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Smith Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P&S/483(3287)

Exhibit C

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

I certify that No. C-21470 Rank Pte. Name Demeule, A.J.R.

Unit Cam. High'rs of Ott. (9th C.I.B.) was arrested at GLASGOW (place)

at 20.30 hrs (hour) on 13-Jan-44 (date) and that at the time of his arrest he was wearing (military uniform) or ~~(civilian clothes)~~.

Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

~~Lieut.~~ Capt

~~Glasgow~~
London

~~(L.S. Grayson) D.A.P.M.~~ C.M.H.Q.

Ex "D" Oct 1.

Summary of Evidence on the Case of: No. C-21470 Pte Demeule, Arthur, Joseph, Roland, 9 Cdn Inf Bde Sp Cp (C.H.of.O) a Soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

First Witness for the Prosecution: Lt. K.F. Preuter, Admn Offr, 9 CIB Sp Cp (CHofO) having been duly sworn states:

I Present:
Certificate of apprehension purporting to be signed by Capt. F. Smith, for Capt. L.S. Greyson, D.A.P.M., London Area. (Attached as exhibit A)
Certificates of cost of return purporting to be signed by Capt. F. Smith, No. 6 Area Provost Coy, Can Provost Corps, London., (Attached as exhibit B) both of which relate to the accused, whom I recognize.

The accused declines to cross examine the witness.

K.F. Preuter
Lt. K.F. Preuter,

Second Witness for the Prosecution: C-21267 Sgt. Cervais, L.N. 9 CIB Sp Cp (CHofO) having been duly sworn states:

On 29 Dec 43. I was C.O.S. and at 1200 hrs I checked on personnel returning from leave and found that the accused, C-21470 Pte Demeule, A.J.R. had not reported in. This was reported to the proper authorities. The Area was checked, but he could not be found.

The accused declines to cross examine the witness.

C-21267 Sgt. Cervais, L.N.

Third Witness for the Prosecution: C-20919 C.S.M. James, T.A. 9 CIB Sp Cp (CHofO) having been duly sworn states:

On 29 Dec 43. it was reported to me by the C.O.S. that, C-21470 Pte Demeule, A.J.R. had not reported back from leave. I checked the area but could not find him. Between 29 Dec 43. and 15 Jan 44., I checked periodically but he was not in camp. On 15 Jan 44. I proceeded on a 36 hour pass and on my return to camp on 18 Jan 44. the C.O.S. reported that, C-21470 Pte Demeule A.J.R. was in the custody of the guard commander.

The accused declines to cross examine the witness.

T.A. James

C-20919 C.S.M. James, T.A.

(Cont'd) (2)

Fourth Witness for the Prosecution: G-32286 Cpl. Watson, D.F. 9 CIB Sp Gp (CHofO) having been duly sworn states:

On 15 Jan 44., I was guard commander. At 1615 hours C-21470 Pte Demeule, A.J.R. was brought in to the guard room. He was in the custody of driver. I confined him to a cell and reported the matter to the Administration Officer.

The accused declines to cross examine the witness.

D.F. Watson Cpl.
G-32286 Cpl. Watson, D.F.

Question to the Accused: Do you wish to make any statement, or give any evidence on oath? You are not obliged to say anything, or give any evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing, and may be given in evidence.

Answer by the Accused: Yes; I do wish to make a statement, and I will make it under oath. The accused having been duly sworn states:

I am C-21470 Pte Demeule, A.J.R. On 29 Dec 43., I called from Glasgow to what I thought was the 9 CIB Sp Gp (CHofO). The number I called was Waterlooville, 211. I told whoever answered, who I was, and that I wished for a 5 day extention on my leave, as my wife was sick. The answer was; "That is your worry". and he hung up.

A. Demeule
C-21470 Pte Demeule, A.J.R.

The accused does not wish to call any witnesses in his defence.

Certified that R.P.4.(c), (d), and (e) have been compiled with.

Taken down by me in the presence and hearing of the accused, in the Field, this 17 Day of January, 1944.

[illegible] Lt.
[illegible] Cooper,

Ex. F. A.F.M. 6

No. C-21470 Name Doncaster A.V.R. | Sqn., Battery, or Company | Corps Cdn. Inf. Corps | Date of enlistment 8/6/40 | G.C. Badges | Service or Proficiency Pay | 40/P.R./8134 (2055)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1. | Signature O.C. Company, etc. J.W. Cowtright Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing trial	By whom awarded	Remarks
		T.O.S.		Cdn. Army O/S. W.E.F. 28/4/41					
Field	28 Nov 41	Pte		A.R. Sec 15 (1) (a) WOR/Dual from 1300 hrs. 13 Nov 41 to 1830 hrs. 15 Nov 41 (Absent 2 days 11 hrs. 30 mins.)		Forf 7 days Pay F.R. 1 149 (2)	18 Nov 41	R. Rowley	Also Forf 2 days Pay F.R. 1 149 (2) Total Forf. 10 days Pay
Field	25 Dec 41	Pte		A.R. Sec 15 (1) (a) WOR/Dual from 2359 hrs 25 Dec 41 to 2130 hrs 27 Dec 41 (Absent 1 day 21 hrs. 31 mins.)		Forf 4 days Pay F.R. 1 149 (2)	28 Jan 42	R. Rowley	Also Forf 2 days Pay F.R. 1 149 (2) Total Forf. 6 days Pay
Field	28 Aug 42	Pte		A.R. Sec 15 (1) (a) Fm L from 0940 hrs. 28 Aug 42 till 1300 hrs. 28 Aug 42 (1 min. absent, 3 days 3 hrs) (less at Court E 1-19-0.	Sgt Forbes. D.C. (Documentary)	28 days Detention	27 Aug 42	A.F.B.C.S.T. 29 Fd. A.P.C. Kitchener (V.S.F.)	28 days Pay F.R. 1 149 (1) (a) 28 days Pay F.R. 1 149 (2) Total Forf 28 days Pay Cost of Court E 1-19-0

Certified True Copy in all Respects; 21/1/44. K.F. Proctor Lt A.P.C

(P.T.O.)

Ex. "E"

7

STATEMENT AS TO CHARACTER AND PARTICULARS

OF SERVICE OF ACCUSE

Number C21470 Rank pte Name Demeule, A.J.R. Regiment (or Unit) 9 CDN INF BDE SP GP(CHofO)

1. The following is a fair and true summary of the entries in the ~~Service and Squadron, Battery Conduct sheets or~~ Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a CIVIL Court Air Force or summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment	
For AA Sec 15 (1) AWL	2 times	AA Sec 15 (1) AWL	3 times
For	times		times
For	times		times
For	times		times

Number of instances of gallantry or distinguished conduct NIL

or,

~~There are no entries in the conduct sheets of the accused.~~

Note : If the charge is for drunkenness, the entries for drunkennes must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under AA 15 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused is the present time is under sentence for ..... beginning on the ..... day of ..~~

4. The accused has been in confinement awaiting trial on the present charge for (0) days in civil custody, and nine days in military custody, making a total of nine days in custody, of which No. days were spent in hospital.

5. The present age of the accused is allowed to reckon towards discharge is 23 yrs 2 mos Date of Birth - 20 Nov 1920. Attestation paper is OTTAWA, ONT., CANADA (NDHQ)

6. ~~The date of his commission specified in the record of service is~~ ~~Attestation~~

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no military decoration or military reward (or is in possession of or entitled to) state any military decoration or reward. CANADIAN VOLUNTEER SERVICE MEDAL AND CLASS

10. ~~(If the accused is a warrant officer, the accused before he was made a warrant officer had held the equivalent rank of~~

11. (In the case of an officer) The accused holds in the Royal Canadian Air Force Permanent Force the rank of _____ dated _____ and in his regiment (or corps) the rank of _____ dated _____

12. The accused has served as a non commissioned officer continuously, without reduction, to the present date

_____ Date of promotion

In the rank of _____ years

In the rank of _____ years

In the rank of _____ years

Note: If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

Schedule

Of the convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused. Number _____ rank _____

Name _____ of N.A. K.F.P. _____ Regiment

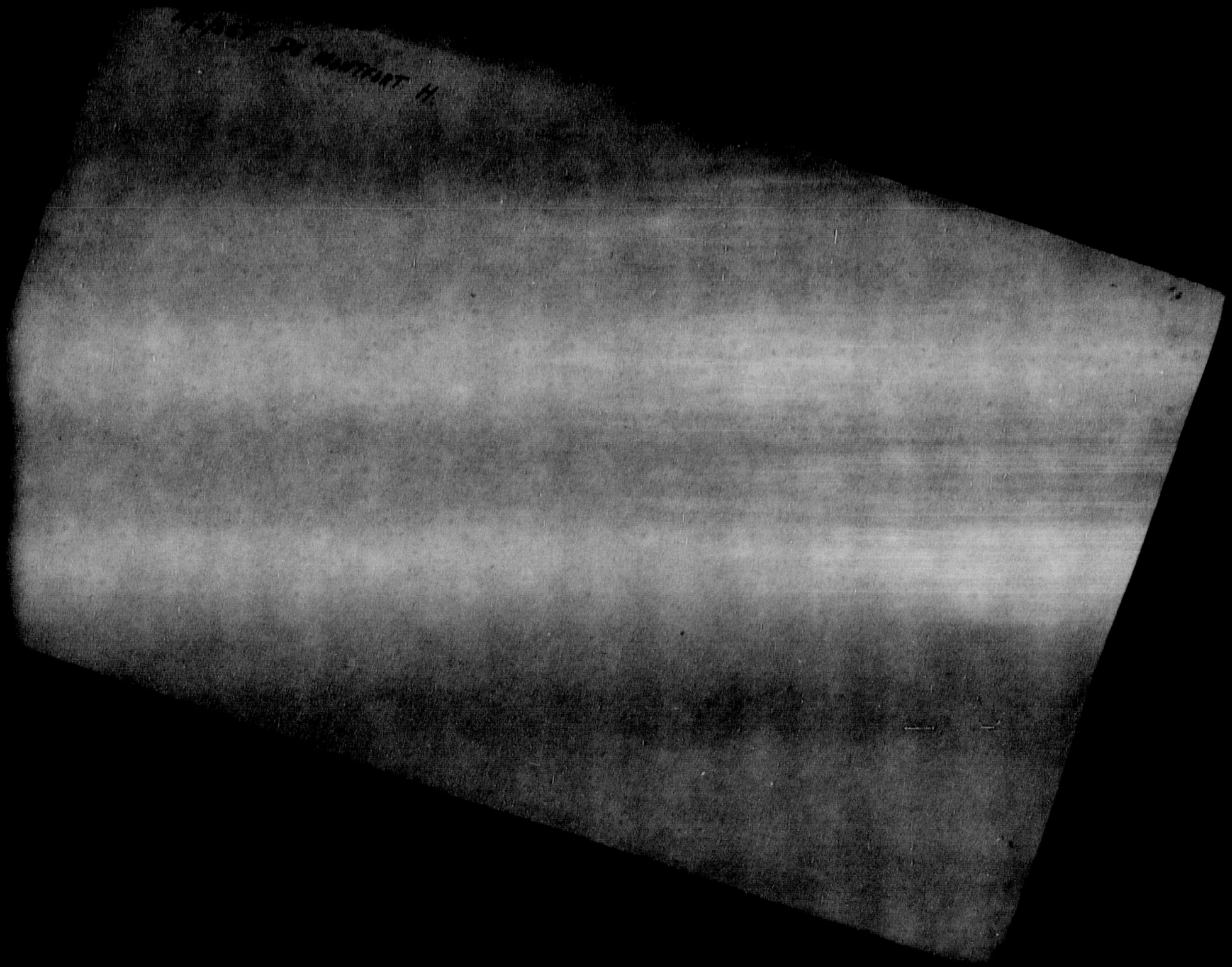
Note: A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

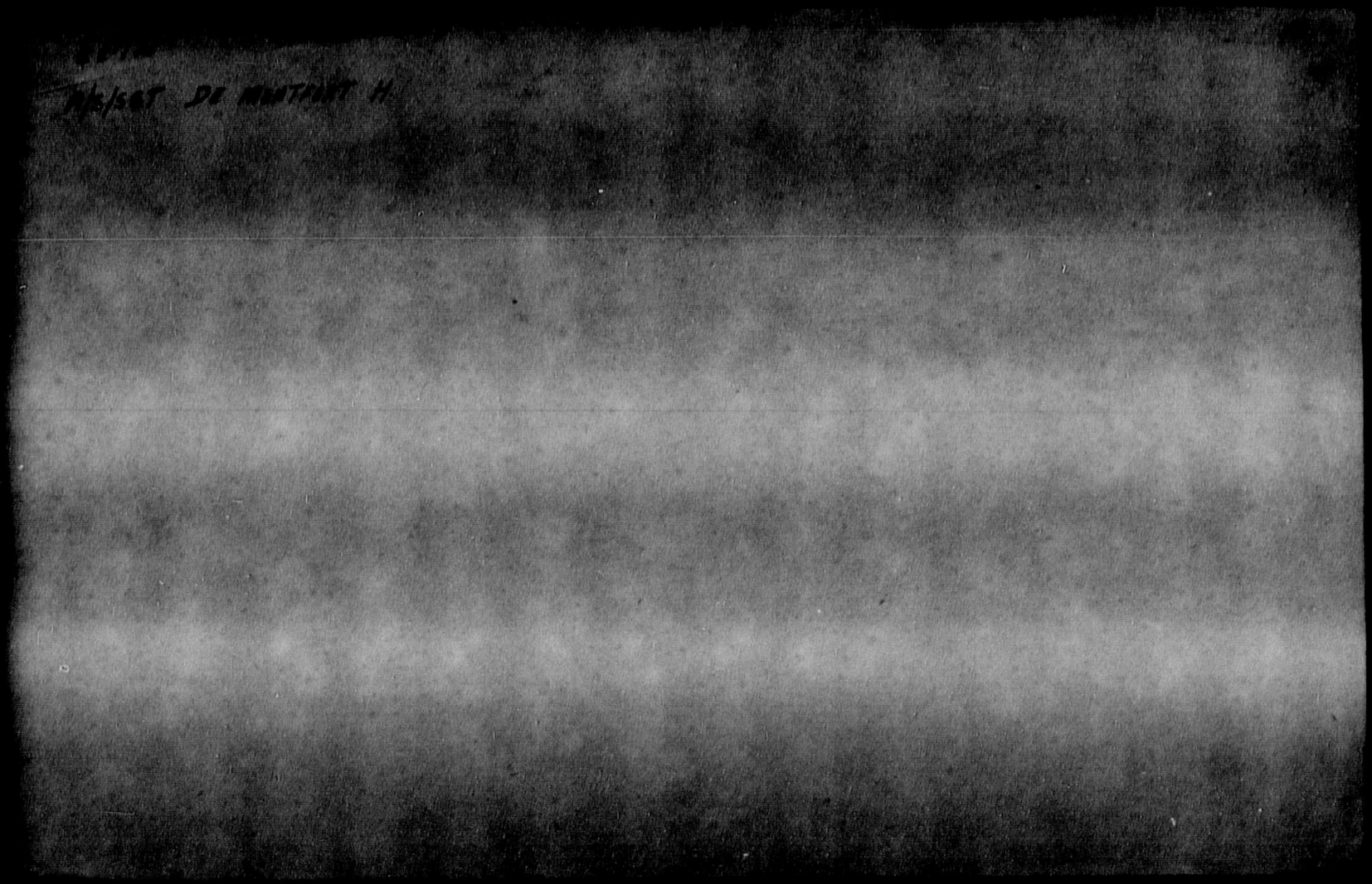
Description of Court by which Tried	Date and place of trial	Charge upon which con-convicted	Sentence of Court	Punishment Remitted

I here by certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 day of January 44 K.F. [illegible]

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked _____ signed by the president, and annexed to the proceedings.




A/S/SGT DE MONTFORT H.

B-66888/Sjt. A/S/Sjt Harold DE MONTFORT,
No 2 Sub-Depot, 1 C.B.O.D., R.C.O.C.

EE-121

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTEENTH day of MAY, 19 FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*(and that it is not practicable to delay the trial in reference to a superior political officer)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*I am unable to appoint~~

~~*(a) Three Officers to form the Court;~~

~~*(b) A Field Officer as President;~~

~~for the following reasons, namely:~~

*Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL.	D.L. REDMAN, V.D.	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
A MAJOR	FROM	6 C.I.R.U.
A CAPTAIN	FROM	6 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.H. Roberts) Maj-Gen.,
Commanding Cdn Reinforcement Units.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-66888 Sjt(A/S/Sjt) Harold de Montfort, 2 Sub-Depot, 1 CBOD.	FIRST CHARGE Sec 15(1) A.A.	Guilty	Guilty Sentence to be reduced to the Ranks. 15th May 1943	Confirmed.
	See Charge Sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [signature] (J.H. Roberts) Maj-Gen., Commanding Cdn Rft Units. *Convening Officer* (e)

(Signed) [signature] *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 15th day of May 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19 .

[signature]
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 21 day of May 1943.

[signature]
Confirming Officer.

Promulgated and extracts taken in the case of B.66888 Sjt(A/S/Sjt) [illegible]

(a) (Dated) 23/5/43 (Signed) [signature]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33378) W.C. & S. 50,000 5/43 A.A.E.W.Ltd. (Gp.488

CHARGE SHEET

FIRST CHARGE

Section 15(1) Army Act

The accused, B-66888 Sergeant (Acting Staff Sergeant) Harold de Montfort, No. 2 Sub-Depot, 1 Canadian Base Ordnance Depot, a soldier of the Canadian Army Overseas, when on Active Service, is charged with:

"ABSENTING HIMSELF WITHOUT LEAVE"

in that he, in the Field, absented himself at 2359 hours 23 Nov.42 until apprehended by S.I.S. C.M.H.Q. at 1200 hours 10 Mar.43.

John B. Allan

(John B. Allan) Lt.Col.,
O.C., No. 2 Sub-Depot,
1 Canadian B.O.D.

IN THE FIELD

To be tried by Field General Court-Martial.

J.H. Roberts

(J.H. Roberts) Maj-Gem.,
Comd
Cdn Reinforcement Units.

In the Field,
13 May 43.

Harold de Montfort

MEDICAL OFFICER'S REPORT

I certify that No. B-66888 A/S/Sgt. de Montfort, Harold

of No.2 Sub-Depot, 1 CBOD *is in a* good *state of health,*

and fit *to undergo Trial by Court Martial.*

Medical Officer

Station In The Field

Date 15 May 43

M.F.B. 266

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT 17th. Cdn Gen Hosp, Pinewood,
ON THE 15th DAY OF MAY H. 1943

The accused B 66888 Sjt(A/S/Sjt)De Montfort Unit 2 SD 1 C.B.O.D.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President LT.-COL. D.L. REDMAN Unit H.Q. C.R.U.

Members MAJOR BENOIT Unit 6 C.I.R.U.

CAPTAIN P. LARONGER Unit 6 CIRU

The officers under instruction are duly sworn:-

nil Unit

Unit

Prosecutor Lieut. J.C. McGlashan Unit 4 SD 1 CBOD

Defending Officer Capt. H.K. MacCharles 4 SD 1 CBOD

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 39(B) is complied with.
The accused does not desire to take a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 365 and MFM 6.
The Court complies with R.P. 46(2). ~~AFB~~ 256

Pursuant to R.P. 39 THE ACCUSED:-

(a) [redacted]
(b) Calls witnesses as to character
(c) [redacted]
(d) Addresses the Court by his Defending Officer.

C.A.O.R.O. 3262 complied with

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Character evidence and plea in mitigation of punishment by the defending officer attached hereto.

Treat of B 66888 S/Sgt de Montford H
Witness as to character

B 88380 C S M Diplock J T being duly
sworn states
I am depot S.M. of 2 S D 1 C B.O.D I have
known the accused about 2 years
He was my assistant for about 9 months
He is of excellent character. He does not
drink or smoke. He is able and reliable
He made several attempts to transfer to
the American army but was not allowed
to do so.
The accused also presented numerous
original qualification certificates in
course in the American army and
also medals

MB

CASE OF B-66688 S/SGT. DeMONTMORT, H.
Plea for Mitigation of Punishment

To The
President and Members of the Court

The accused is a man of much more than average intelligence and ability. He has had a long and honorable career as a member of the Army of the United States, in fact he has been connected with the military life of his country since his boyhood days. His records show that he lost no opportunity to improve himself as a soldier and further, that he had exceptional ability is borne out by his marks at the various courses taken.

Furthermore, it is evident that his ability was recognised by the Military services of his country as shown by the rank he attained.

Upon the outbreak of war -3 Sept.39 - he chose to give up his rank and life in his own country and throw in his lot with the cause of freedom by joining the Canadian Army, which he did upon Canada's declaration of war. That his ability as a soldier was soon recognized is evidenced by the fact that he shortly became a Sergeant and was enrolled as a member of the University of Toronto C.O.T.C. where he successfully completed the course and was granted his diploma qualifying him as a Lieutenant and therefore for his commission in the Canadian Army.Through a regimental custom prevalent in a few Canadian units at that time a person who served in the ranks was not considered for commission, this was the case in the unit in which he was then serving.

Subsequently, he served in Iceland, with his unit, later proceeding to England. On various occasions his outstanding ability and qualifications were recognized by high ranking officers in the Canadian Army and action started to have him transferred to some branch of the service in which his qualifications would be of more value and bring promotion. In every case these actions did not bear fruit, due to the officer who instigated the action being transferred, or for similar reasons. He was finally transferred to the R.C.C.C. and in fact successfully completed his pre-C.C.T.U. training in that Corps.

Subsequent to the entry of his own country into the war, he tried to transfer to the U.S. Army, feeling, with justification, that his services to the allied cause would be of more value there, where he had already had long and honorable service and had attained rank commensurate with his qualifications. In this action he again received no encouragement. Had he chosen to remain in his native land until its entry into the war he would undoubtedly have entered the active service with his rank and would have by this time been filling a responsible position in that great force with according rank.

Failing to secure a transfer, he chose to join the United States army in any case, moved no doubt by a feeling of loyalty to his own country and feeling too that his services would be of more value there. In so doing, he may have committed a crime, but I contend that if he did it was a breach of procedure rather than a moral crime, for he in no way attempted to dodge his duty to the cause for which we are all fighting, but on the contrary, took action which he honestly believed would render his services of greater value.

That the value of his services was recognized by the Military Authorities of his own country is evidenced by the fact that he was, at the time he was discovered by the Canadian Authorities, being put forward for a commission in the U.S. Army, and was in his possession the application forms for that purpose.

etc-

I believe, Sir, that you will agree that the present is no time to be wasting the services of a man who possesses such ability and qualifications. Further, Sir, I believe, that this is a splendid opportunity for the Canadian Army to show a real example of co-operation with our Ally and great neighbour by granting S/Sgt. DeMontfort an honourable discharge from the Canadian Army for the purpose of joining the Armed Forces of his own country.

Exhibit ~~"F"~~ "A"

RECORD of the Declaration of a Court of Inquiry assembled at Inkerman Barracks **on the** 19th **day of** December **19**42 **, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.** B-66888 A/Staff Sgt. de Montfort, H.

DECLARATION

The Court declare that No. B-66888 A/Staff Sgt. de Montfort H. No. 2 Sub-Depot, I C.B.C.D., R.C.O.C. illegally absented himself without leave ---------- at Inkerman Barracks 2359hrs on the 23rd day of November, 1942 ; and that on the 1st of December he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Anklets Web 1 Pr.	3	5½			77
Battle Dress Blouse 1	1- 7	8			6.18
Battle Dress Trousers 1	1- 7	11			6.24
Braces Prs. 1	1	3½			29
Brushes Tooth 1		4½			08
Greatcoats Drab 1	3-17	7			17.22
Combs Hair 1		2			04
Dressings Fld. 1	1	1			24
Towels Hand 2	1	11	Equivalent Cdn. Currency		42
Total (Eng. Currency)	7- 0	11	TOTAL Cdn. Currency		71. 49

President W.R.Peace, R.C.O.C. Capt.

Member A.S.Henderson, R.C.O.C. Lieut.

Member J.C.McGlashan, R.C.O.C. Lieut.

Signed at Inkerman Barracks **this** 21st **day of** December **19**42

Signature of Commanding Officer John B. Allan, Major O. C., No. 2 Sub-Depot. I C.B.C.D.

Certified True Copy

J. McGlashan

J.C.McGlashan, Lieut.
Adjt. No. 2 Sub-Depot., I C.B.C.D.

RECORD of the Declaration of a Court of Inquiry assembled at

on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. _____

_____

illegally absented himself without leave _____

at _____ on the _____ day of _____;

and that on the _____ he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	

_____ President

_____ Member

Signed at _____

_____ Member

this _____ day of _____ 19__

Signature of Commanding Officer _____

[illegible]
[illegible]
H.Q. 1772-61-49

I wish to be defended by such counsel as may be appointed by the proper authority.

Harold de Montfort

H-66886, A/S/Sgt de Montfort, H.

12 May 43

Exhibit B

CBOD/B.66888
Headquarters
1 Cdn. Base Ord. Depot
12 Apr 43

Officer Commanding
No. 2 Sub-Depot
1 C. B. O. D.

B.66888 S/Sgt. deMontfort, H.

Memorandum from the D.A.P.M., C.R.U. in reference to the m/n N.C.O. is forwarded for your information, please.

Capt. & Adjt.
for (R.C. Kelly, M.M.) Lt.-Col.
O.C., Depot Battalion
1 C. B. O. D.

CWS/RL
Encl.

Exhibit "B"

D.A.P.M.G. OFFICE
CAO 11-9/60
8 APR 1943
H.Q.
FOR REINFORCEMENT UNITS

S.I.S.

London

1. On 13 Nov 42 S/Sgt. [redacted], of the above mentioned Coy unit, went on leave. On the 27 November he failed to return to the unit, and from 14 Dec 42 he was listed as a deserter.

2. Information was received at this office to the effect that this man might attempt to join the United States Forces in Great Britain. It was common knowledge at this man's unit that he was an American, and had previous military service with that country.

3. On the 5 Mar 43, the Officer i/c S.I.S., contacted the U.S. Provost Marshall General's Office, and supplied them with the information at hand also a complete description of the man in question. Agent Geo. CALLAHAN of the U.S. Army Investigation Dept., later informed us that on the 7 Dec 42, a man answering this description had joined the U.S. Army in London. He had given his name as George A. [redacted]. This man claimed he had stowed away on a boat from U.S.A., and also stated he had previous military service with the U.S. Army. [redacted] had first applied for enlistment in Nov 1940. He had been sworn in as a Private, and had been held in a casual company in London, whilst American authorities checked with Washington on his previous service. His claims regarding previous service proved to be correct, and he was given his original Ser.No. as stated above.

4. On the 6 Mar 43, I accompanied the Officer i/c S.I.S., and Agent Geo. CALLAHAN, to the American Recruiting Office, London, and ascertained that Pvt. George A. [redacted] was at that time posted to an American Reinforcement Unit stationed at Lichfield, Staffordshire. Later this same date I proceeded to Lichfield accompanied by Agent CALLAHAN, for the purpose of making inquiries in this connection and interviewing [redacted].

5. [redacted]

6. [redacted]

(over)

[redacted]

[redacted]

[redacted]

[redacted] / S/Sgt. - [redacted], R. - 9 Ord Ammn Depot -
[redacted].

[redacted] alias Cpl. [redacted] - pvt - George A. [redacted] - 9th Ord
[redacted] Depot.

[redacted] Army [redacted] in Newark, N.J., [redacted] as a civilian for 2 or
[redacted] years. [redacted] in the Army of the United States. I
[redacted] [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]

Exhibit B (Copy)

S.I.S. C.M.H.Q. Provost

London 5 Apr.43

Re: Reg.No. B-66888 - S/Sgt. - DeMONTFORT H. - 2 Can Base Ordnance Depot R.C.O.C.
DESERTER: alias Ser No. 6512150 - Pvt. - George A.HENSLEY - 2034 Port Bn. United States Army.

---

1. On 13 Nov 42 S/Sgt DeMONTFORT, of the above mentioned Cdn
SIS/D-7-133 unit went on leave. On the 22 November he failed to return to the Unit and from 14 Dec 42 he was listed as a deserter.

2. Information was received at this office to the effect that this man might attempt to join the United States Forces in Great Britain. It was common knowledge at this man's unit that he was an American, and had previous military service with that country.

3. On the 5 Mar 43, the Officer i/c S.I.S. contacted the U.S. Provost Marshall General's Office, and supplied them with the information at hand also a complete description of the man in question. Agent Geo. CALLAHAN of the U.S. Army Investigation Dept. later informed us that on the 7 Dec 42, a man answering this description had joined the U.S. Army in London. He had given his name as George A. HENSLEY. This man claimed he had stowed away on a boat from U.S.A., and also stated that he had previous Military Service with the U.S. Army. HENSLEY had first applied for enlistment in Nov 1942. He had been sworn in as a Private, and had been held in a casual company in London, whilst American authorities checked with Washington on his previous service. His claims regarding previous service proved to be correct and he was given his original Ser. No. as stated above.

Mil-First 4. On the 6 Mar 43, I accompanied the Officer i/c S.I.S., and Agent Geo. CALLAHAN, to the American Recruiting Office, London, and ascertained that Pvt. George A. HENSLEY was at that time posted to an American Reinforcement Unit stationed at Lichfield, Staffordshire. Later this same date I proceeded to Lichfield accompanied by Agent CALLAHAN for the purpose of making inquiries in this connection and interviewing HENSLEY.

5. Upon arrival at the Reinforcement Unit, we found that HENSLEY had within the last few days been posted to the 2034 Port Bn. The location of the unit at this time was not known for security reasons, and we returned to London.

6. On the 10 Mar 43, Agent CALLAHAN and myself proceeded to Bristol having found that the 2034 Port Bn. was stationed in that area. We interviewed HENSLEY and after an interview with his officer commanding, Maj. D.N. CERVICE, he admitted he was S/Sgt. DeMONTFORT of the Canadian Army. He was placed under arrest, but it was not possible to take him back to London due to the fact that the unit was under quarantine for scarlet fever. We obtained the following statement from HENSLEY. (Begins)"I enlisted
0 April in the Canadian Army at Toronto, Ontario, Canada, 11 Sep 1939, after having left U.S.A. for the purpose of enlisting. I am an American citizen by firth, having been born at San Francisco, Calif., on the 11 Oct. 1903. When I enlisted in the Canadian Army, I used the name of Harold DeMONTFORT, and gave my place of birth as Victoria B.C. I went overseas with the Canadian Forces and went to Iceland in June 1940. From Iceland we came to England in November 1940.

In November 1942 I went on leave from the Canadian Army for nine days. I did not believe that I would be allowed to transfer from the Canadian Army to the American Army in England, as I had used an alias when I joined the Canadian Army. While still a member of the Canadian Army, I applied for enlistment in the American Army, at the Recruiting Office in London in November 1942. I was sworn in the American Army on the 7 Dec 42 while still a member of the Canadian Army. I have read the above statement and it is true.

-std-

(Sgd) George A. Hensley,
Pvt. 6512150 2034th Port Bn.

Witness: Geo. H. Gillman Jr. 1st Lt, T.C.
Summary Court Officer 0-406655

Date: 10 Mar 43

7. On the 15 Mar 43, HENSLEY was brought to London for identification purposes. C.S.M. Diplock of 2 Cdn B.O.D., R.C.O.C. on the 22 Mar 43 came to London, and at the American detention Bks., Rochester Row, viewed a parade of six American soldiers, and from these picked out DeMONTFORT. C.S.M. Diplock made the following statement:
(Begins) "At 1530 hrs., 22nd March 1943, in company with Agent Callahan, I.D. P.M.G. APO 887, and Sgt. Gibbs, Canadian S.I.S. I proceeded to the Detention Barracks, London Base Command, APO 887, where an identification parade was drawn up, and from that parade I picked out S/Sgt DeMONTFORT previously of my unit. I have known this man over a period of roughly two years. The last time I saw this man in the Canadian Army and with my unit was in the fore part of November 1942 when he proceeded on leave. When I stated that I recognised DeMONTFORT as a S/Sgt., I was referring to the rank he held in my unit prior to going A.W.O.L.

(Sgd) J.T.Diplock, C.S.M.
B.88380

Wit: Geo Callahan
L.A.Gibbs Date 22 Mar 43.

8. On the 19 Mar HENSLEY gave the following statement to the American Authorities. He was properly warned in the manner laid down by the American regulations.

Pvt. George A. Hensley, it is my duty to inform you of your rights at this time. It is your privilege to remain silent. Anything you say may be used for or against you in the event that this investigation results in a trial. Do you thoroughly understand your rights?

(Sgn) George A. Hensley

(Statement) I was born 11 Oct 1903 at San Francisco Cal. I enlisted in the regular army of the United States on the 1st Oct. 1920 and was discharged 11 July 1921 as a Pvt with excellent character. Reason for discharge was reduction of the Army. I was a member of the Nat'l Guard of California from Oct .1923 to 1929 except for a three month interval when I was a member of the Enlisted Reserve Corps of the U.S. Army. I was in the Reserve Corps from Aug 1924 to Oct 1924. In Oct 1924 I was commissioned a 2nd Lt. in the Reserve Corps of the U.S. Army. I was not given active duty in the National Guard as an Officer until Dec.1925, but from the time I was commissioned until I obtained the active stetus I was an enlisted man in the Guard. I was an officer in the California National Guard from Dec 1925 to the latter part of 1929 during which time I served as a 2nd and a 1st Lt. in the Reserve Corps of the U.S. Army. All the service I have mentioned was served in my right name, George A. Hensley, and my discharges were honorable with character excellent. In January 1933 I became a member of the Enlisted Reserve Corps at Chicago, Ill., under the alias of Harvold DEMONTFORT. I was commissioned a 2nd Lt. in the Cavalry Res Corps of the U.S. Army in Oct. 1933 and about three years later I was commissioned a 1st Lt. I obtained these commissions under the alias DeMONTFORT. I served as an officer on active duty with the C.C.C. and periods of Military training from 1934 until 1939. My active duty was not continuous -- I had about two and a half years active duty as an officer under the alias Harould DeMONTFORT. I resigned my commission in March 1939 and enlisted in the Canadian Army Sept 11 1939 under the Alias DeMONTFORT. I was given the Ser. No.B66888 I arrived in England as a member of the Canadian Army in November 1940. While still a member of the Canadian Army I enlisted in the Army of the United States in London on 7 Dec 42. I enlisted in

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the U.S. Army here under my right name, George A. HENSLEY. I told the Recruiting Officer that I had just arrived in England and had come to this country as a stowaway. I was allowed to stay at the Casual Center on Green Street, London as a civilian for a few weeks until I was sworn into the Army of the United States. I stated to the American authorities that I was single, while actually I am married. The reason for saying this was that I had married under the name of DeMONTFORT, and I did not want to complicate matters. My wife received an allowance from the Canadian Government while I was in the Canadian Army. She is my lawful wife. I had been married before, also under DeMONTFORT, but my first wife died before I married again. I fully realise that I am in the Army of the United States under fraud, and that I am a deserter from the Canadian Army, but I am very desirous of remaining in the United States Army in any capacity. My reasons for assuming an alias were personal and I do not care to discuss the matter. When I deserted the Canadian Army, my unit was No. 2 Sub-Depot of No. 1 Canadian Base Ordnance Depot located at Woking, Surrey.

I have read my statement and it is true.
(Sgd) George A. Hensley
Subscribed and sworn to before me this 19th March 1943
(Sgd) Robert B.Carruth, Summary Court

DeMONTFORT is at the present time held by the American authorities in London, awaiting trial for Fraudulent enlistment in the United States Army. There is at present no suggestion when the trial will take place.

10. I have had conversation with DeMONTFORT, and from it I gather that his only desire is to remain in the American Army. He wished to know if it were possible for him to remain with the U.S. Army and not return to the Canadian Army at all. I informed him that he would most likely have to return to the Canadian Army for discipline.

11. American authorities have checked DeMONTFORT's previous military service under the name of HENSLEY and find it to be correct as contained in his statement. Canadian Records state that DeMONTFORT's wife, Adell DeMONTFORT, is now residing in Steel, Alabama, U.S.A., and at the time of enlistment was living at 558 Gerrard Street, Toronto, Ont. It is presumed that he had to present some proof upon enlistment that he was married, as there was some slight suspicion that he may have defrauded the Government by stating he was married when he actually was not.

12. A further report will be submitted after DeMONTFORT has been dealt with by the U.S. Army. True copies of all the above statements are held at this office.

CARRIED FORWARD

(Signed) L.A.GIBBS A/Sgt.
Reg. No. C-42000- L.A.Gibbs
Cdn Provost Corps, CMHQ, SIS.

H.Q., C.R.U.

1. Forwarded in triplicate for your information and Group/ that of the unit and /H.Q. concerned.

2. HENSLEY, Alias DeMontfort, will be handed over to the Cdn authorities when he has been dealt with by the Americans for fraudulent enlistment.

London
6 Apr 43

(A.J.Willis) Lieut
O.i/c S.I.S., C.M.H.Q.

9 April 43

#1 C.R.O.D.

1. Forwarded, in duplicate, for your information and for that of the unit concerned.

T. Robothom, Lt. for
(F.B.CREASY) Capt.,
D.A.P.M. C.R.U.

SUMMARY OF EVIDENCE

Summary of evidence in the case of B-66888 A/S/Sgt de Montfort, M., No. 2 Sub-Depot, 1 Canadian Base Ordnance Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

First Witness
For the Prosecution.

Lieut. J.S.H. Duke, No. 3 Sub-Depot, 1 C.B.O.D. attached to No. 2 Sub-Depot, 1 C.B.O.D., an officer of the Canadian Army Overseas, having been duly sworn states as follows:-

"I am acting Regimental Officer at No. 2 Sub-Depot, 1 C.B.O.D. and am in charge of records. I submit herewith a certified true copy of M.B.68 dated 21 Dec.42 and marked Exhibit A, in which the accused B-66888 A/S/Sgt. de Montfort, is declared to have illegally absented himself without leave at 2359 hours on the 23 Nov.42.

Signed. J.S.H. Duke Lieut

The accused declined to cross examine the witness.

Second Witness
For the Prosecution.

C-42000 A/Sgt. Gibbs, L.A. Cdn. Provost Corps, C.M.H.Q., S.I.S.

A written statement of this witness's evidence, purporting to be signed by him, has been read to the accused and is included in this summary of evidence as Exhibit B. Having regard to the expense and loss of time involved, the attendance of this witness cannot be readily procured

The accused does not demand the attendance of this witness for cross-examination.

R. M. Hunt Capt

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused elects to give evidence on oath.

The accused, B-66888 A/S/Sgt de Montfort, No. 2 Sub-Depot, 1 C.B.O.D., Canadian Army Overseas, having been duly sworn states as follows:-

"I am a citizen of the United States. From the age of nine, when I entered Military Academy, not a single year of my life has passed, except since I enlisted in the

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Canadian Army, without my being a member of a military organization in the United States. At the age of sixteen (16) I entered the United States Army. My last peace time service in the United States Army was as a First Lieutenant. I hold a United States Captain's Certificate of Capacity. I have completed over a hundred (100) United States Military Courses including those of the Small Arms Firing School and the Cavalry School. I am a graduate of the Texas Military College, a B.A. of the University of Chicago, and have been a post graduate student at Harvard. I have been a member of teams representing the United States Army in the National Matches. In many of my United States Army courses I have been trained to act as a division or brigade commander or as a General Staff Officer. My United States Military duties have included assignments as Camp Commander, Adjutant and Company Commander. In 1939 I resigned my commission in the United States Army and went to Canada to enlist. I started for Canada the day of Great Britain's declaration of war against Germany and enlisted 11 Sept.39 in the hope that my military education and training might be of value. I went to Iceland with the first Canadian contingent in June 1940. In November 1940 I landed in Britain, where I have since been. On 16 November 1942 I went on seven (7) days leave. Feeling that my lifetime of United States military training was being wasted and that I would be of far greater value to the Allied cause in the Army of my own country, as well as for patriotic reasons, I presented myself at United States Army Headquarters in England and was attached to the United States Army 17 November 1942, and in due course enlisted. In fact my military service has been uninterrupted. During the period of my seven (7) days leave and during the entire period of my absence I have been either attached or assigned to the United States Army forces in England. My reason for not applying for enlistment in the regular manner was because at the time no applications from Americans were being forwarded from my unit, No. 2 Sub-Depot, 1 C.R.O.D. At the time this seemed the only way and I was advised to take this step by a Canadian Officer who informed me that if I were accepted by the United States Army the Canadian Army would discharge me. I was doing well in the United States Army and had been given papers to fill out for a commission, when on 10 March 1943 I was located by the Canadian Authorities. My American Commanding Officer was anxious for me to remain in the United States Army. I was informed by those officers who were concerned with the case that the wisest course for me was to be discharged from the United States Army and then to enlist again following the procedure for the enlistment of Americans serving with the Canadian Army. My American Commanding Officer said he hoped to see me back soon. I feel that although the letter of the law may have been violated, the spirit has not. I hope to be allowed to return to the United States Army and shall be proud to have my Canadian service entered on my American service record.

In regards to the name I used with the United States Army in England, my grandmother made a second marriage. Hensley was the name of my step-grand-father. I used it during the first part of my life but changed it over a dozen years ago to the one I now bear, taken from my grandfather. This was done for purely family reasons. My academic diplomas, all my American military training from 1930 to 1939 and my married life have been under the name I now bear and which I intend to keep. I only used Hensley

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because I thought it might facilitate matters, but intended to have the American records amended to De Montfort as soon as practicable.

This is the only statement which I have made in this matter in my own words and composition.

Signed. Harold de Montfort B-66988

The accused declined to call any witnesses in his defence.

I certify that the foregoing summary of evidence consisting of three (3) pages was taken down by me in writing in the presence of the accused and rules of procedure 4 (C), (D), (E) and (F) have been complied with.

Signed. R. M. Hunt Capt.

12 May 43

Summary of Evidence in the Case of R-66888 A/S/Sgt. De Montfort, H. No. 2 Sub-Depot, 1 Canadian Base Ordnance Depot, a non-commissioned officer of the Canadian Army Overseas.

List of Witnesses

Lieut. J.S.N. Duke, No. 3 Sub-Depot, 1 Canadian Base Ordnance Depot.

C-42000 A/Sgt. Gibbs, L.A., Cdn. Provost Corps, C.M.H.Q., S.I.S.

List of Exhibits

A. Certified true copy of N.B.66 dated 21 Dec.42.

B. Memorandum from S.I.S., C.M.H.Q. dated 5 April 43 and purpoting to be signed by C-42000 A/Sgt. Gibbs, L.A. Cdn. Provost Corps.

No. B-66868 Name de Montfort, H. | Sqn., Battery, or Company | Corps R.C.C.C. | Date of enlistment 11 Sep 39 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

"CERTIFIED A TRUE COPY"

.....Lieut.

Regimental Officer, No.2 Sub-Depot, 1 C.B.C.D.

(P.T.O.)

Capt AK Moe Charles

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-66888	A/S/Sgt.	de Montfort, H.	No.2 Sub-Depot,1 CBOD

1. The following is a fair and true summary of the entries in the Company Service and General ~~Regimental and Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	No entries	times	No entries	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or, N.A.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or, N.A.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or, N.A.

The accused at the present time is under sentence for ---- beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ---- days in civil custody, and ------- days in Air Force military custody, making a total of ----- days in custody, of which ------- days were spent in hospital.

5. The present age of the accused according to his ~~xxxxxxxxxxxxxx~~ attestation paper is 30 yrs 7 mos.

6. The date of his ~~xxxxxxxx~~ attestation specified in his ~~xxxxxxxxxxxxxx~~ attestation paper 11 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 8 mos.

8. The accused is entitled to reckon 3 yrs 8 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. N.A.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number B-66888 Rank A/S/Sgt. Unit

Name de Montfort, Harold of No.2 Sub-Depot, 1 Cdn.B.C.D. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NOT APPLICABLE				

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of May 1943

R.C. No.2 Sub Depot Capt.

The above statement (with the schedule of convictions and of cases in which trial was dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

NO.1 CANADIAN ORDNANCE REINFORCEMENT UNIT 1CORU/6-2
22 May 43

H.Q.
Cdn. Reinf. Units

Att'n. Major Friedgut

B-66888 S/Sgt. de MONTFORT, H.

1. With ref. the a/m N.C.O's application for transfer to the American Army. Attached please find copy of letter submitted by him on Apr 26/42.

2. As requested this was not acted on until he had been up for interview by the OCTU Selection Board in the fall of 1942.

3. When his application for OCTU was not approved, it was past the date for submitting applications for transfer to the American Army, so no further action was taken by this office.

WPC/H.
Encl.

(Harold M. Bailey) Lt.-Col.,
Commanding Officer,
No.1 Cdn. Ordnance Reinf. Unit.

COPY

28 Apr 42

To Commanding Officer,
No.1 C.O.R.U.

Herewith submitted my application for transfer to the American Army. As I have already submitted an application for O.C.T.U. with the Canadian Army, I would like this transfer held in abeyance pending the result of the latter application.

Submitted for your approval, please.

.(Sgd.).Herold.de.Montfort..Sgt..

HEADQUARTERS
2034th Port Bn TC(Prov)
APO 508 US Army

17 May 1943

Re: S/Sgt Harold de Montfort
(Pvt George A. Hensley)

TO WHOM IT MAY CONCERN:

The above man served with this battalion for over two months, upon the recommendation of his officers and non-commissioned officers, desire his return to this unit, if this can possibly be arranged. His conduct and leadership ability in this organization were examplory and the company to which he was assigned can well use a man of his caliber.

I consider this man a very good soldier and valuable to the unit and request his return to my command be expedited.

Donald M Cerefice

DONALD N. CEREFICE
Major TC
Commanding

COMPANY "A" 2034TH PORT BATTALION
TRANSPORTATION CORPS

APO 510
12 March 1943

RE: Pvt. Beasley, Jack

SUBJECT: Recommendation.

TO: To Whom It May Concern.

1. The above named soldier was under my command for the period of one (1) month, during said time he was taking basic training at Whittington Barracks.

2. The undersigned found this soldier to have outstanding qualities of ability and leadership.

3. He was made acting corporal after two (2) weeks of training.

[redacted], Jr.,
1st Lt., Inf.
Commanding.

4R-60

Pt Dempsey T.M.

4P-60

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 54826 Pte Emery Micheal Dempsey

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18(2)	guilty	guilty	
2nd AA Sec 40 alternative			withdrawn by prosecutor
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial - a total of (days, of which days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majestys Service.

(Sgd) ~~Judge-Advocate, if any~~ 29 Sep 44 Date awarded. (Sgd) H.N.E. Curry Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

NOT CONFIRMED

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) A.W. Beament Brig.

Date 4 Oct 44 Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 54826 Pte (L/Cpl) Dempsey E.M.	1 Dec 44	A.O. Hood Lt Col OC 12 Bn 2 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CF AAF 1 (to issue of AFAA) 4/38B

Convened by Order of Brig A.W. Beament Comd Cdn Sec GHQ dated 26 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 54826	Pte L/Cpl	Emery Micheal	DEMPSEY	R.A.R. of C. att 7 Cdn Gen Hosp

certified true copy
[illegible]

D.J.A.,
Cdn Sec GHQ 2 Ech 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 29 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the~~ CO.(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter? Ans~~ ~~The Interpreter is sworn.~~ (1) ~~Do you object to~~ ~~as shorthand writer? Ans~~ ~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 31, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.N.E. CURRY	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp
Member	Major	M.L. TROY	Alg Regt att Cdn Sec GHQ 1 Ech 21 A Gp
Member	Capt	F.A. BAILLARGEON	Gen List Att Cdn Sec GHQ 1 Ech 21 A Gp
Judge-Advocate			
Prosecutor	Lt Col	J.W.G. THOMPSON	HQ 2 Cdn Corps
Defending Offr	Capt	W.G.D. HUNGERFORD	RCASC att Cdn Sec GHQ 1 Ech 21 A Gp

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ~~before arraignment make(s) (no) (a) plea~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposed, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(A). *As to plea when sentence may be death see RP* 35(D).

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or adv, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the first charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea~~(s)~~ of Guilty is ~~(are)~~ not charged the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans .....

Do you intend to call witnesses on your behalf ?

Ans .....

Are they witnesses as to character only ? Ans .....

(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AO 5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 114(6). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~statement of service and~~ copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B ~~and Ex ..... respectively~~.(2)

(1. *MFB 315 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the ~~statement and~~ Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also J.A. if any~~.(2)

(1. *When several accused tried separately see RP 71 (D). Give sentence only, comprised of the punishment or punishments laid down in AA 42, 44 and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR Con 508, 530, 543-566. Overseas RO 309, 2203. As to sentences assigned for civil offences by the law of England see AA 41(5), MOML p 130. Where accused attempts under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

Confirming Offr see KR Con 567.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 64826 Pte (L/Cpl) Emery Micheal DEMPSEY, Royal Regt of Canada att No 7 Cdn Gen Hosp, a soldier of the Cdn Army Overseas is charged with.

FIRST CHARGE: WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH
AA Sec 15(2) INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he
in the field on 12 Jul 44, by discharging his rifle wilfully injured himself by shooting himself through the right foot in the region of the second toe with intent thereby to renier himself unfit for service.

SECOND CHARGE: WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF
(Alternative) GOOD ORDER AND MILITARY DISCIPLINE
AA Sec 40

in that he
in the field on 12 Jul 44 while with his Regt in the line so negligently handled his rifle as to shoot himself in the right foot in the region of the second toe thereby rendering himself unfit for service.

(V.O. Mader) Colonel
Officer Commanding
No 7 Cdn Gen Hosp

In the Field
27 Aug 44

To be tried by Field General Court Martial

(A.F. Beament) Brigadier
OIC
Cdn Sec GHQ 1 Mch Zl A Gp

In the Field
26 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 54826	Pte	L/Cpl	Emery Michael	DEMPAEY	R.R. of C. att 7 Cdn Gen Hosp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) ..... endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Name.)	(Must be named. RP 106.)	(Unit.)
Major		H.N.E. CURRY	Gen List att Cdn Sec GHQ	1 Ech 21 AGP

MEMBERS.

(Rank.)	(Name.)	(Unit.)
Major	M.L. TROY	Alg Regt att Cdn Sec GHQ 1 Ech 21 AGp
Capt	F.A. BAILLARGEON	Gen List att Cdn Sec GHQ 1 Ech 21 AGp

(Named or detailed. RP 106.)

WAITING MEMBER.

(Rank.)	(Name.)	(Unit.)

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

(Rank.)	(Name.)	(Unit.)

(Must be named, if any. RP 106.)

On Active Service in the Fd

in FRANCE (Country.)

A.W. Beament (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 29 Sep 44

Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAES (To Issue of AFAS) 40/F & S/1401 (4031))

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Can 562, RP 26, 29, 111.*)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 763, RP 82, 111.*)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*RO (Can) 2693.*)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 16 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (*or*, None.)
Re-exam: None.
Exam by Court: He said—" I've had enough parades ".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 2, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 44(E), KR Can 563(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 527.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides where both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy or item of original see KR Can 566. As to certified copies of regimental books see AA 163 (1) (g) (ii).*)
(vi) Summary of Evidence, if not already an exhibit.
(vii) Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 52(3), RP 118(C), MML p 759.*)
3. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope (*not* "Confidential"), or as otherwise directed.

SUMMARY OF EVIDENCE

Summary of evidence in the case of B 54826 L/Cpl Dempsey, E.M., R. Regt C. att No 7 Cdn Gen Hosp, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)). alternative. When on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS . Capt W.E. Armour RCAMC, No 7 Cdn Gen Hosp, sworn, states:

I am Capt W.E. Armour, Medical Officer No 7 Cdn Gen Hosp. L/Cpl Dempsey was admitted in my ward on 25 Jul 44 from No 84 Brit Gen Hosp suffering from a wound of the right foot incurred on the 12 Jul 44, according to medical reports accompanying him. The wound perforates the second toe of the right foot fracturing the proximal phalanx at the proximal interphalangeal joint. He has been fit for duty since the beginning of September 1944. In my opinion the wound could have been caused by a small arms projectile fired from a weapon held by the man himself. There is nothing to show at what distance from the wound the weapon might have been fired.

The accused declines to cross examine this witness.

Witness

SECOND WITNESS. C 30918 C.S.M. Tait, T.B., No 1 S.I.S. First Cdn Army , sworn, states:

On 20 Sep 44 I interviewed L/Cpl Dempsey whom I now recognize as the accused at No 7 Cdn Gen Hosp. I informed him who I was and I informed him that I had in my possession a statement purporting to have been made by him in the presence of Sgt Harrison and Sgt Southers of No1 S.I.S. on 27 Jul 44 and bearing in two places the signature of "E.M. Dempsey". I informed him that it was desired he should reaffirm or otherwise the authenticity of this document as a statement made by him. I cautioned the accused in these words. "You do not have to say any thing unless you wish to do so but anything you do say will be taken down in writing and may be given in evidence". The accused then made a statement which I reduced to writing and which he signed after same being read over to him and he having read same. The attached statement was also read over to the accused and he read same. The statement given by L/Cpl Dempsey refers to the second statement I produce. There were no threats or promises made to make him give this statement.

The accused declines to cross examine this witness

Witness

The statements referred to in the evidence of the above witness are attached hereto as Exhibits "A" and "A1".

3RD WITNESS . Major W.G. Ewen, RCAMC, No 7 Cdn Gen Hosp.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "B"

Officer taking Summary.

I do not require the attendance of Major W.G. Ewen, for the purpose of cross-examination.

Accused

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say any thing or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say right now"

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that R.P. 4 (C) (b) (Z) (Y) and (G) have been complied with.

Officer detailed to take summary of evidence.

In the Field,
21 Sep 44.

EVIDENCE

B 54826 Pte HENRY MICHEAL DEMPSEY: sworn states

Born Westmeath, Ont. 17 Feb 1921, Went to country public school for 1 year and a half. Home broke up when I was 9. Mother lost h r mind and after that my father drank quite a bit and uncle and I worked on his far, until he died later did odd jobs and when I joined up was working as a mucker at "Dome" mines at wage of 63¢ an h ur. On 24 Jul 40 enlisted with Algonquin Regt and trained with them and R.R. of C. arrived U.K 42. France 4 Jul44 Married 8 Jan 44 in England. Wife lives in Susex and she is expecting about 18 Nov 44. This had some bearing on my condition. This is the first opportunity of setting up a home. Planned to go back to mines in Canada after the War. Everything came at once the first night I was there, That got me. I am not afraid of fighting if it had only come on more gradually. I would have been able to stand it. The trench was only about two feet deep. Morter bombs were coming over, we were in an orchard and the bombs hit the trees and scattered all over. I don't know if the safety catch was on or off I guess when I put tracer bullet in the breach I must have left it off. I don't know whether I pointed the rifle at my foot. I don't know whether I shot myself or not. Never had intention of shooting myself. I joined the army to stay up at the front longer than one day and expected to learn something. My wife does not know anything about it. If I was given a chance to go back to the line with the Alg Regt R.R.of C. I would like to prove that I did not do it intentional y. Parents born in Canada.

BY PROSECUTOR

Q Did you get out of the trench to deepen it?
A Yes Sir
Q Was there firing at the time?
A It had quietened down but still firing.
Q Your platoon Officer walked along and told you to dig your trench deeper?
A He did not just walk along, he was sometimes crawling and running from trench to trench.
Q Remember in your statement upt said "I had all I could stand".
A Yes, I made that statement.
Q Isn't that the reason you were w unded?
A I don't know Sir.
Q Where did the Bullet go through your foot?
A Accused indicated centre of his boot halfway between centre of laces and toe of same.
Q In your statement you said "I must have fired my rifle into my foot" and that coupled with your statement "I had all I could stand".
A No Sir.
Q You told the psychiatrist that you had nothing on your crime sheet?
A No Sir. I told him about my fights with the Americans.
Q You knew about your crime sheet?
A Yes Sir.
Q As you were questioned by the psychiatrist did he put down the answers in his own handwriting?
A Yes Sir.
Q As each question was asked did he write down the answer?
A Yes Sir.
QYou told the Psychiatrist you were confused?
A Yes Sir.
Q You did not tell him that you got out of the trench to dig it deeper?
A I don't re-call Sir It was so long ago.
Q Were you not telling the truth to the psychiatrist or are you not telling the truth now.
A There is no use in saying any more.

RE-EXAMINATIO BY DEFENDING OFFICER:

Q You stated you were willing to return to the front line?
A I feel ashamed of myself and I want to go back I think I can stand it now. I think I would be better with some Medical Corps.
RULED OVER RULE 83 B.

PLEA IN MITIGATION BY DEFENDING OFFICER:

This accused has been under hospital care since 12 Jul 44. It is now the 28 Sep 44 i.e 78 days. Under the circumstances I would suggest that it is time for a further psychiatrist's report. The one in the summary is based on the man's general condition at that time. I submit to the Court that his condition in this respect in so far as battle exhaustion is concerned has materialy changed and that the accused is now fit to return to service. He has expressed the desire to do so. He is ashamed of himself. The question IS even if the Court were to decide on a suspension, to give him a second chance, would this be a case wherein the accused would be of any real value in an Infantry Battalion. My own view is. The accused, although presentl sentenced to normaley is not mited for anything more than base or L. of C. duties he has worked at this hospi al since he came here and has made good progess at this type of work. I thereby consider that the point of outstanding importance in this matter, in sofar as constructive disposition is concerned lies in having this man receive further psychiatric attention. This will reaffirm or otherwise the report made on record and I ask the Court to make such a recommendation as will ensure such for this action by senior authority.

Seine Inferieure, France.
28 Sep 44

W.G.D. Hungerford, Capt.
Defence Council

STATEMENT OF B 54826. L/Cpl. DEMPSEY, E.M.,
"C" Coy., ROYAL REGIMENT OF CANADA

I am B 54826 L/Cpl Dempsey, Emery Micheal. I made a statement in writing to Sgt Harrison of No 1 Special Investigation Section, on the 27 Jul 44. That statement is the one which C.S.M. Tait read over to me and which I also read. I recognize and identify the signatures, E.M. Dempsey as my own hand writing.

TAKEN AND WITNESSED/ (SGD) E.M. Dempsey.

T.B. Tait, CSM.,
No 1 S. .S. 20 Sep 44.

FGCM

B 54826 Pte Emery Micheal DEMUSKY.

1. This man is afraid to go back to the front line but states he is prepared to do so.

2. While awaiting trial he has worked at No 7 Can Gen Hosp and is very well thought of by the hospital staff.

3. He appears to be useful in a job such as hospital orderly but it seems very doubtful if he would ever be of use to a fighting Unit.

4. He appears emotionally unstable and a psychiatrist's report is indicated.

5. The Court recommends suspension of sentence pending psychiatrist's report.

In the Field,
29 Sep 44.

H.H.K. Curry Major
President

RECORDED AT CMHQ IN AB 160 (4P-60)

CPA66 (To Illeg of AFA2) 40/P & S/160B (49/10) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig A.W. Bernard Comd 21 A Gp dated 22 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B54826	Pte 4 Cpl	Emery Michael	Dempsey	RRAF C att. No 6 Hosp

3 Dist HQ

PROCEEDINGS OF TRIAL.

Held at the Fd in(country) Normandy M.H.Q. on (date(s)) 29 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with Summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~the Interpreter is sworn.(1) Do you object to~~ ~~the shorthand writer is sworn.(1)~~ as interpreter? Ans ~~Ans~~ as shorthand writer? Ans ~~Ans~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.D.E. Curry	Gen List att 8 Can Sec
Member	Major	M.L. Troy	Adg Regt GHQ 1 Ech
Member	Capt	F.A. Baillargeon	Fin List 21 A Gp
~~Judge Advocate~~			
Prosecutor	Lt Col	J.W.G. Thompson	12th Can Corps
Defending Offr	Capt	W.G.D. Hungerford	RCASC att 8 Can Sec

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Auth. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 80 (B) and fn 2 were not followed. See Def p 2.)

A8. The accused before arraignment make(s) (no) ~~any~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~deemed~~ arraigned ~~representation~~ on the charge in the charge sheet.(1) The accused does ~~elects~~ not object to ~~the~~ charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form No 7E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A/122

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B54826 Pte Emery Michael Dempsey

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18(1)	Guilty	Guilty	withdrawn by prosecution
2nd alternative AA Sec 40			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of days, of which days were spent in hospital.(1)~~

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years.
And to be dismissed with ignominy from His Majesty's Forces.

(Sgd) ~~Judge Advocate, if any~~ 29 Sep 44 (Sgd) C.C. Curry President. (RP 45, 90)

Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 (n 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not Confirmed

I direct that the accused be not committed to prison or detention barracks, military custody or military prisoners.
(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B54826 Pte (A/Cpl) Dempsey, E.M. 1 Dec 44 O.C., 12 Mn [illegible] Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 55(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para* C3 *of Record Form* E.
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (*).~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ~~the~~ ~~Court~~ charge(s). The accused is ~~(are)~~ so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s) to~~ ~~charge(s)~~. ~~Part I of the Schedule is amended accordingly.~~
(*. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under* B5 *such parts only of the Summary of Evidence are read as relate to the charges dealt with under* C2. *If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form* D *on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form* B *or* C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~Statement(s) as to Character and Particulars of Service(s), and~~ certified true copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that ~~the~~ document(s) refer(s) to the accused, because (i) they purport to be signed in the manner required by A.A 162(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" ~~and Ex.....~~ respectively.(2)
(1. *AFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 158. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the ~~statement(s) and~~ Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*C*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(3), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~each (the J.A. if any)~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 208, 330, 363-366. *Overseas* 8(*c*) *KR*, 1323, *MML p* 80, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *Where accused already under sentence of imprisonment or detention see AA* 44(18), 68(*f*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

E1

E1 [illegible]. B 54826 Pte Emery Michael Dempsey sworn states:

Born Westmeath, Ont 17 Feb 1921. Went to Country public school for 1 yr and half. Home broke up when I was 9. Mother lost her mind and after that my father drank quite a bit and home was broken up. I was adopted by an uncle and I worked on his farm until he died and later did odd jobs and when I joined up was working as a mucker at "Dome" mines at wage of 63d an hr. On 24 Jul 40 enlisted with Algonquin Regt and trained with them and R R of C. arrived U K Aug 42. France 4 Jul 44 Married 7 Jan 44 in Eng. Wife lives in Essex and she is expecting about 18 Oct 44. This had some bearing on my condition. This is the first opportunity of setting up a home. Planned to go back to mines in Canada after war. Everything came at once the first night I was there, that got me, I am not afraid of fighting if it had only come on more gradually, I would have been able to stand it. The trench was only about 2' deep. Mortar bombs were coming over, we were in an orchard and the bombs hit the trees and scattering all over. I don't know if safety catch was on or off. I guess when I put tracer bullet in the breach I must have left it off. I don't know whether I pointed the rifle at my foot. I don't know whether I shot myself or not. Never had intention of shooting myself. I joined the army to stay up at the front longer than one day and expected to learn something. My wife does not know anything about it. If I was given a chance to go back to the line with the Alg Rgt or R R of C. I would help to prove that I did not do it intentionally. Parents born in Canada.

By Prosecutor

Q. Did you get out of the trench to deepen it?
A. Yes, Sir.
Q. Was there firing at the time?
A. It had quietened down but still firing

E.1 2.

Pte E. M. Dempsey (Evidence Cont'd)

Q. Your platoon officer walked along and told you to dig your trench deeper?

A. He did not just walk along, he was sometimes crawling and running from trench to trench.

Q. Remember in your statement you said "I had all I could stand"?

A. Yes, I made that statement.

Q. Isn't that the reason you were wounded?

A. I don't know, sir.

Q. Where did the bullet go through your foot?

A. Accused indicated centre of his boot halfway between ~~centre~~ laces and toe of same.

Q. In your statement you said "I must have fired my rifle into my foot" and that coupled with your statement "I had all I could stand" is the reason you shot yourself in the foot?

A. No, sir

Q. You told ~~yourself~~ the psychiatrist that you had nothing on your crime sheet?

A. No, sir. I told him about my fights with the Americans.

Q. You knew about your crime sheet?

A. Yes, sir.

Q. As you were questioned by the psychiatrist did he put down the answers in his own handwriting?

A. Yes, sir.

Q. As each question was asked did he write down the answer?

A. Yes, sir

Q. You told the psychiatrist you were confused?

A. Yes, sir.

Q. You did not tell him that you got out of the trench to dig it deeper?

A. I don't re-call, sir. It was so long ago

Q. Were you not telling the truth to the psychiatrist or are you not telling the truth now.

A. There is no use in saying any more

Re-Exam by Def. Off.

Q. You stated you were willing to return to the front line!

A. I feel ashamed of myself and I want to go back I think I can stand it now. I think I would be better with some medical corps.

Read over (Rule 836)

E3

B-54826 Pte (L/Cpl) Emery, Michael Dempsey

Royal Reg't of Canada att.
#7 Cdn Gen Hospital

Plea in Mitigation by Defending Officer

"This accused has been under ~~[illegible]~~ Hospital care since 12 July/44. It is now the 28th of Sept. i.e. 78 days. under the circumstances I would suggest that it is time for a further psychiatrist's report. The one in the Summary is based on the man's general condition at that time. I submit to the Court that his condition in this respect in so far as ~~his condition~~ it in battle exhaustion is concerned has materially changed and that this accused is now fit to return to service ~~action~~. He has expressed the desire to do so. He is ashamed of himself. But the question is, even if the Court were to decide on a suspension, to give him a second chance, would this be a case wherein the accused would be of any real value in an Infantry

Batallion? My own view is that this accused, although presently restored to normalcy, is not suited for anything more than Base or L. of C. duties. He has worked at this Hospital since he came here and has made good progress at this type of work.

I therefore consider that the point of outstanding importance in this matter, insofar as constructive disposition is concerned, lies ~~lies~~ ~~would~~ in having this man receive further psychiatric attention. This will reaffirm or otherwise the report now on record and I ask the Court to make such a recommendation ~~which~~ as will ensure such further action by senior authority."

Seine Inférieure
France
28 Sept 1944

W. T. Munsterford
Capt
Defence Counsel

Exhibit A

SUMMARY OF EVIDENCE

Summary of evidence in the case of B.84826 L/Cpl Dempsey, E.M., R.Regt.C. att No 7 Cdn Gen Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness Capt W.E. Armour, RCAMC, No 7 Cdn Gen Hosp, sworn, states:

I am Capt W.E. Armour, Medical Officer No 7 Cdn Gen Hospital. L/Cpl Dempsey was admitted in my ward on 26 Jul 44 from No.84 Brit Gen Hospital suffering from a wound of the right foot incurred on the 12 Jul 44, according to medical reports accompanying him. The wound perforates the second toe of the right foot fracturing the proximal phalanx at the proximal interphalangeal joint. He has been fit for duty since the beginning of September 1944. In my opinion the wound could have been caused by a small arms projectile fired from a weapon held by the man himself. There is nothing to show at what distance from the wound the weapon might have been fired.

The accused declines to cross examine this witness.

Witness

Second Witness C.30818 C.S.M. Tait, T.B., No.1 S.I.S., First Cdn Army, sworn, states:

On 20 Sep 44 I interviewed L/Cpl Dempsey whom I now recognize as the accused at No.7 Cdn Gen Hospital. I informed him who I was and I informed him that I had in my possession a statement purporting to have been made by him in the presence of Sgt Harrison and Sgt Southers of No.1 S.I.S. on 27 Jul 44 and bearing in two places the signature of "E.M. Dempsey". I informed him that it was desired he should re-affirm or otherwise the authenticity of this document as a statement made by him. I cautioned the accused in these words, "You do not have to say anything unless you wish to do so but anything you do say will be taken down in writing and may be given in evidence". The accused then made a statement which I reduced to writing and which he signed after same being read over to him and he having read same. The attached statement was also read over to the accused and he read same. The statement given by L/Cpl Dempsey refers to the second statement I produce. There were no threats or promises made to make him give this statement.

The accused declines to cross examine this witness.

Witness

The statements referred to in the evidence of the above witness are attached hereto as Exhibits "A" and "A1".

Third Witness — Major W.G. Ewen, RCAMC, No 7 Cdn Gen Hospital.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "B"

Officer taking Summary.

I do not require the attendance of Major W. G. Ewen, for the purpose of cross-examination.

Accused.

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say right now"

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that R.P. 4 (C) (D) (E) (F) and (G) have been complied with.

Officer detailed to take summary of evidence.

In the Field,
21 Sep 44.

STATEMENT OF B-54626, L/Cpl. DEMPSEY, E.M.,
"C" Coy., ROYAL REGIMENT OF CANADA

I am B-54626, L/Cpl. Dempsey, Emery [redacted] I made a statement in writing to Sgt. Harrison of No.1 Special Investigation Section, on the 27 July 1944. That statement is the one which C.S.M. Tait read over to me and which I also read. I recognize and identify the signatures, "E.M.Dempsey" as my own handwriting.

(SGD) E.M.Dempsey.

TAKEN AND WITNESSED/

T.B.Tait, CSM.,
No.1 S.I.S. 20 Sept 1944.

Statement of B54826, L/Cpl
Dempsey E. M.
C. Coy Royal Regiment of Canada

A

I am B54826 L/Cpl Dempsey Emery Michael I made a statement in writing to Sgt Harrison of No 1 Special Investigation Section on the 29 July 1944 Tabb statement is the one which C.S. M. Tait, read over to me and which I also read. I recognize and identify the signature E M Dempsey as my own handwriting.

E M Dempsey

Taken & Witnessed

[illegible] Com.

No 1 S.I.S. 20 Sept 1944.

This is Exhibit 'A' referred to in the case of B.54826 Pte (L/Cpl) Dempsey, E.M., taken dwon before me this 11 day of September 1944.

[illegible]
Officer taking Summary

FGCM

B 5458 Pte Emery Michael DEMPSEY

1. This man is afraid to go back to the front line but states he is prepared to do so.
2. While awaiting trial he has worked at No 7 Cdn Gen Hosp and is very well thought of by the hospital staff.
3. He appears to be useful in a job such as hospital orderly but it seems very doubtful if he would ever be of use to a fighting unit.
4. He appears emotionally unstable and a psychiatrist's report is indicated.
5. The Court recommends suspension of sentence pending psychiatrist's report

In the Field
29 Sept 44

[signature]
Judge
President

4P-61

Pte. Dempsey E.M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18(2)	not guilty	guilty	
2nd AA Sec 40 alternative	not guilty	not guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majestys Service.

(Sgd) ..... Judge-Advocate, if any. 15 Nov 44 Date awarded. (Sgd) E.P. Lee Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 84. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) A.W. Beament Brig

Date 24 Nov 44 Commanding Cdn Sec GHQ 1 Ech 21 A Gp

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 54826 Pte (L/Cpl) Dempsey E.M.	26 Nov 44	A.C. Hood Lt Col OC 12 Bn 2 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Recorded at CMHQ on file 160 4/P 61

RECEIVED 2 Dec 45 JUDGE ADVOCATE GENERAL'S BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA86 (To issue of AFA31 40/P & S/1868 (40/10)) 4/38B

Convened by order of Brig A.W. Beament Comd DIC Cdn SecGHQ dated 9 Nov 44

ACCUSED.

L Ech 21 A Gp

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 102, 103, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B 54826	Pte L/Cpl	Emery Micheal	DEMPSEY	H.Q. of C. att 8 Cdn Gen Hosp

contempt and [illegible] PROCEEDINGS REVIEWED 3 Feb 45

D.J.A., Cdn Sec G.H.Q. 2 Ech 21 Army [illegible] JUDGE ADVOCATE GENERAL'S BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 15 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. ~~President to accused : Do you object to~~ ~~an interpreter ? Ans~~

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ~~an shorthand writer ? Ans~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

			Gen List att C nSec GHQ
President	Major	E.P. LEE	1 Ech 21 A Gp
Member	Major	D.D. ARCHIBALD	12 Bn 2 CBRG
Member	Capt	Y. THERIAULT	12 Bn 2 CBRG
Judge-Advocate			
Prosecutor	Lt Col	J.M.G. THOMPSON	HQ 2 Cdn Corps
Defending Offr	Capt	W.D.G. HUNGERFORD	RCASC att Cdn Sec GHQ 1 Ech 21 A Gp

Questions by President : Is the Prosecutor a lawyer ? Ans ..... Is the Defending Offr a lawyer ? Ans ..... (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (2)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposal, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea of Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans No Sir. Do you intend to call witnesses on your behalf ?
Ans No Sir. Are they witnesses as to character only ? Ans N/A.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), ~~purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 148(3), (g) (h) and (i); they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex and Ex respectively.~~(3)
states none available
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Sir by my defending officer.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or state anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 122(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, compounded of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 304, 330, 563-566, Overseas RO 309, 2323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No B 54826 Pte (L/Cpl) [illegible] DEMPSEY, Royal Regt of Canada att No 7 Cdn General Hospital, a soldier of the Cdn Army Overseas is charged with

First Charge
AA Sec 15(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he
in the field on 12 Jul 44, by discharging his rifle wilfully injured himself by shooting himself through the right foot in the region of the second toe with intent thereby to render himself unfit for service.

Second Charge
(Alternative)
AA Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
in the field on 12 Jul 44 while with his Regt in the line so negligently handled his rifle as to shoot himself in the right foot in the region of the second toe thereby rendering himself unfit for service

(V.O.Mader) Colonel
Officer Commanding
No 7 Cdn General Hospital

In the field
27 Aug 44

To be tried by Field General Court Martial

(A.W.Beament) Brigadier
OIC
Cdn Sec GHQ 1 Eqh 21 A Gp

In the field
26 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his command or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50. RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-54826	Pte	L/Cpl	Emery Michael	DEMPSEY	RR of C Att No.6 Cdn Gen Hosp.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offences set forth in the Charge Sheet attached and on (date) 26 Sep 44 endorsed by me, [redacted] " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial ; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee	Cdn Sec CMHQ 1 Echn 21 Army Group.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Major	To be detailed by OC 12 Bn 2 CBRG	
A Captain	To be detailed by OC 12 Bn 2 CBRG	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Brigadier (Rank.)

(Signed personally. RP 105 fn 2.)

Date 9 Nov 44. Commanding (A.E.Beament) Cdn Sec CMHQ 1 Echn 21 A Gp.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAGS (in lieu of AFAS) 40/P & R/1497 (648))

(See overleaf for oaths and notes for use on trial.)

Approved:

ADJA

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (AA 52, KR Con 562, RP 26, 29, 111.)
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (AA 52, MML 762, RP 27, 111.)
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (AA 52, MML 763, RP 82, 111.)
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (RO (Can) 2693.)
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (RP 95(C)), any objections (RP 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pi to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (RP 95 fn 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (RP 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (RP 60(C), 87(C), 92(C) (D).)

(ii) At option of accused, statement by accused (not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 46 fn 23)), or evidence by accused, as to facts or his character or both. (See RP 41 fn 3, 46 fn 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (See RP 46 fn 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (RP 86(B)), or to prove previous convictions when accused has called witnesses as to character. (RP 86(C).)

(v) Closing address (on matters other than in mitigation of punishment) by Defending Offr or accused. (See RP 60 fns 9-12, 87(C), 92(C) (D).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (When accused charged jointly see RP 61.)

(vi) Closing address by Prosecutor. (See RP 60 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 60(E), KR Con 563(a).)

(vii) Summing up by JA, if any. (RP 62.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (KR Con 557.)

(iv) Addresses, statements and evidence on order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (As to admitting as evidence a certified copy in lieu of original see KR Con 566. As to certified copies of regimental books see AA 163 (i) (g) (h).)

(vi) Summary of Evidence, if not already an exhibit.

(vii) Statement of Prosecutor or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (RP 60(D).)

3. Any report or remarks by President or Court for attention of Confirming Offr will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (AA 52(9), RP 118(C), MML p 759.) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (AA 52(9), RP 118(C), MML p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

No 8 Cdn Gen Hosp Nov 44

I have this day examined B54826 DEMPSEY E.M.
and find him fit to undergo trial by Field General Court Martial.

R.C. Anderson Capt
Medical Officer

15 Nov 55

SUMMARY OF EVIDENCE

Summary of evidence in the case of S.24626 L/Cpl Dempsey, E.M., R.Sgt.C. att No 7 Cdn Gen Hospital, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 12(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

First Witness Capt W.E. Armour, RCAMC, No 7 Cdn Gen Hosp, sworn, states:

I am Capt W.E. Armour, Medical Officer No 7 Cdn Gen Hospital. L/Cpl Dempsey was admitted in my ward on 25 Jul 44 from No.84 Brit Gen Hospital suffering from a wound of the right foot incurred on the 12 Jul 44. According to medical reports accompanying him, the wound perforates the second toe of the right foot fracturing the proximal phalanx at the approximal interphalangeal joint. He has been fit for duty since the beginning of September 1944. In my opinion the wound could have been caused by a small arms projectile fired from a weapon held by the man himself. There is nothing to show at what distance from the wound the weapon might have been fired.

The accused declines to cross examine this witness.

Witness

Second Witness C.20618 C.S.M. Tait, T.H., No.1 S.I.S., First Cdn Army, sworn, states;

On 20 Sep 44 I interviewed L/Cpl Dempsey whom I now recognise as the accused at No.7 Cdn Gen Hospital. I informed him who I was and I informed him that I had in my possession a statement purporting to have been made by him in the presence of Sgt Harrison and Sgt Southers of No.1 S.I.S. on 27 Jul 44 and bearing in two places the signature of "E.M. Dempsey". I informed him that it was desired he should re-affirm or otherwise the authenticity of this document as a statement made by him. I cautioned the accused in these words, "You do not have to say anything unless you wish to do so but anything you do say will be taken down in writing and may be given in evidence". The accused then made a statement which I reduced to writing and which he signed after same being read over to him and he having read same. The attached statement was also read over to the accused and he signed after same being read over to him and he having read same. The statement given by L/Cpl Dempsey refers to the second statement I produce. There were no threats or promises made to make him give this statement.

The accused declines to cross examine this witness

Witness

The statements referred to in the evidence of the above witness are attached hereto as Exhibits "A" and "A1".

3rd Witness Major W.G. Ewen, RAAMC, No 7 Gen Gen Hospital.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "G"

Officer taking Summary.

I do not require the attendance of Major W.G. Ewen, for the purpose of cross-examination.

Accused.

The accused is cautioned as follows;

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say right now"

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that R.P. 4 (C) (D) (E) (F) and (G) have been complied with.

In the Field,
21 Sep 44.

Officer detailed to take summary of evidence.

The accused arrived in Normandy in 2 Jul44 and he was injured 12 Jul 44

FIRST WITNESS PROSECUTION — Capt R.C. Anderson att No 8 Cdn Gen Hosp duly sworn states

I recognize the accused he is a patient under my care He was admitted to hospital with a wound in second left toe in right foot. It was a through and through wound. The scars are such that the wound could have been inflicted by a rifle bullet, and the weapon held in the mans own hand. There was a fracture. The scars are completly healed. The accused is quite fit for duty.

CROSS EXAMINATION. The accused is quite fit to return to duty.
R.P. 83 (B) complied with.

SECOND WITNESS — A 55251 Sgt Harrison J.T. No 1 Special Investigation Section No 1 Cdn Army duly sworn states

I recognize the accused. I interviewed him at No 7 Cdn Gen Hosp on 27 Jul 44. There was present Sgt Suthers. I identified myself to the accused and told him I was inquiring into the circumstances regarding a wound in his right foot. I cautioned him in the following words
You do not have to say anything unless you want to do so but whatever you do say will be taken down in writing and may be given as evidence.
After the accused had signed the caution he gave me a statement in writing which was read by the accused before signing it. The statement is Produced as exhibit A. It was given voluntarily. The defence has no objection to the statement.

CROSS EXAMINATION. I believe the statement given to was taken on the 27 Jul 44. I went out with the accused at 1100 hrs and he told me when his wound had happened. Our conversation was friendly. There was only Sgt Suthers present in the jeep at that time. There was no conversation in which the accused suggested that the statement he had given was untrue. I do not admit that there was any other version of the accusdes statement except what was contained in it

Q I suggest that the accused did give another version which you stated to him was fantastic.

A I did not give any such version. I remember the occasion quite clearly.

Q Is it true that the jeep was stopped during the course of the journey and you got out with the accused and he gave you his version of how this wound had happened.

A The accused sat in the jeep, in the seat beside the drivers seat. I occupied the drivers seat. Sgt Suthers got out of the jeep. There was no demonstration of how the accident happened.
R.P. 83 (B) complied with.

Q Was accused walking then.

A Yes

Q Prosecutor suggested that accused said he would get back to unit quickly as possible.

A Yes

Q Was anything to indicate that this statement was not sincere------ A No

PROSECUTOR Q Is there anything else you have that you could assist the Court with.
A Nothing except that the accused was very straight-forward.

THIRD WITNESS Major Ewen, RCAMC 8 Cdn Gen Hosp Qual.-MCDM Specializing-gen medicine.
Interviewed witness 28 Jul 44 as psychiatrist. He arrived in Normandy 4 Jul 44 and he went up to go into action on night 11-12 Jul 44. Presumably he recieved his wound during that night or in the morning of 12 Jul 44. He told me that she ls were landing 88 and other shells but the fron was not particularly active. Said the smell was terrible and the sight of the dead men upset him badly-nerves became worse and worse and he got into a slit trench almost terrified during morning his mate a bren gunner opened fire at something he thought he saw moving in the half light- more morter and HE shells were coming down - became acutely terrified and greatly confused - jumped out of his slit trench and his mate said to him "You have a hole in your boot". -He said he did not feel any pain and did not know that he was hit. He looked down and saw the hole and figured he must have been hit. He said he presumed that it was his own rifle that went off but he doesn't remember when this occured. I did not press the matter as it was not my business- that concluded my interview with him- I had been through his life history previously a record of which I have done.

Report submitted as Exhibit B no objection by defence.
Q As result of interview can you assist the Court
A From my interview I would say that the accused was capable of forming an intent.
Q Did he say that he wanted to return to the line again.
A His attitude was that of a man whose moral was completely broken-completely unfit for front line soldier. He didn't care if he was called yellow and if he was sent back up he didn't know what would happen. He said he would be quite content to carry on in a rear area-he said he couldn't take action. I went into his record completely-he said he had had no civilian or Army crimes. On questioned he told about his fight in a pub.

CROSS EXAMINATION:
Q You interviewed accused 28 Jul 44 which is 110 days ago.
A Yes.
This mens attitude may have changed since I last saw Him-may have built up some guts but they are generaly only temporary and if they broke down once they usually do so again. My personal opinion is that he would not recov r. It might be useful to have a pyshiciatrists examination. I suggest that he be sent before another doctor.
R.P. 83 (B) complied with.

DEFENDING OFFICERS ADDRESS

May it please the Court-the prosecutor has endeavored to establish on the first charge before you that the accused wilfully rendered himself unfit for service by wounding himself. Now inevery essence of that charge is the question of "intent" Intent must be established by the prosecutor beyond any reasonable doubt whatsoever before a conviction can be registered on the first charge. Let us consider the evidence then as to whether the prosecutor has discharged this onus. The first witness Capt Anderson a physician barely stated that it was possible that the wound in question could have been inflicted by a weapon held by the accused himself but it did not establish definately that such was the case. This witness also stated that the wound from which the accused had suffered is now completely healed and that he can be described as asoldier who is ready to go back to duty. The second witness for prosecution was Sgt Harrison of the S.I.B. Cdn Prov Corps. He interviewed the accused on the afternoon of 27 Jul 44, that is to say two days after the soldier was admitted to Hospital and it is not denied that at said interview there was also present one Sgt Sutherst of the RCMP and he produces a statement proporting to have been taken from the accused at this particular time in which the accused to use this Sgt's own words appeared to have been very straightforward and sincere and he also gave this Sgt the impression to use this Sgt's own words again that he was sincere in his desire to return to action. Now gentlemen I have no doubt that this Sgt was merely carrying out his Military duty when the interview took place, but I would remind you that at the time the said statement was made the accused's morale was extremely low and I ask you to take into consideration the fact that as a result of this it is well within the realm of possibility that this soldier said a good many things on the spur of the moment as this was the weak frame of mind he was suffering at the time and I say to you that it is highly probable is it not that without having had a few more days under which to regain his stability it would hardly fair to say that this statement was made under ideal and reasonable circumstances and it would follow from this course of logic then, that one word unable to convict a man on his own evidence. Then gentlemen we come to the evidence of the pyshiciatrist Major Ewen by name who had an interview with the accused on the 28 Jul 44 that is to say three days after that this accused was in a very upset condition when the statement referred to by Sgt Harrison was taken. This fact it is admitted by the inference would purely indicate the condition of the accused when the statement was taken by Sgt Harrison. For Sgt Harrison's interview only took place the day before. Again Maj Ewen when asked about the capability of the accused to for m an intent-admitted that this was a difficult question to answer, that is to give an exact answer. And he said that he could only base his answer which was in the affirmative on the various considerations he had taken into account in making his physic analysis finally Major Ewen when reminded that 110 days had elapsed since he had examined the accused had admitted the possibility of his character having changed during this interval. And that even though it might be the exception to the rule there was that possibility that the accused had changed in his stability and that as a result I say one can infer his present state of stability to aquit himself with honor in the line. Now gentlemen ultimately this may to you after having called to your attention and anglysed the entries of the prosecution that there is insufficient evidence to convict on the first charge and since a prima facia case has not been made out the accused being innocent until proven guilty to that reasonable benefit of doubt. Coming to the second charge I w uld merely say that if you consider this man in the heat of battle and in the dire circumstances so clearly portrayed to you at the time this happened if you can say he was blameworthy under such circumstances I cannot.

DEFENDING OFFICERS ADDRESS
cont'

only say I do not feel it would be the conclusion of a reasonable man which is your test, and I alone then by merely stating that it is the submission of the defence that both charges should be dismissed and that the accused should be sent back to his Unit this afternoon in order that he may prove to soldiering his ability to acquit himself with honor alongside his comrades.

In this Court one cannot allow himself to be sympathetic where the morale and discipline of the army are at stake.

PLEA IN MITIGATION

You have before you this afternoon an C/m Infantryman who is proud of the Regt he calls his own-Royal Regt of Canada. And there is good reason for his pride when one considers its battle honors in the last war, the job it has done to help preserve humanitarian ideals in this one. There is only then gentlemen one question which the accused is weighing in his mind and that is this "Am I worthy of the great body of C/m soldiers". Gentlemen the answer to that question by the accused is that he is worthy and to show his good faith in making this submission he asks you but one request namely to allow him to go back and prove to you that he is right that this whole unfortunate incident occured because he was the victim of an extremely harrassing experience when he first made his attempt in action in this theatre. He does not ask you to view what occured sentimentally for he knows that military Law like all law is not concerned with sentiment in fact he says this was a new experience in my life. I had never experienced anything in serenity like it before but I know now and I feel that I can aquit myself with honor. I can prove to you that my mind at the time I did this was incapable of forming the intent necessary to carry out such a dastard act. His last and only appeal to you then gentlemen is to the effect that you allow him to return at the earliest possible moment that he is what he says he is and that he will not let his country or his corps down but rather will be go back and shoulder the burdens to the best of his ability so that he can meet any man in future on equal and conscientious terms.

STATEMENT OF B-54826, L/Opl. DEMPSEY, E.M., "G" Coy., ROYAL REGIMENT 'F' CANADA

A

I am B-54826, L/Opl. Dempsey, Emery Norton. I made a statement in writing to Sgt. Harrison of No.1 Special Investigation Section, on the 27 July 1944. That statement is the one which S.S.M. Tait read over to me and which I also read. I recognize and identify the signatures, "E.M.Dempsey" as my own handwriting.

(SGD) E.M.Dempsey.

TAKEN AND WITNESSED/

T.B.Tait, CSM.
No.1 S.I.S. 20 Sept 1944.

A1

1 S.I.S. 1st Cdn Army Provost
Field 8 Aug 44

B-54826 L/Cpl. DEMPSEY, E.M.
13 Platoon, 'C' Coy., Royal Regt of Canada.

'SELF INFLICTED WOUND'

1. On 27 July 44, whilst engaged on investigations at the 7th. Cdn Gen Hospital, the writer in company with Sgt. Harrison, saw the above mentioned soldier who was undergoing treatment for a rifle bullet wound in the right foot. This injury occurred on 12 July 44 during the fighting in the Caen Area, and it was suspected that it was a case of self infliction.

2. DEMPSEY, when interviewed by the writer and Sgt. Harrison, claimed the injury was purely accidental. After being questioned as to the circumstances he admitted that he had shot himself. A voluntary statement, taken under caution, was obtained and reads as follows:-

BEGINS.

I have been cautioned by Sgt. Harrison of No.1 Special Investigation Section, First Cdn Army, that I do not have to say anything unless I wish to do so, but that whatever I do say willbe taken down in writing and may be given as evidence.

To show that I have read over and understand this caution First I sign my name here.

(Sgd) E.M. Dempsey

Early in the morning of the twelfth of July 44, while holding down a position in a slit trench in the front line near Caen, I was waiting for orders as to when the advance was to start. At about 03.00 hrs No. 1 of the Bren gun, Pte. Granger, fired a burst which woke me up. I had been sleeping for an hour. I got up and put ten rounds in the magazine and one tracer in the breech of my rifle. The reason for putting tracer in my breech was to identify the target for the Bren gunner. I asked Pte. Granger what he was shooting at and he said that he had seen something move ahead of us. I looked around but couldn't see what he was firing at. About fifteen or twenty minutes after this, the enemy opened up with M.E. mortar bombs which continued for about an hour and a half or two hours. There were two corpses lying on the parapet of the trench, one of an English soldier and the other a Jerry. They both smelled very strongly. From time to time these bodies were repeatedly hit by bomb fragments and their positions changed by the blast of the bombs. The smell became almost unbearable. During the shelling two of my section had been carried out by stretchers. During this time I got down well rattled up and was shaking with fright. During a short lull in the firing Pte Granger suggested that we dig the trench deeper because a lot of earth had been blown back into the trench and there was a lot of blood in there from others who had been either wounded or killed before we occupied it. The longer I stayed in the trench the more unnerved I became. Frankly, I was almost out of my head and shivering from the concussion. I remember throwing my small pack out of the trench. My rifle without the 'Safety' on was standing alongside of me. I grabbed my rifle to jump out of the trench. I had stood all I could stand. I don't know exactly just what went wrong with me, at any rate I must have fired my rifle into my foot. The mortaring had so dazed me that it is pretty hard to tell you just what happened. I got out of the trench and heard someone shout, 'Stretcher bearer' Dempsey got shot

P.T.O.

shot/

in the foot," a stretcher bearer came along and took off my boot, although the wound was bothering me, I told him to put a dressing on it and leave me there. He said that I would have to go back out. About the rifle not having the safety catch on, I did not know that it was not on. I have read over this statement and it is true.

(Sgd) E.N. Dempsey

Statement taken by Sgt. Harrison, J., No.1 Special Investigation Section, First Cdn Army.

Witness: Sgt. Sutherst, R.E. No. 1 Special Investigation Section, First Cdn Army.

3. This man appears to be quite straight forward and gave the impression that he had endeavoured to do his upmost whilst fighting in the front line. Dempsey stated that he would like to have another try at the front line.

Original Statement held on file at this office.

PENDING.

Sgt.
J-1918 SUTHERST, R.E.
No. 1 Special Investigation Section
First Cdn Army.

(COPY)

6

HOSPITAL OR SICK LIST RECORD

Regt. No...[redacted]..Surname..[redacted]..Christian Names..P.M.

Rank..L/Cpl.....Unit...R.R.C.....Age..23

Hospital...No.7 C.C.S.....

DATES OF:
Admission..25 July 44.....from 84 B.G.H.

CLINICAL NOTES:
Disease or Injury..G.S.W. Foot

(final diagnosis)..Comminuted fracture: right 2 toe....

Enlisted 29 July 40-U.K. Aug. 42-Ex. U.K. 4 July 44-Married
Family History:- Father now 55, mother died in Mental Institution after 10 years hospitalization. Father is a chronic alchoholic. 4 bros. and one sister. Family broken up since mother was hospitalized. No family life. Out of touch with brothers and sisters for years.
Personal History:- Born and raised near Westreath, Ont. grade 11 at 14. Very little education. never went to school regularly. Raised by an uncle. Has learned a lot about education in the army. Many expressional and compulsive traits. Always feels inferior and fears people don't like him. Always quick tempered and feels insecure in spite of having worked steadily in the same mine since the age of 16. No civilian crime record.
Army:-Claims he has no crime sheet. Employed as Regt. Police. Reverted from L/Cpl in Feb-Mar 44 for fighting with Americans. No anti-social behaviour. Has been in hospital twice following fights. Now L/Cpl i/c Bren gun section.
Past Illnesses:- Whooping cough and Measles in childhood, Cellulitis L forearm 1940, Fracture 4th R. metacarpal 1940 and again 1942.
Personality:- Unstable and inadequate
Present Illness:- Landed in Normandy 4 July 44. Went up into action night of 11/12 July. Was very nervous during mild periods of shelling during the night which he spent in a slit trench. At about 0530 hours Jerry started to mortar the area and patient became panic stricken, jumped out of trench when fellow gunner opened up at something moving. From then on he was very confused. He remembers his gunner mate pointing to an oost and saying there was a hole in it. Claims he didn't know he had been hit. Jumped back into the trench and almost refused to leave the trench because of his acute state of terror. Does not remember how his wounds were got and he was hit he claims.
[redacted] Patient presently sleeping, seems tremulous [illegible] but feels assured that is gradually he could not keep [illegible] improved and feels assured that is gradually he could not keep [illegible] fire again. Intelligence is average. Is preoccupied with the fear of having to go back and face fire. His military morale for front line duties is broken. Does not respond to the threat that he will be called yellow. No delusions or hallucinations. Feels he could carry on in a rear area.
Summary:- This 23 year old soldier gives a long history of family problems and personal instability. He is unstable with obsessive and compulsive traits and has marked feelings of inferiority and insecurity. He suffers from an acute terror state sudden onset during which it would appear that he wounded himself although he has not admitted it to me nor have I pressed him to.
Diagnosis:- Psychopathic personality -inadequate.Acute terror state-recovered.
Disposal:- Recategorise MLSJ to re-allocation centre.

W.L. [redacted], Major
RCAMC

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A18(2)	not guilty	guilty	
2nd alternative A18 4/5	not guilty	not guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for Nil beginning on (date) Nil (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned with hard labour for Two years and to be discharged from the Military service

(Sgd) ..... Judge-Advocate, if any. Date awarded. 15 Nov 44 (Sgd) ..... President. (RP 45, 57, 58)

(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

Evidence taken on commission not considered to prejudice of accused's defence. (1. AA 57A. Delete if not used.)

(Sgd) .....

Date 24 Nov 44 Commanding Cdn Sec GHQ 1 Ech 21 A Gp

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B 54826 Pte (Sigmn) Lumsden, E.M. 25 Nov 44 ..... Lt-Col

O.C. 22 Bn 2 CAR Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED AT CMHQ IN AB 160. 4P-61

CPA96 (To take place of AFA81) 40/P & H/1698 (40076)

FIELD GENERAL COURT-MARTIAL 4/388

Convened by Order of Brig A.W. Beament Comd A.I.C. Cdn Sec dated 9 Nov 44

ACCUSED. GHQ 1 Ech 21 A Gp.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appost.	Full Christian Names.	Surname.	Unit.
B 54826	Pte	Emery Maitland	Lumsden	22 Bn of C.

PROCEEDINGS REVIEWED 30 Dec 44 Maj Judge Advocate

PROCEEDINGS OF TRIAL.

Held in the Field (country) Belgium on (date(s)) 15 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14/118

A1. The President, Members, ~~training Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1003 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused : ~~Do you object to~~ ..... as ~~interpreter~~ ? Ans .....

The ~~Interpreter~~ is sworn.(1) ~~Do you object to~~ ..... as ~~shorthand writer~~ ? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member returns. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E P Lee	12 Bn 2 CIB
Member	Major	J.E. Lockwood	12 Bn 2 CIB
Member	Captain	V. Maxwell	12 Bn 2 CIB
Judge-Advocate			
Prosecutor	Lt Col	J W G Munro	HQ 2 Cdn Corps
Defending Offr	Captain	L.D.G. Hayman	A Coy 8 Bn

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes

(1. RP 26, 27, 109, 111. List of offrs under instr will be retained separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See (2) p 3.)

A8. The accused ..... before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 25(E), 109), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or as to bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB room and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 895 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3 A 7.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 83 fn 3, 84 fn 1, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D6 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D6 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence as are applicable to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D6 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) ~~(no)~~ opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court is closed, and considers the submission.(3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 66(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43 (1)(b). See Notes on Part I of Schedule.* 2. *RP 44(A).*)

D8. [illegible] Court [illegible] Schedule [illegible] Court [illegible] Schedule [illegible] Court [illegible] Schedule

CHARGE SHEET

The accused No B 54826 Pte (L/Cpl) E [illegible] [illegible]
DEMPSEY, Royal Regt of Canada att No 7 Cdn General Hospital, a soldier of the Cdn Army Oversens is charged with

First Charge
AA Sec 18(2)

WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he
in the field on 12 Jul 44, by discharging his rifle wilfully injured himself by shooting himself through the right foot in the region of the second toe with intent thereby to render himself unfit for service.

Second Charge
(Alternative)
AA Sec 40

WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
in the field on 12 Jul 44 while with his Regt in the line so negligently handled his rifle as to shoot himself in the right foot in the region of the second toe thereby rendering himself unfit for service

V.O.Mader

(V.O.Mader) Colonel
Officer Commanding
No 7 Cdn General Hospital

In the field
27 Aug 44

To be tried by [illegible] Cdn General Court Martial

A.W.Beament

(A.W.Beament) Brigadier
OIC
Cdn Sec GHQ 1 Ech 21 A Gp

In the field
26 [illegible] 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-54826	Pte	L/Cpl	Emery Michael	DEMPSEY	RR of C Att No.8 Cdn Gen Hosp.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Sep 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated and I refer.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

I also appoint as Judge Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee	Cdn Sec GHQ 1 Ech 21 Army Group.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Major	To be detailed by OC 12 Bn 2 CBRG	
A Captain	To be detailed by OC 12 Bn 2 CBRG	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 9 Nov 44.

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(A.W.Beament)

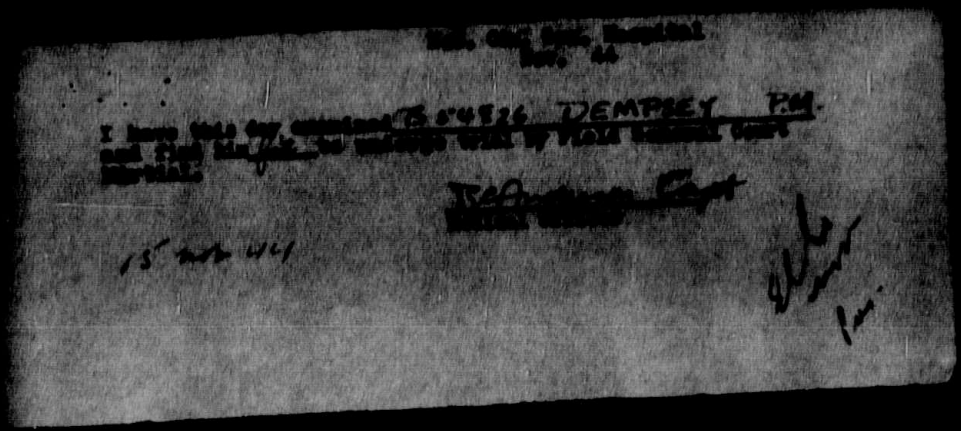
Commanding Cdn Sec GHQ 1 Ech 21 A Gp.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (For use (in lieu of AFW's 4/38A) on F & E/1947 (Gen).)

(See overleaf for oaths and notes for use on trial.)

Approved
ADJA



OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of the court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TÉMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*cf*, Notes.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so *far as practicable*, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 95(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA*: *SF* 40 *fn* 10), or evidence by accused, as to facts or his character or both. (*See SF* 41 *fn* 2, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 95(C).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 41.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 95(*E*), *KR Can* 563(*a*).)

(vii) Summing up by *JA*, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 124.

(iii) Medical Certificate(s). (*KR Can* 537.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of registered books see AA* 163 (1) (*g*) (*ii*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 52(9), *RP* 118(*C*), *MML p* 759.)

4. The President or *JA*, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-54826	Pte	L/Cpl	Emery Michael	DEMPSEY	RR of C Att No.8 Cdn Gen Hosp.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, (is) (are) subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 26 Sep 44 endorsed by me, (or by an offr of my staff by my dir), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr).
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

I am unable to appoint (a) three Offrs to form the Court, (b) a 3d Offr as President, for the reasons I have stated below.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

I also appoint as Judge Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	E.P. Lee		Cdn Sec GHQ 1 Ech 21 Army Group.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
A Major	To be detailed by OC 12 Bn 2 CBRG		
A Captain	To be detailed by OC 12 Bn 2 CBRG		

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium
(Country.)

Date 9 Nov 44.

(Signed personally. RP 105 fn 2.)

(A.W.Beament) Brigadier
Commanding Cdn Sec GHQ 1 Ech 21 A Gp. (Rank.)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Formerly 13b form of AFA2; 40.5 & 6.1947 4601)

Approved
ADJA

32. The accused arrived in Normandy on 2 July and he was injured on 12 July

Prosecution

Captain R C Anderson att. no 8 Cdn Gen Hosp. duly sworn states I recognize the accused, he is a patient under my care. He was admitted to hospital with a wound on second left toe in right foot. It was a through and through wound. The scars are such that the wound could have been inflicted by a spent bullet, and the weapon held in the means over hand. There was a fracture. The scars are completely healed. The accused is quite fit for duty.

Cross examination

The accused is quite fit to return to duty.

A.P. 83(B) complied with

Second witness

Prosecution

A55251 sgt Harrison J.I. no 1 Special investigation Section H.O. 1 Cdn Army. duly sworn states.

I recognize the accused. I interviewed him at no 7 Cdn Gen Hosp on 27 July 44. There was present sgt [illegible]. I identified myself to the accused and told him I was ~~was~~ inquiring into the circumstances regarding a wound in his right foot. I cautioned him in the following words "you do not have to say anything unless you wish to do so but whatever you do say will be taken down in writing

Ell.

Ech

and may be given as evidence. ~~[illegible]~~ After the accused had signed the caution he gave me a statement in writing which was read by the accused before signing it. The statement is produced as exhibit A. It was given purely voluntarily. The defence has no objection to the statement.

Cross Examined.

I believe the statement given to me was taken on the 29th of July. I went out with the accused at 1930 hrs and he told me how his mind had happened. The conversation was very friendly. There was only 8 of [illegible] present in the jeep at that time. There was no conversation in which the accused suggested that the statement he had given was untrue. I do not admit that there was any other version of the accused's statement except what was contained in it.

Q. I suggest that the accused did give another version ~~[illegible]~~ which you stated to him ~~[illegible]~~ was fantastic

Ech

A. I did not give any such version. I remember the occasion quite well.

Q. Is it true that the jeep was stopped during the course of the journey ~~[illegible]~~ and you got out with the accused and he gave you the version of how this mound happened.

Ech

A. The accused sat in the jeep.

Ex. in the ~~seat~~ seat beside the dinner seat. I occupied the dinner seat. I got [illegible] got out of the [illegible]. There was no demonstration of how the accident happened.

A P 83 (B) complied with

Q was accused working case A Yes.

Prosecutor suggested that accused said he wanted get back to unit quickly as poss. - A Yes

Q Was anything to indicate that this statement was not sincere - A No.

Prosecutor - Q Is there anything else you have that you could assist the court with.

A. Nothing except that accused was very straightforward.

Third Witness - Major Ewen RCAMC ~~attached~~ 8 Cdn Gen Hosp.

Qual - MCDM. Specialty - gen medicine

Interviewed witness 28 July 44 as psychiatrist. He arrived in Normandy 4 Jul and he went ~~into~~ up to go into action on night 11-12 Jul. Presumably he received his wound during that night or in the morning of 12 Jul. He told me that shells were landing 88 mm and other shells but the front was not particularly active - loud smell was terrible and that sight of these dead men up set him badly - nerves became worse and worse and he got into a slit trench almost terrified - during morning his mate a brew gunner opened fore at something he thought he saw moving in the half light - Some mortar and 11 E shells were coming down - became acutely ~~terrible~~ terrified and greatly confused - jumped out of his slit trench and his mate said to him "You have a hole in your boot" - he said he did not feel any pain and did not know how he was hit - he looked down and saw the hole and figured he must have been shot. He said he presumed that it was his own rifle that went off but he doesn't remember how this occurred. I did not press the matter as it was not my business - that concluded my interview with him - I had been through his life history previously a record of what I have here -

Report submitted as Exhibit B ~~not~~ no objection by defence.

Q. As result of interview can you assist the court
A. From my interview I would say that the accused was capable of forming an intent.
Q. Did he say that he wanted to return to Eire again
A. His attitude was that of a man whose morale was completely broken - completely unfit for front line soldiers he didn't care if he was called yellow and if he was sent back up he didn't know what would happen. He said he would be quite content to carry in in a rear area. He said he couldn't take action. I went into his record completely - he said he had had no civilian or army crimes. On questioned he told about his fight in a pub.

Cross Exam
Q. You interviewed accused 28 Jul. 44 which is 110 days ago -
A. Yes.
His mean attitude may have changed since I last saw him - may have built up some guts but they are generally only temporary as if they breaken down once they usually do so again. My personal opinion is that he would not recover. It might be useful to have a psychiatric exam. I suggest that he be sent before another doctor.

—

XXXX

Defending Officers Address

May it please the court - the prosecution have endeavoured to est on the 1st Chg before you that this accused wilfully rendered himself unfit for service by vending himself. Now the very essence of that charge is the question of "intent." Intent I say must be est by the

prosecution beyond any reasonable doubt whatever before a conviction can be registered on the first day. Let us consider the evidence then to see whether the prosecution has discharged this onus. The first witness Capt. Anderson a physician barely stated that it was possible that the wound in question could have been inflicted by a weapon held by the accused himself but it did not est directly that such was the case. This witness also stated that the wound from which the accused had suffered is now completely healed and that he can be described as a soldier who is ready to go back to duty. The second witness for the prosecution was Sgt Harrison of the S. I. Section Ledn Prov. Corps. He interviewed the accused on the afternoon of 27 July that is to say two days after the soldier was admitted to hosp and it is not denied that at said interview there was also present one Sgt ~~HUTHERST~~ SUTHERST of the RCMP and he produces a statement purporting to have been taken from the accused at this particular time in which the accused to use this Sgt's own words appeared to have been very straight forward and sincere and he also gave this sgt the impression to use this sgt's own words again that he was sincere in his desire to return to action. Now gentlemen I have no doubt that this sgt was merely carrying out his military duty when the interview took place but I would remind you that at the time the said statement was made the accused's morale was extremely low and I ask you to take into consideration the fact that as a result of this it is well within the realm of possibility that this soldier said a good many things on the spur of the moment as this was the week

frame of mind he was suffering from at the time and I say to you that it is highly probable is it not that without having had a few more days under which to regain his stability it would be hardly fair to say that this statement was made under ideal or reasonable circumstances and it would follow from the course of logic then, that one would unable to convict a man on his own evidence. Then gentlemen we come to the evidence of the physicalist Maj Ewen by name who had an interview with the accused on the 28 July that is to say three days after the accused's admission to I Cdn Gen Hosp. This physicalist admits that this accused was in ~~an extremely disturbed state of mind when the statement referred to by Sgt Harrison was taken~~ a very upset condition when the statement referred to by Sgt Harrison was taken. This fact it is admitted by the inference would purely indicate the condition of the accused when the statement was taken by Sgt Harrison. For Sgt Harrison interview only took place the day before - Again Maj Ewen when asked about the capability of the accused to form an intent admitted that this was a difficult question upon which to give an exact answer and he said that he could only base his answer which was in the affirmative on the various considerations he had taken into account in making his physico analysis finally Maj McEwen when reminded that 110 days had elapsed since he had examined the accused had omitted the possibility of his character having changed during this interval and that even though it might be the exception to the rule there was that possibility that the accused had changed in his stability and that as a result I say one can infer his present state

of cabability to acquit himself with honor in the line. Now gentlemen ultimately then I say to you after have called it to your attention and analyzed the evidence of the prosecution that there is insufficient evidence to convict on the first charge and since a prima facia case has not been made out the accused being innocent until proven guilty to that reasonable benefit of doubt. Coming to the second charge I would merely say that if you consider this man in the heat of battle and in the dense circumstances so clearly protrayed to you at the time this happened if you can say he was blameworthy under such circumstances I can only say I do not feel it would be ~~in~~ the ~~concluding~~ conclusion of a reasonable man which is your test and I alone can by merely stating that it is the submission of the defence that both charges should be dismissed and that the accused should be sent back to his unit this afternoon ~~to~~ in order that he may prove to soldiers his ability to acquit himself with honor along side his comrades.

In this court one cannot allow himself to be sympathic where the morale and discipline of the army are at stake

Plea in mitigation

You have before you this afternoon as the infantryman who is proud of the Regt. he calls his own - Royal Regt. of Canada. and there is good reason for his pride when one considers it's battle honors in the last war and the job it has done to help preserve humanitarian ideals in this one. There is only then gentlemen one question which the accused is weighing in his mind and that is this "Am I worthy of the trust that has been placed in me as a member of this great body of Canadian soldiers." Gentlemen the answer to that question by the accused is that he is worthy and to show his good faith in making this submission he asks you but one request namely to allow him to go back and prove to you that he is right that this whole unfortunate incident occurred because he was the victim of an extremely harrowing experience when he first made his attempt in action in this theatre. He does not ask you to view what occurred sentimentally for he knows that military law like all law is not concerned with sentiment in fact he says this was a new experience in my life I had never experienced anything in seventy-tide it before but I know now and I feel that I can acquit myself with honor - I can prove to you that my mind at the time I did this was incapable of forming the intent necessary to carry out such a dastardly act. His last and only appeal to you then gentlemen is to the effect that you allow him to return at the earliest possible moment that he is what he says he is and that he will not

let him country or his commander down but
rather will he go back and shoulder the
burden to the best of his ability so that
he can meet any man in future on equal
and conscientious terms.

Hosp. A & D No. .....

CFA 6 (Revised)
40 P & S/1438 (4399)
In lieu of AFI 1220
(Not to be used for British Wounded.)

Bed 68

64

HOSPITAL OR SICK LIST RECORD

B 54826 — Dempsey — P.M.
Regtl No. — Surname — Christian Names

Rank L/Cpl Unit 1 Bn. R.R.C. Age 23

Hospital No. 7 C.G.H.

DATES OF:—

Admission 25 July 44 from 54 Bn Gen. Discharge to Duty ..... Unit .....
Transfer ..... from ..... " for Conv. ..... to .....
Transfer ..... to .....
No. of days under treatment ..... Death .....
Theatre of Operations ..... Medical Category on admission ..... on discharge .....

CLINICAL NOTES:

Disease or Injury A.S.W. - foot Code No. .....
(final diagnosis) Comminuted fracture. Right II Toe - Prox Phalanx " .....
" " .....

Operation, nature and date .....

Anaesthetic 7 Cdn Gen Hosp.

Enlisted 29 July 40 U.K. Aug 42. Ex U.K. 4 July 44. Married

MEDICAL NOTES:

A.S.W. - 12 July 1944.
Diag. Comminuted fracture Prox Phalanx 2nd Toe - Right
Gen. Anaes - Leaving penetrating wound.
Gangrene Wound (Rifle) Right 2nd toe - 12 July 44.

Family History. Father now 55 Mother died in a Mental Institution after 10 years hospitalization. Father is a chronic alcoholic. 4 Bros + 1 Sister family broken up since mother was hospitalized. No family life. Out of touch with brothers & sisters for years.

Personal History Born & raised near Westneath Ont. Grade II at 6 yrs. Very little education never went to school regularly. Raised by uncle. Has learned a lot of about education in the army. Afraid of dark still and wet bed until after joining the army. Many obsessional and compulsive traits. Always feels inferior and as if people dont like him. Always quick tempered and feels [illegible]

Insecure in spite of having worked steadily in the same mine since to age of 16. No civilian crime record. Employed as a Regt Police

Army Claims he has no crime sheet. Employed as a Regt Police Reverted from LCpl in Oct-Nov 44 to for fighting c. Americans No anti-social behaviour but has been in Hospital twice following fights. Now LCpl i/c Brem gun section

Past Illness Whooping cough + ? Measles in childhood. Cellulitis + forearm 1940. Fracture 4th R metacarpal 1940 again 1942.

Personality Unstable + inadequate [redacted]

Present Illness Landed in Normandy 4 July 44. Went up to go into action. Night of 11/12 July. Was very nervous during mild periods of shelling during the night which he spent in a slit trench. At about 0530 hrs Troy started to mortar the area and patient became panic stricken jumped out of the trench when his fellow gunner opened up at something moving. From them on he was very confused. He remembers his gunner mate pointing to his boot and saying there was a hole in it. Claims he didn't know he had been hit. Jumped back into the trench and almost refused to leave the trench because of his aute state of terror. Does not remember how his rifle went off + he was hit he claims.

PRECIS OF CASE HISTORY & RECOMMENDATIONS

Neurological Tremulous and constantly fidgeting. Sweaty tremulous hands. Depressed and feels ashamed but is convinced he could not face fire again. Intelligence is average. Is preoccupied with the fear of having to go back and face fire. His military morale for front line duty is entirely broken. Does not respond to the taunt that he will be called yellow. No delusions or hallucinations. Feels he could carry on in a rear area.

Summary This 23 year old soldier gives a long history of family psychosis + personal instability. He is unstable with obsessive + compulsive traits and marked feelings of inferiority + insecurities. He suffered from an Acute Terror State now recovered during which it would appear that he wounded himself although he has not admitted it to me nor have I pressed him to

Signature of MO i/c Case W.H. Ewen Maj

Diagnosis 1. Psychopathic Personality - Inadequate

Date 28 July 44.

2. Acute Terror State (Recovered)

Disposal - Reintegration M.S.3 to Reallocation Center [illegible] Maj

-5-

27 July/44 Statement of B54826 [illegible] 1

L/Cpl. E. M. Dempsey, 13 Platoon
C. Coy. Royal Rgt of Canada.

I have been cautioned by Sgt Harrison of No. 1 Special Investigation Section, First Cdn Army, that I do not have to say anything unless I wish to do so, but that whatever I do say, will be taken down in writing and may be given as evidence.

To show that I have read over and understand this Caution, I sign my name here E M Dempsey.

Early in the morning of the twelfth of July/44 while holding down a position in a slit trench in the front line near Caen, I was waiting for orders as to when the advance was to start. At about 0300 hrs #1 of the Bren gun

[illegible]

Pte Granger fired a burst which woke me up. I had been sleeping for an hour. I got up and put ten rounds in the magazine and one tracer in the breach of my rifle. The reason for putting tracer in my breach was to identify the target for the Brew gunner. I asked Pte Granger what he was shooting at and he said that he had seen something move ahead of us. I looked around but couldn't see what he was firing at. About fifteen or twenty minutes after this the enemy opened up with H. E. mortar bombs, which continued for about an hour and a half or two hours. There were two corpses lying on the parapet of the trench, one of an English soldier and the other a Jerry.

C

They both smelled very strongly
From time to time these bodies
were repeatedly hit by bomb
fragments and their positions
changed by the blast of the
bombs. The smell became
almost unbearable. During the
shelling two of my section had
been carried out by stretchers.
During this time I got damn
well rattled up and was
shaking with fright. During a
short lull in the firing Pte
Granger suggested that we dig
the trench deeper because a lot of
earth had been blown back
into the trench and there was a lot
of blood in there from others who
had been either wounded or
killed before we occupied it.
The longer I stayed in the trench
the more unnerved I became
Frankly, I was almost out of
my head and shivering from the

conversion. I remember throwing
my small pack ~~[illegible]~~
out of the trench. My rifle
without the "safety" on was
standing alongside of me. I
grabbed my rifle to jump
out of the trench. I had stood
all I could stand. I don't know
exactly just what went wrong
with me at any rate I must
have fired my rifle into my
foot. The mortaring had so
dazed me that it is pretty
hard to tell you just what
happened. I got out of the
trench and heard someone
shout "Stretcher bearer" Dempsey
got shot in the foot" a
stretcher bearer came along
and took off my boot, although
the wound was't bothering me
I told him to put a dressing on
it and leave me there. He said
that I would have to go

back out. About the rifle not having the safety catch on. I did not know that it was not on.

I have read over this statement and it is true

C. W. Dempsey.

Statement taken by Sgt. Harrison #1 Special Investigation Section First Cdn Army.

Witness: [illegible] Sgt.

This is Exhibit 'A1' referred to in the Summary of Evidence in the case of B.54826 Pte (L/Cpl) Dempsey, taken down before me this 11 day of September 1944.

[illegible]
Officer taking Summary.

GC

Spare Copy 4P-C1

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 54826 Pte Emery Micheal Dempsey

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18 (2)	guilty	guilty	
2nd AA Sec 40 alternative			withdrawn by prosecutor
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for.~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of~~ ~~days, of which~~ ~~days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned with hard labour for two years and to be discharged with ignominy from His Majestys Service.

(Sgd) ~~Judge-Advocate, if any.~~ 29 Sep 44 Date awarded. (Sgd) H.N.E. Curry Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 577. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Not Confirmed.

I direct that the accused be ~~not~~ committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) A.W. Beament Brig

Date 4 Oct 44 Commanding Cdn Sec GHQ 1 Ech 21 A Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 54826 Pte (L/Cpl) Dempsey E.M.	1 Dec 44	A.O.Hood Lt Col OC 12 Bn 2 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Change stamp No. of AFAS 40/6 & 57/1608 (40/58)

4/388

Convened by Order of Brig A.W. Beament Comd Cdn Sec GHQ dated 26 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B 54826	Pte L/Cpl	Emery Micheal	DEMPSEY	R.C.E. of C att Cdn Gen Hosp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 29 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pg 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1C 30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~an interpreter? Ans~~

~~The Interpreter is sworn.~~(1) ~~Do you object to~~ ~~a shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.NE.CURRY	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp
Member	Major	M.L. TROY	Alg Regt att Cdn Sec GHQ 1 Ech 21 A Gp
Member	Capt	F.A. BAILLARGEON	Gen List att Cdn Sec GHQ 1 Ech 21 A Gp
Judge-Advocate			
Prosecutor	Lt Col	J.W.G. THOMPSON	HQ 2 Cdn Corps
Defending Offr	Capt	W.G.D. HUNGERFORD	RCASC att Cdn Sec GHQ 1 Ech 21 A Gp

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See GI p 2.)

A8. The accused before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109); or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposed, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. the first

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~as JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(*1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement~~.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the first charge(s). The accused is (are) so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B). 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(B). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Yes
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces ~~documentary evidence of the character of the accused~~ informs the Court that MFR 365 or AFR 296 none available copy (copies) of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B ~~and fm respectively~~.(2)
(*1. MFR 365 or AFR 296. 2. MCM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the ~~Prosecution's case~~ and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried sepparately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 142, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 809, 2353, MML p 60, 737-759. As to sentences consigned for civil offences by the law of England see AA 41(5), MCM, p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 54826 Pte (L/Cpl) Emery Michael DEMPSEY, Royal Regt of Canada att No 7 Cdn Gen Hosp, a soldier of the Cdn Army Overseas is charged with.

FIRST CHARGE WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH AA Sec 18(2) INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE

in that he
in the field on 12 Jul 44, by discharging his rifle wilfully injured himself by shooting himself through the right foot in the region of the second toe with intent thereby to render himself unfit for service.

SECOND CHARGE WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF (Alternative) GOOD ORDER AND MILITARY DISCIPLINE
AA Sec 40

in that he
in the field on 12 Jul 44 while with his Regt in the line so negligently handled his rifle as to shoot himself in the right foot in the region of the second toe thereby rendering himself unfit for service.

(V.C. Under) Colonel
Officer Commanding
No 7 Cdn Gen Hosp

In the Field
27 Aug 44

To be tried by Field General Court Martial

(A.W. Beament) Brigadier
OIC
Cdn Sec CMP 1 Sch 21 A Gp

In the Field
26 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 54826	Pte	L/Cpl	Emery Michael	DEMPAEY	R.R. of C. att 7 Cdn Gen Hosp

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) ..... endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H.N.E. CURRY	Gen Lisr at Cdn Sec GHQ 1 Ech 21 AGP

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	M.L. TROY	Alg Regt att Cdn Sec GHQ 1 Ech 21 AGp
Capt	F.A. BAILLARGEON	Gen List att Cdn Sec GHQ 1 Ech 21 AGp

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE (Country.)

A.W. Beament (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 29 Sep 44

Commanding Cdn Sec GHQ 1 Ech 21 A Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Form 1b (as of AFAI 60/P & R/1947 Amdt))

(See overleaf for notes and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. *(or,* None.)
Re-exam: None.
Exam by Court: He said—" I've had enough parades ".
RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 110 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 89(C), 87(C), 82(C) (D).*)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 61 fn 3, 46 fn 1, 80.*)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)
(v) Closing address (*on matters other than on mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)
(vi) Closing address by Prosecutor. (*See RP 46 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)
(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any *declarations* made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can 557.*)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting an exhibit a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)
(vi) Summary of Evidence, if not already an exhibit.
(vii) Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 96(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 23(3), RP 118(C), MML p 759.*)

3. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

SUMMARY OF EVIDENCE

Summary of evidence in the case of B 54826 L/Cpl Dempsey, E.M., R. Regt C. att No 7 Cdn Gen Hosp, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)). alt native. when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS . Capt W.E. Armour. RCAMC, No 7 Cdn Gen Hosp, sworn, states:

I am Capt W.E. Armour. Medical Officer No 7 Cdn Gen Hosp. L/Cpl Dempsey was admitted in my ward on 26 Jul 44 from No 84 Brit Gen Hosp suffering from a wound of the right foot incurred on the 12 Jul 44, according to medical reports accompanying him. The wound perforates the second toe of the right foot fracturing the proximal phalanx at the proximal inter phalangeal joint. He has been fit for duty since the beginning of September 1944. In my opinion the w und could have been caused by a small arms projectile fired from a weapon held by the man himself. There is nothing to show at what distance from the w und the weapon might have been fired.

The accused declines to cross examine this witness.

Witness

SECOND WITNESS. C 30818 C.S.M. Tait, T.E., No 1 S.I.S. First Cdn Army , sworn, states:

On 20 Sep 44 I int rview L/Cpl Dempsey whom I now recognize as the accused at No 7 Cdn Gen Hosp. I informed him who I was and I informed him that I had in my possession a statement purporting to have been made by him in the presence of Sgt Harrison and Sgt Southers of No1 S.I.S. on 27 Jul 44 and bearing in two places the signature of "E.M. Dempsey". I informed him that it was desired he should re-affirm or otherwise the authenticity of this document as a statement made by him. I cau tioned the accused in these words. "You do not have to say any hing unless you wish t o do so b t anything you do say will be taken down in writing and may be given in evidence". The accused then made a statement which I reduced to writing and which he signed after same being read over to him and he having read same. The attached statement was also read over to t e accused and he read same. The statement given by L/Cpl Dempsey refers to the second statement I produce. There were no threats or promises made to make him give this statement.

The accused declines to cross examine this witness

Witness

The statements referred to in the evidence of the above witness are attached hereto as Exhibits "A" and "A1".

7

. Major W.G. Ewen, RCAMC, No 7 Cdn Gen Hosp.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "B"

Officer taking Summary.

I do not require the attendance of Major W.G. Ewen, for the purpose of cross-examination.

Accused

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you do say or any evidence you give will be taken down in writing and may be given in evidence.

"I have nothing to say right now"

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that R.P. 4 (C) (D) (E) (F) and (G) have been complied with.

Officer detailed to take summary of evidence.

In the Field,
21 Sep 44

EVIDENCE

B 54826 Pte KERRY, MICHEAL DEMPSEY: sworn states

Born Westmeath, Ont. 17 Feb 1921, Went to country public school for 1 year and a half. Home broke up when I was 9. Mother lost h r mind and after that my father drank quite a bit and uncle and I worked on his far, until he died later did odd jobs and when I joined up was working as a mucker at "Dome" mines at wage of 63¢ an h ur. On 24 Jul 40 enlisted with Algonquin Regt and trained with them and R.R. of C. arrived U.K. 42. France 4 Jul44 Married 8 Jan 44 in England. Wife lives in Susex and she is expecting about 18 Nov 44. This had some bearing on my condition. This is the first opportunity of setting up a home. Planned to go back to mines in Canada after the War. Everything came at once the first night I was there, That got me. I am not afraid of fighting if it had only come on more gradually. I would have been able to stand it. The trench was only about two feet deep. Morter bombs were coming over, we were in an orchard and the bombs hit the trees and scattered all over. I don't know if the safety catch was on or off I guess when I put tracer bullet in the breach I must have left it off. I don't know whether I pointed the rifle at my foot. I don't know whether I shot myself or not. Never had intention of shooting myself. I joined the army to stay up at the front longer than one day and expected to learn something. My wife does not know anything about it. If I was given a chance to go back to the line with the Alg Regt R.R.of C. I would like to prove that I did not do it intentionaly. Parents born in Canada.

BY PROSECUTOR

Q Did you get out of the trench to deepen it?
A Yes Sir
Q Was there firing at the time?
A It had quietened down but still firing.
Q Your platoon Officer walked along and told you to dig your trench deeper?
A He did not just walk along, he was sometimes crawling and running from trench to trench.
Q Remember in your statement you said "I had all I could stand".
A Yes, I made that statement.
Q Isn't that the reason you were wounded?
A I don't know Sir.
Q Where did the bullet go through your foot?
A Accused indicated centre of his boot halfway between centre of laces and toe of same.
Q In your statement you said "I must have fired my rifle into my foot" and that coupled with your statement "I had all I could stand".
A No Sir.
Q You told the psychiatrist that you had nothing on your crime sheet?
A No Sir. I told him about my fights with the Americans.
Q You knew about your crime sheet?
A Yes Sir.
Q As you were questioned by the psychiatrist did he put down the answers in his own handwriting?
A Yes Sir.
Q As each question was asked did he write down the answer?
A Yes Sir.
Q You told the Psychiatrist you were confused?
A Yes Sir.
Q You did not tell him that you got out of the trench to dig it deeper
A I don't re-call Sir It was so long ago.
Q Were you not telling the truth to the psychiatrist or are you not telling the truth now.
A There is no use in saying any more.

RE-EXAMINATION BY DEFENDING OFFICER:

Q You stated you were willing to return to the front line?
A I feel ashamed of myself and I want to go back I think I can stand it now. I think I would be better with some Medical Corps.
[redacted] OVER RULE 83 B.

PLEA IN MITIGATION BY DEFENDING OFFICER:

This accused has been under hospital care since 12 Jul 44. It is now the 28 Sep 44 ie 78 days. Under the circumstances I would suggest that it is time for a further psychiatrist's report. The one in the summary is based on the man's general condition at that time. I submit to the Court that his condition in this respect in so far as battle exhaustion is concerned has materialy changed and that the accused is now fit to return to service. He has expressed the desire to do so. He is ashamed of himself. The question is even if the Court were to decide on a suspension, to give him a second chance, would this be a case wherein the accused would be of any real value in an Infantry Battalion. My own view is. The accused, although presentl sentenced to normalcy is not suited for anything more than base or L. of C. duties he has worked at this hospital since he came are and has made good progess at this type of work. I thereby consider that the point of outstanding importance in this matter, in sofar as constructive disposition is concerned lies in having this man receive further psychiatric attention. This will reaffirm or otherwise the report made on record and I ask the Court to make such a recommendation as will ensure such for this action by senior authority.

Seine Inferieure, France,
28 Sep 44

W.O.D. Hungerford, Capt.
Defence Counsel

STATEMENT OF B 54826, L/Cpl. DEMPSEY, E.M.,
"C" Coy., ROYAL REGIMENT OF CANADA

I am B 54826 L/Cpl Dempsey, Emery Micheal. I made a statement in writing to Sgt Harrison of No 1 Special Investigation Section, on the 27 Jul 44. That statement is the one which C.S.M. Tait read over to me and which I also read. I recognize and identify the signatures, E.M. Dempsey as my own hand writing.

TAKEN AND WITNESSED/ (SGD) E.M. Dempsey.

T.B. Tait, CSM.,
No 1 S. .S. 20 Sep 44.

FGCM

B 54826 Pte Emery Michael DEMPSEY.

1. This man is afraid to go back to the front line but states he is prepared to do so.

2. While awaiting trial he has worked at No 7 Can Gen Hosp and is very well thought of by the hospital staff.

3. He appears to be useful in a job such as hospital orderly but it seems very doubtful if he would ever be of use to a fighting Unit.

4. He appears emotionally unstable and a psychiatrist's report is indicated.

5. The Court recommends suspension of sentence pending psychiatrist's report.

In the Field.
29 Sep 44.

H.W.E. Curry Major
President

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 31 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

59 days field punishment with loss of pay

(Sgd) ..... 6 Mar. 1945 (Sgd) R Bonnar Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding of the Court on the First Charge and I do not confirm the finding of the Court on the Second Charge. I vary the sentence so that it shall be as follows: To suffer field punishment for 59 days and to forfeit all ordinary pay for a period of 59 days, and I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.) confirm the sentence as so varied.

(Sgd) E L Burrows Major-General, Commanding 50 (N) Div. Sub 1 Echn. Army Gp.

Date ..... Commanding ..... Confirming Officer.

23 MAR 1945

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
539160 Pte Dempsey Gordon	28 Mar 45	[illegible] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5D-135

CRASE (In lieu of AFMSS 60/1 & 1/108 FEB 45) 4/388

CHARGE SHEET 21 Army Gp

CMHQ 1945

FIELD GENERAL COURT-MARTIAL

Convened by Order of COLONEL C.F.P. JONES Comd 1 CDN FORESTRY GROUP dated 24 FEB 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E39160	PTE	GORDON	DEMPSEY	16 Coy CFC.

PROCEEDINGS REVIEWED 24 APR 45 PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in (country) BELGIUM on (date(s)) 6th Mar 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 27/68.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmo ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 2. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 9.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do~~ you object to ..... as interpreter ? Ans ..... RB.

The Interpreter is sworn.(1) Do you object to Col. O.W. Shelara as shorthand writer ? Ans No.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs composing the Court, etc :

President	Major R Bonnar	1 Coy	C.F.C.
Member	Capt. G.M. Thomas	H.Q.	1 C.F.G.
Member	Lieut C.H. Smith	INTELLIGENCE	1 CFG
Judge-Advocate	—		
Prosecutor	Capt B. Preble	16 Coy	C.F.C.
Defending Offr	Lieut R.H. Burgess	5 Coy	C.F.C.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment, when RP 89 (B) and fn 2 were not followed. See Di p 2.)

A8. The accused Pte Gordon Dempsey before arraignment make(s) (no) (~~no~~) plea. N.G.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 69A to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

'A' Vol III Page 59

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ale, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, see Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 17(B). If there is any evidence inconsistent with any plea standing or Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D4 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Evidence.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 2nd charge(s), and allowed on the ~~charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. YES ..... Do you intend to call witnesses on your behalf ?
Ans. YES ..... Are they witnesses as to character only ? Ans. No .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the two charge(s), being subject to confirmation, will be promulgated later.(1)
Or. ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(2), RP 42, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : ~~Do you wish to give evidence yourself or to call any witnesses as to your character~~ ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A. and Ex B. respectively.(3)
(*1. MFR 255 or MFR 294. 2. same 4. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments awarded in AA 41, 44 and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 48, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 132. When accused already under sentence of imprisonment or detention see AA 44(c) (ii), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to summary and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RA.

CHARGE SHEET

The accused, No. H 38160 Private Gordon Dempsey, No. 16 Company, Canadian Forestry Corps, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 9 (2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

in the field, at Heeze, Holland, at approximately 1300 hrs, on 21 January 45, did not proceed to work in the bush, when ordered to do so by Lieut. ~~R.H.~~ Davis, of No. 16 Company, Canadian Forestry Corps. ~~H.R.~~ RA.

Second Charge
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, at Heeze, Holland, at approximately 1300 hours, on 21 January 45, incited other soldiers of No. 16 Company, Canadian Forestry Corps, to refuse to perform their proper military duties, that is, work in the bush operations of No. 16 Company, Canadian Forestry Corps.

(M. MacLaggan) Major,
O.C. No. 16 Company,
Canadian Forestry Corps,
Canadian Army (Overseas)

the Field
Jan 45

Remanded for Summary of Evidence.

(M. MacLaggan) Major,
O.C. No. 16 Company,
Canadian Forestry Corps,
Canadian Army, (Overseas)

the Field
an 45

Remanded for Field General Court Martial

(S.A. Williams) Lt-Col.,
O.C. No. 8 Forestry District (B),
Canadian Army, (Overseas)

the Field
Feb 45

the Field
Feb 45

To be Tried by Field General Court Martial.

(C.K.F. JONES) Colonel
Commander
Royal Canadian Forestry Group
Canadian Army Overseas.

RB

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Can Army Overseas, or of any other force if autherized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
E-38160	Pte	-	GORDON	DEMPSEY	16 COY CFC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~ "To be tried by Field General Court-Martial". C.E.O.P.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior (zoning) offr)~~ C.E.O.P.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. C.E.O.P.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ C.E.O.P.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank	Name	Unit
MAJOR	R. BONNAR (Must be named. RP 106.)	NO.1 COY CFC

MEMBERS.

Rank	Name	Unit
CAPT	G.M. THOMAS	HQ 1 CDN FORESTRY GP
LIEUT	E.H. SMEETH (Named or detailed. RP 106.)	X-4A LIST CFC (ATT HQ 1 CFG)

WAITING MEMBER.

Rank	Name	Unit
Major	H.J. DOHERTY	No. 14 Coy CFC
Lieut	L.A. SCHOFIELD (Named or detailed, if any. RP 106.)	NO. 25COY CFC

JUDGE-ADVOCATE.

(Must be named, if any. RP 106.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 24 Feb 45

C.E.O.P. [signature] (Signed personally. See para 23)

Colonel (Rank.)

(C.E.P. JONES)

Commanding 1 Canadian Forestry Group

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

4/38A CFAO 110 (Dec of AFAO 40/44 & B.1867 1944)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so *far as* practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being *fair* to the accused:

(i) Opening address by Defending Offr. (*RP* 80(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 85.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D).* Prosecutor has no right to address Court on subject of sentence except as provided by *RP 45(E), KR Can 562(a).*)

(vii) Summing up by J.A., if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or *J.A. if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or *J.A. if any*, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) *Charge Sheet.* (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to submitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (A).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part 3 of Schedule on p 4 after minute of sentence awarded. (*AA 23(3), RP 118(C), MML p 730.*)

4. The President or *J.A. if any*, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

R.B.

No. 16 Company, Canadian Forestry Corps,
Canadian Army - Overseas.

"I certify that I have this day examined

E38160	Pte.	DEMPSEY, G.
Reg'l No.	Rank	Name

and in my opinion he is fit to undergo trial by Court Martial."

Sgd. [signature] M.O.

Date: 6 March 1945.

EVIDENCE

re

FIELD GENERAL COURT MARTIAL

6 Mar 45

On charge against

X 38180 PTE. GORDON DEMPSEY

The Court decided to try the Accused, M 38160 Pte. Gordon Dempsey on the two charges at the same time.

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FIRST WITNESS for the Prosecution

Lieut. H. R. Davis, No. 16 Coy, CFC, being duly sworn, states: "I am Lieut. H.R. Davis, No. 16 Coy, CWC and was in charge of the detachment at Heeze, Holland."

Examined by the Prosecutor

Q. 1 I am going to read you the charges against the Accused. (Charges are read.) The Court has decided that it will try the Accused on the two charges at the same time. Will you give the Court your evidence in respect of these two charges.

A. 1 I was in charge of the detachment at Heeze, Holland on the 21 Jan 45. At 1230 hrs. I was approached by Sgt. Dubois, my bush foreman. He stated that during the morning there were remarks and indications that the men were not going to work in the afternoon. He asked what should be done. I informed him that I would call the parade at the usual hour and see what developed. The parade was called at 1300 hours by Sgt. McArthur, A/CSM, from which there were no absentees with the exception of the regular kitchen and quarter store personnel. He was told at that time by the men they wished to see an officer and did not want to go to work. He therefore informed me of this. I immediately went to the parade and spoke to the corporals first, who were standing apart, as to the trouble. The answer was that the men did not want to go to work. I then asked the men their difficulties. I had numerous versions of it. One, namely Pte. Smith, stated that he would like Sundays off to go to church; another, Pte. Stringer, stated that the English engineers in the District were only working five and a half days a week and did not see why it was necessary for the Forestry Corps to work seven. I told the men this was not the English Army; that our orders came from the Canadian authorities and that we must abide by them. Pte. Smith then asked the question, "If this is the Canadian Army, why are we eating English rations.". My answer to that was that some of us had been eating these rations for four and a half years. I then told them that my instructions were to work seven days a week. They had had already most of Thursday afternoon off for a bath parade. I then ordered the men to board the trucks. No one moved. The second order was given, "Those wishing to go to work fall to the rear.". Still no one moved. At this point the remark was made by Pte. Dempsey that we could go to work on Sunday afternoon but that we could make up for it during the week. The exact words were, "We could fuck the dog during the week.". I then gave the third order, stating that I would give them two minutes to carry it out -- bush crews to board the trucks that were waiting. There was no one moved. In the interval, while waiting for the command to be carried out, there was another remark passed by Pte. Dempsey, of which the exact words cannot be recalled, but had the meaning of anyone boarding the trucks would be foolish. I then instructed Sgt. McArthur to detail two corporals and twelve other ranks to guard the camp. I put the Camp under close arrest. That is all, Sir.

Q. 2 How did you know that it was Pte. Dempsey that made those two remarks?

A. 2 Pte. Dempsey was standing immediately to my left in the front row.

Q. 3 Did you recognize his voice?

A. 3 I recognized his voice and also recognized his features.

Q. 4 Did you see his lips moving?

A. 4 Yes; because I looked directly at him.

Cross-Examined by Officer for the Defence

Q. 5 Mr. Davis, did Sgt. McArthur call the roll on this parade?

A. 5 No; he did not. It was not the custom to call the roll on the noon parade.

Q. 6 If he did not call the roll, how could he report to you that there were no absentees when there were some thirty odd men involved?

A. 6 Immediately after placing the camp under close arrest myself, Sgt. McArthur, and Sgt. Dubois checked the nominal roll.

Q. 7 Would you consider this an organized parade when there had been no roll called?

A. 7 It was an organized parade in as far as our custom has been in the Company.

Q. 8 Were the men formed up in a regular platoon or were they standing around in a group?

A. 8 They had been formed up in a regular platoon and when I went to the parade I call the men in a semi-circle.

Q. 9 Mr. Davis, you stated that you could not recall the exact words of Pte. Dempsey when he made the second statement. Is that correct?

A. 9 That is correct.

Q. 10 If Pte. Dempsey made this statement, do you suppose the meaning that you took was the same meaning as it was meant when given?

A. 10 Yes; it conveyed to me that meaning.

Q. 11 If Pte. Dempsey made this statement, could he have meant something else, as many meanings can be taken from a statement like this?

A. 11 No; I would say not.

Q. 12 When you had called the men into a semi-circle where were the corporals standing?

A. 12 The corporals were standing to my right a little to the rear between a tree and the trucks waiting to take them to work.

Q. 13 Were there any corporals standing among the men?

A. 13 There was not.

Re-Examined by the Prosecutor

Q. 14 Did you break the men off from their formal parade when you started to talk to them?

A. 14 I called them in a little closer and told them to gather around.

Q. 15 Were they then in an informal group?

A. 15 They were in an informal group in a semi-circle.

SECOND WITNESS for the Prosecution

E 38183 Sgt. McArthur, L.J., No. 16 Coy, CPC, being duly sworn, states:

Examined by the Prosecutor

Q. 1 Do you recognise the Accused?

A. 1 Yes, Sir.

Q. 2 I will read the charges against the Accused. (Charges are read.) Please give to the Court the evidence you have in respect of these charges.

A. 2 On 21 Jan 45, Sunday afternoon, I went over to fall in the gang and go to work in the bush. They all came outside and gave me the opinion they did not want to work Sunday afternoon before they saw an officer. I told them to stand fast and went over and got Mr. Davis. Mr. Davis came over and asked them the trouble, which amounted to the same thing -- They didn't want to work Sunday afternoon. He ordered the gang three times to get on the truck. No one obeyed. After the third order, as nobody obeyed, he placed them under close arrest to which I detailed a guard of twelve men. That is all.

Q. 3 Did you see the Accused present when the order was given?

A. 3 Yes, Sir

Q. 4 Do you consider it possible for him not to have understood them?

A. 4 No, Sir; it wasn't possible

Q. 5 When was the bush crew told that they would be working Sunday afternoon?

A. 5 Sunday morning.

Q. 6 Please describe in detail the formation of the group when the orders were given.

A. 6 They were just all standing around in a group. When Mr. Davis told them, he called them all around.

Q. 7 Was there any right hand marker or other formalities?

A. 7 No, Sir.

Q. 8 Did you hear the Accused make any remarks?

A. 8 Yes, Sir. He made the remark that we could go to work Sunday afternoon and fuck the dog all the rest of the week, which we don't.

Q. 9 Did you hear him say anything else?

A. 9 No, Sir.

Q. 10 How do you know that he made the statement that you have contributed to him?

A. 10 I was there listening to him.

Q. 11 Did you recognize the voice and see him speaking?

A. 11 I definitely saw him speaking, Sir.

Cross-Examined by Officer for the Defence

Q. 12 From this remark that you heard Pte. Dempsey say, would you take the meaning from it that he was refusing to go to work?

A. 12 No.

Q. 13 Did he make this remark to anyone in particular or was it just said?

A. 13 He made the remark to Mr. Davis.

Q. 14 Did he point to Mr. Davis and say, "I am directing this to you."?

A. 14 No.

Q. 15 That is the only remark you heard Pte. Dempsey say?

A. 15 Yes, Sir; the only one.

Q. 16 Where were the corporals standing?

A. 16 On the left of the squad I'd say.

Q. 17 Were they mixed with the men to any extent?

A. 17 No; they were not.

Q. 18 As A/CSM had you called the roll after you had blown the whistle?

A. 18 No, Sir.

Q. 19 When the men came out from their quarters, did they ask to see an officer or did they say, "We are not going to work."

A. 19 They said, "We are not going to work until we see and officer." was the opinion I got.

Q. 20 Did they see an officer?

A. 20 Yes.

THIRD WITNESS for the Prosecution

M 68201 Sgt. Dubois, A.J., No. 16 Coy, CFC, being duly sworn, states:

Examined by the Prosecutor

Q. 1 Do you recognize the Accused?

A. 1 Yes, Sir.

Q. 2 Who is he?

A. 2 Dempsey, Sir.

Q. 3 Were you present on the noon parade at Heeze on 21 Jan 45?

A. 3 I was after Mr. Davis came down.

Q. 4 Did you see the Accused, Pte. Dempsey, on that parade?

A. 4 I did.

Q. 5 Did you hear Mr. Davis order those men to get on the truck waiting to go to work?

A. 5 Yes, Sir.

Q. 6 Did Pte. Dempsey obey that order?

A. 6 No, Sir.

Q. 7 Did you hear Pte. Dempsey make any remarks?

A. 7 I heard him speak, Sir, but I couldn't swear to what he said.

Q. 8 How far away from the group of men were you at that time?

A. 8 I'd say about forty or fifty feet, approximately.

Cross-Examined by Officer for the Defence

Q. 9 Sgt. Dubois, did you hear Pte. Dempsey refuse to go to work?

A. 9 I did not, Sir.

Q. 10 Did you hear Pte. Dempsey inciting other soldiers to refuse to perform their proper military duties?

A. 10 No, Sir.

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The Officer for the Defence submitted that the evidence of the Prosecution did not establish a Prima Facie case against the Accused on the second charge.

The Court adjourned to consider this motion.

The Court re-opened and the President announced that the motion was disallowed, and the trial would continue.

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THE ACCUSED, K 38160 Pte. Dempsey, G.

The Accused, K 38160 Pte. Gordon Dempsey, being duly sworn, states:

On the 21 Jan 45 at about 1250 hrs. I was in my room. I was laying down in my bed. The boys from the other rooms gathered in and said that they were going to see an officer about going to church on Sunday and for both parade, instead of working on Sunday afternoon. The signal went for the men to fall out for work. The men went outside. Sgt. McArthur was standing there. Cpl. Lessard turned arround and asked the men if they wanted him to see Sgt. McArthur to tell him that they wanted to see an officer. The men said, "Yes.". He went over and got Lieut. Davis. Lieut. Davis came over and asked the men what was wrong. Cpl. James said, "Sir, the men want the afternoon off.". Pte. Smith, he said something to the effect that he wanted to go to church. Mr.

Davis said for the men to gather around him. He said, "Now you are about twenty minutes late. I am giving you a direct order to get on that truck." Nobody moved. He said, "If I can't run this detachment, I will get someone who can.". He then said, "That is the best thing to do.". He then said to Sgt. McArthur, "Detail two corporals and twelve men for guard.", and placed the camp under close arrest. That is all.

Examined by Officer for the Defence

Q. 1 Did you at any time make the statement to the effect that anyone who gets on that truck is a damn fool.

A. 1 No, Sir.

Cross-Examined by the Prosecutor

Q. 2 Do you recall who it was that said in your room before parade that they were going to have Sunday afternoon off to go to church?

A. 2 Yes, Sir.

Q. 3 Who was it?

A. 3 Cpl. Lewis and Cpl. James.

FIRST WITNESS for the Defence

H 60546 Cpl. Gryderman, J.W., No. 16 Coy, CWC, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 Cpl. Gryderman, will you tell the Court what you know of what happened on the afternoon of 21 Jan 46.

A. 1 As close as I can remember I was Orderly Corporal that day. I was asked to get the fellows on light duty to cut some wood around the camp. I was on excused duty myself. I had a sore knee but I went on as the Orderly Corporal was away. When the whistle went at 1300 hrs. I went out and over to the other billets to get the men who were on light duty to cut some wood for the camp. While I was over there the men were all out in front of the billets. I heard that they weren't going to work that afternoon, so I hung around there just to see what was coming off. The Sergeant went over to get an officer as the men said they wanted to see an officer before they went to work. Mr. Davis came over from his billet and the fellows gathered around him and there was different conversations went on. He said that they were going to change the hour that the men went to work; that they were going to be more strict, or something to that effect. Then he gave an order to get on the truck. Nobody went on the truck. Then he called Sgt. McArthur, I believe, and placed the camp under close arrest, and told him to put a guard on.

Q. 2 Did you hear Pte. Dempsey make any remark?

A. 2 No, Sir; not that I could swear to. I heard conversation going on, but I couldn't hear it well.

Q. 3 Can you tell me if the corporals were mixed with the men or were they away by themselves?

A. 3 I recall seeing one or two corporals at the end of the

group, but there was no separation as far as I could see.

Q. 4 Did you hear Pte. Dempsey make the remark that anyone who gets on to that truck is a damn fool?

A. 4 No, Sir.

Q. 5 Did you hear any remarks to that effect from this group of men?

A. 5 No, Sir; not that I can remember.

Q. 6 Did you hear Pte. Dempsey telling Lieut. Davis that he refused to go to work?

A. 6 No, Sir.

Cross-Examined by the Prosecutor

Q. 7 When you went over to the parade, who told you that they weren't going to work that afternoon?

A. 7 I can't remember.

Q. 8 Do you know whether or not Pte. Dempsey made any remarks?

A. 8 No, Sir.

Re-Examined by the Officer for the Defence

Q. 9 Did you hear Lieut. Davis say that if the men did not go to work he would stop their leaves and lengthen their working hours?

A. 9 I can't recall anything about the leaves, but I remember him saying something to the effect about the times we would be getting on the trucks

SECOND WITNESS for the Defence

D 115293 Pte. O'Quinn, T., No. 1& Coy, CFC, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 Would you tell the Court what you know about what happened at Heeze Camp about 1300 hrs. 21 Jan 45.

A. 1 At 1300 hrs. Sgt. McArthur blew the whistle for the men to go to work, and the fellows fell out on the parade ground. Some of the boys asked Cpl. Lessard to ask Sgt. McArthur if we could see Mr. Davis. Sgt. McArthur then went for Mr. Davis. During the time Sgt. McArthur was away for Mr. Davis Cpl. James called to Pte. Gray to come over to where the boys were standing, which he did. Then Mr. Davis came over and he asked us what the trouble was, why they were not going to work. Cpl. James, the first man to speak, said that the men wanted to know why we had to work afternoons on Sunday and there was a few other remarks regarding church, but I can't say who made them or what was exactly said. Then I heard Mr. Davis say, "If I can't run this outfit, I will get someone who can.". I then heard Pte. Dempsey say, "I think it would be a good idea.". I was standing from four to six feet from Dempsey. The corporals and privates were all standing in one group, - Some of the corporals were on the left of the group and right beside the men.

Q. 2 Approximately how many men were in this group?

A. 2 About thirty to thirty-five I suppose.

Q. 3 Did you hear Pte. Dempsey say that if anyone gets on that truck, he is a damn fool?

A. 3 No, Sir; I did not.

Q. 4 Did Pte. Dempsey say anything while he was there to incite the other men not to go to work?

A. 4 No, Sir; not as I know.

Q. 5 If he had said anything, were you in a position to hear him all the time?

A. 5 Yes, Sir.

Q. 6 Did you hear Lieut. Davis say that if the men did not go work, he would stop their leaves and lengthen their working hours?

A. 6 Yes; he was going to lengthen the working hours.

No Cross-Examination by Officer for the Defence

THIRD WITNESS for the Defence

A 11672 Pte. Gray, W.J., No. 16 Coy, CMC, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 Pte. Gray, were you at Haene Camp at approximately 1300 hrs 21 Jan 46?

A. 1 I was, Sir.

Q. 2 Did you hear Pte. Dempsey, the Accused, make a statement to the effect that if any of the men got on the trucks as ordered, they would be damn fools?

A. 2 No; I did not, Sir.

Q. 3 Do you remember if the corporals were standing by themselves or mixed in with the men?

A. 3 I would say they were mixed, Sir.

Q. 4 Did any of the corporals have anything to say at that time about working Sunday afternoon?

A. 4 Yes.

Q. 5 Were you standing near Pte. Dempsey during the time Mr. Davis was talking to the men?

A. 5 I would say I was ten or 12 feet from him possibly.

Q. 6 Did the Accused say anything that would incite the other men not to go to work?

A. 6 I never heard him say anything like that, Sir.

No Cross-Examination by the Prosecutor

FOURTH WITNESS for the Defence

K 99060 Cpl. Ludwig, G.J., No. 16 Coy, CFC, having been duly sworn, states:

Examined by Officer for the Defence

Q. 1 Were you present at Heese Camp at approximately 1500 hrs. on the 21 Jan 45 when Mr. Davis ordered a group of men to work?

A. 1 Yes, Sir.

Q. 2 Did you see Pte. Dempsey there?

A. 2 Yes, Sir.

Q. 3 Did you hear Pte. Dempsey say that any man who gets on the truck is a damn fool?

A. 3 No, Sir.

Q. 4 Did you hear anybody say that we could work this afternoon but fuck the dog during the week to pay up?

A. 4 No, Sir.

Q. 5 Did you hear Pte. Dempsey refuse verbally to obey the order given, or did you hear him make any remark that incited the other men not to go to work?

A. 5 No, Sir.

Cross-Examined by the Prosecutor

Q. 6 Did you hear everything the Accused said, corporal?

A. 6 I am not sure, Sir.

Re-Examined by Officer for the Defence

Q. 7 How far were you standing from Pte. Dempsey?

A. 7 I would say approximately twenty feet.

Q. 8 Were there many men talking at one time?

A. 8 At different times there seemed to be more than one talking.

Q. 9 Would it be possible for Mr. Davis to hear a remark and yet not know where it came from, when there were many talking at once?

A. 9 I don't know, Sir.

FIFTH WITNESS for the Defence

C 34277 Pte. Stringer, S.P., No. 16 Coy, CFC, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 Were you with the group of men at Heese Camp on the 21 Jan 45?

A. 1 Yes, Sir.

Q. 2 When Mr. Davis gave the order to go to work, did you hear Pte. Dempsey make the remark that anyone who gets on to that truck is a damn fool?

A. 2 Yes, Sir.

Q. 3 How far from Pte. Dempsey were you standing?

A. 3 Between ten and twelve feet, Sir.

Q. 4 Did you hear Pte. Dempsey make any remark encouraging the men not to go to work?

A. 4 No, Sir.

Q. 5 Did you say that the British army was working only five and a half days per week and you did not see why we should work seven?

A. 5 No, Sir; I did not.

Q. 6 Who made this remark?

A. 6 Cpl. Lawlis, Sir.

Cross-Examined by the Prosecutor

Q. 7 Do you swear that you heard everything that the Accused, Pte. Dempsey, said?

A. 7 Positively everything, Sir.

Q. 8 How can you be so sure?

A. 8 I was listening to what most of the fellows said, Sir.

Q. 9 Please tell the Court what you hear Pte. Dempsey say.

A. 9 I heard Mr. Davis say when he came out, "If I can't run this camp, I will get someone here who can.". Pte. Dempsey said, "That would be the best thing you could do.".

Q. 10 What does "insite" mean.

A. 10 I don't know.

Re-Examined by Officer for the Defence

Q. 11 Pte. Stringer, did Pte. Dempsey do anything to encourage the other men not to go to work?

A. 11 No, Sir; he did not.

Examined by the Court

Q. 12 How long were you standing by Pte. Dempsey?

A. 12 From the time we fell in until we fell out -- about half and hour.

Q. 13 Did Pte. Dempsey talk much during that time?

A. 13 No, Sir; he did not.

SIXTH WITNESS for the Defence

E 41433 Pte. Willett, A., No. 16 Coy, CPU, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 How far from Pte. Dempsey were you standing when you heard Mr. Davis give the order to go to work?

A. 1 Two feet, Sir.

Q. 2 Did you hear Pte. Dempsey say anything that encouraged the other men not to go to work?

A. 2 No, Sir.

Q. 3 Did you hear him say that any man who gets on to that truck is a damn fool?

A. 3 No, Sir.

Q. 4 Would it have been possible for Pte. Dempsey to say any such remark without you hearing him?

A. 4 No, Sir.

Q. 5 Did any of the corporals say anything when Mr. Davis came over to the group of men?

A. 5 Cpl. James Sir; he said to Mr. Davis that the men wanted to know why they were not getting their half day off.

Q. 6 Who do you think was the most interested in this half day off, the men or the corporals?

A. 6 I figure that the corporals were as just as much interested in it as the men were.

Q. 7 Were the corporals mixed with the men when Mr. Davis gave the order?

A. 7 Yes, Sir.

Examined by the Prosecutor

Q. 8 Please tell the Court what you did hear Pte. Dempsey say.

A. 8 Mr. Davis said, "If I can't run this detachment, I will get someone who can.". I heard Pte. Dempsey reply it was the best thing he could do.

Q. 9 Do you think that that reply would encourage men to go to work?

A. 9 I don't see why not, Sir.

SEVENTH WITNESS for the Defence

H 94770 Pte. Murphy, D., No. 16 Coy, CPU, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 At approximately 1300 hrs. on the 21 Jan 45 after Mr. Davis had given the order for the men to go to work, did you hear Pte. Dempsey make any remark that encouraged the men not to go to work?

A. 1 No, Sir.

Q. 2 Did you hear Pte. Dempsey say that anybody that goes on to the truck would be a damn fool?

A. 2 No, Sir.

Q. 3 Is it possible for Pte. Dempsey to have said anything to encourage the men not to go to work, and you not have heard him?

A. 3 I don't know, Sir.

No Cross-Examination by the Prosecutor

EIGHTH WITNESS for the Defence

G 22686 Pte. Driscoll, D., No. 16 Coy, CPC, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 Did you hear Pte. Dempsey make any remark that would encourage the men not to go to work on Sunday afternoon 21 Jan 45?

A. 1 No, Sir.

Q. 2 Would it have been possible for him while on the parade to make any remark and yet you not have heard him?

A. 2 I would not be able to say.

Q. 3 How far from Pte. Dempsey were you standing?

A. 3 About two feet.

Q. 4 Did Pte. Dempsey make the remark that anybody who goes on to that truck is a damn fool?

A. 4 No, Sir.

Cross-Examined by the Prosecutor

Q. 5 Please tell the Court, Pte. Driscoll, what you did hear Dempsey say.

A. 5 Sir, on the 21 Jan 45 at 1300 hrs. when Lieut. Davis came out he said that if he couldn't run this detachment, that he would get somebody that could run it. I heard Pte. Dempsey say it would be the best thing to do, Sir.

Q. 6 Do you consider that that reply would encourage the balance of the group to go to work?

A. 6 No, Sir.

NINTH WITNESS for the Defence (Character Witness)

Lieut. W.H. Lawton, No. 16 Coy, CPC, being duly sworn, states:

Examined by Officer for the Defence

Q. 1 Do you recognize the Accused?

A. 1 Yes, Sir.

Q. 2 How long have you known him?

A. 2 A little over two years, Sir.

Q. 3 What does he do in this Company?

A. 3 Drives the winch usually.

Q. 4 Do you consider the Accused as a good man?

A. 4 As far as I have anything to do with him, he is a good man in the bush.

Q. 5 While in the bush as he ever given you any trouble or such-like?

A. 5 No, Sir.

No Cross-Examination by the Prosecutor

CLOSING ADDRESS BY OFFICER FOR THE DEFENCE

Mr. President, Members, and Honourable Opponent:

I would like to go over, briefly, the evidence brought out by the the Prosecution with regards to the two charges as laid against the Accused. Evidence was brought out in Mr. Davis's statement that he could not remember the exact words that the Accused had said when he ordered the men on to the truck, and yet he lays the charge of inciting other men to refuse to go to work. I have brought out evidence that there were considerable conversations being carried on in this group. The Prosecution has failed to bring forward any evidence by any witnesses who were standing anywhere in close proximity to the Accused. I have brought out evidence by witnesses who were standing next to the Accused, who stated they did not hear at any time Pte. Dempsey say anything that encouraged the men not to go to work. I have brought in six or seven witnesses to this fact and, in all probability, could have brought in most of the men in that group. I therefore say that with regards to the second charge no evidence was brought in by the Prosecution where the Accused incited other soldiers to refuse to perform their proper military duties. With regards to the first charge, I have established the fact that this was not by any means an organized parade and that there were in the vicinity of some thirty to forty men in the group, and, according to the rules of Section 9, Subsection 2, a lawful command must be a specific command to an individual. "Individual" means it must be an organized parade, which this was not, or "individual" could mean to a small group of men, which this was not. In summing up, Pte. Dempsey, therefore, did not disobey a lawful command given by a superior officer and the prosecution failed to bring out the fact that he incited other soldiers to not perform their proper military duties; that is not to work in the bush on Sunday afternoon, 21 Jan 45.

CLOSING ADDRESS OF THE PROSECUTOR

Two or three remarks that might be of value in deciding this case. When does a group become large? The Prosecution submits that a disobedience of an order given to a group of this size could quite legally be charged under

Section 9, Subsection 2. The Defence went to some length to prove that the Accused did not state verbally that he refused to go to work. We do not contend that he did. We only say that he did not obey the order by action. Evidence for the Prosecution and the Defence does not agree, but both provide statements made by the Accused, and it is a matter for the Court to decide whether or not these statements would tend to incite the balance of the group. The evidence of witnesses on this point varies. One defence witness thought that the remarks made would incite the group. Others of them thought not, but, in any case, their evidence can only be an expression of their opinion and cannot, therefore, be considered conclusive. In short, it is a matter for the Court's decision. One other small matter to lay before the Court is the proper weight to be given to a mass of negative evidence such as has been produced by the Defence. There are many thousands of people, doubtless, who did not hear what was said on that particular Sunday. It is with those that did hear that the Court must be concerned. Thank you, Sir.

- - - -

The Court adjourned for its findings.

- - - -

The Court reopened

- - - -

The Officer for the Prosecution passed to the Officer for the Defence for his examination a copy of AFB 296 and MFM 6. These were submitted to the Court and were accepted and marked Exhibit "A" and Exhibit "B", respectively.

- - - -

ADDRESS BY OFFICER FOR THE DEFENCE IN MITIGATION OF PUNISHMENT

Mr. President, Members:

Just a few words in mitigation of sentence. It has been brought out that the Accused is, and has proven, a good worker while with this Company. He has been in the army for four and a half years and he will be returning to civilian life, we hope in the near future, so may the

Court consider the question of gratuities when handing out punishment to this man. That is all, Sir.

- - - -

The Court closed to consider sentence.

- - - -

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Court consider the question of gratuities when handing out punishment to this man. That is all, Sir.

- - - -

The Court closed to consider sentence.

- - - -

Exhibit A. RB

In lieu of Army Form B.296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or as the case may be)
E.38160	Pte.	DEMPSEY, G.	No.16 Company, C.F.C.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For Creating a disturbance A.A.40 ... One Times

For NIL ... NIL Times

For NIL ... NIL Times

For NIL ... NIL Times

Date of first entry in Field Conduct Sheet 13 April, 1944

Date of last entry in Field Conduct Sheet 13 April, 1944

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

3. ~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trail on the present charges for NIL days in civil custody; and for 44 days in military custody, i.e. 13 days in open arrest, 31 days in close arrest of which NIL days were spent in hospital.

5. The present age of the accused is 26 years.

6. The date of his attestation ~~calling up for military service~~ is 19 August 1940

7. The service which the accused is allowed to reckon is 4 years, 5 months 26 days.

8. The accused is in possession of Nil

9. (If the accused is a Warrant Officer or N.C.O.). The accused has served continuously, without reduction, to the present date-

	Date of Promotion.
In the substantive rank of	.....
In the war subst. rank of	.....
In the acting rank of	.....

INSTRUCTION:- In any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

In lieu of Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
NIL	NIL	NIL	NIL	NIL

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed: this 14 day of February 1945

Lt [illegible] Lieut.
Officer i/c Records,
No.16 Company, C.F.C.

Exhibit "B." RB.

No E 38160 Name DEMPSEY, Gordon Sqn, Battery, or Company 16 Corps C.F.C. Date of enlistment 19-8-40 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet 8-8-42 No and date of last drunk 16-5-42 Period not reckoning towards freedom from extra fine Sheet No 1. Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed after 2 years service, free of any reg't entry (K.R. (Can) 1524(c)(2).					
In the Field	11 Apr 44	Pte		WOAS, creating a disturbance in George Arms Hotel, Thornhill. A.A.40.	Documentary	14 days F.P.	13 Apr 44	Major M. MacLaggan	Forf.14 days pay FR&I 149(2).

CERTIFIED TRUE COPY
M. MacLaggan
(M. MacLaggan) Major,
No.16 Company, C.F.C.

(PTO)

[illegible]

[illegible]

[illegible] command gives [illegible] and inciting other soldiers [illegible] military duties (AA Sec 40).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness

Lieut. H.R. Davis, No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

I am a Lieutenant of No.16 Company, Canadian Forestry Corps. I was in charge of the woods operations of No.16 Company at Heeze. On Sunday, 21 January 45, at about 1230 hours, my woods foreman, Sgt Dubois, came to me and said that there had been indications during the morning that the men were not going to work in the afternoon. I told him that we would have a parade at 1300 hours and just see what developed. At 1300 hours, Sgt McArthur, who was acting C.S.M., and had fallen in the parade, from which there were no absentees, came to me and told me that the men did not want to go to work but wanted to see an officer. I thereupon went over to the parade and asked the men there what the trouble was. One man, Pte Smid, said he would like Sundays off so he could go to church. Another man, Pte Stringer, said that the British Army was working only five and a half days per week and he didn't know why we should work seven. I told them that this was not the British Army but the Canadian and that we received our instructions from Canadian authorities. Pte Smid then asked that if this was the Canadian Army, why were we eating English rations, I replied that we had been eating British rations for four and a half years. I further explained that I had been instructed and ordered to work all day Sunday and that, after all, they had had most of Thursday afternoon [illegible] for the purpose of bathing. At that point Pte [illegible] [illegible]

(Sheet -2-)

[illegible]

The accused elects to cross-examine this witness.

Q.1. You said that when you came over to the parade that there were no Corporals standing among the men?

A.1 The Corporals were standing apart and I went to them first and asked them what the trouble was. The reply was that the men did not want to go to work.

Q.2 Cpl James was standing among us and asked you the first question when you came over - which was, "Why could we not get Sunday afternoon off". Is that correct or not?

A.2 To my knowledge I was not asked any question by Cpl James. When I first went over he was standing with Cpls Lawlis, Lescard and Ludwig behind a tree between the parade and the truck.

Q.3 Are you sure that I made any remark at all about anybody who went to the truck being foolish?

A.3 I am sure that you said words to that effect.

Q.4 Are you sure that I said we could go to work Sunday afternoon but make up for it during the week?

A.4 Yes, your exact words were, "We could work Sunday afternoon but we could fuck the dog during the week."

H.R. Davis Lieut
H.R. Davis

[illegible] 136183 Sgt McArthur, L.J. No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

[illegible]

Second Witness (Sgt'd) He came over and asked the boys what was the trouble, and got the reply that they did not want to work on Sunday afternoon. One chap, Pte Smid, said that he thought it was pretty rotten for them to have to work all day Sunday when the Limies could go to church on Sundays. Pte Dempsey said: "We could go to work on Sunday, but we could also fuck the dog during the week, which we don't." Lieut Davis then ordered the entire crew to get on the truck that was waiting to take them to work. He ordered them three times and the last time he gave them three minutes but nobody moved. He then placed them all under close arrest and ordered me to detail a guard of twelve men and two Corporals.

Q.1 Do you recall any other remarks made by Dempsey?

A.1 There were several remarks passed and I cannot recall just who was the author, of each, or the words said.

Q.2 When were the men told they would be working Sunday afternoon?

A.2 They were told Sunday morning.

The accused elects to cross-examine this witness.

Q.1 Are you sure the words you used above were the exact words spoken by me?

A.1 Yes, I am positive.

Q.2 Sgt, do you remember where the Corporals were standing when Lieut Davis came over to us?

A.2 They were standing a short distance to the left of the main body, near a big tree that was between the men and the truck that was waiting to take them to work.

Q.3 Do you recall me saying anything about anybody getting on the truck being foolish?

A.3 I recall some such remark being passed but I do not know who said it or if those were the exact words.

[signature] Sgt
[illegible]

Third Witness H.62516 Cpl Cryderman, J.V., No. 16 Company, Canadian Forestry Corps, having been duly sworn, statest-

I am a Cpl of No. 16 Company, Canadian Forestry Corps. On Sunday, 21 January, 45, I was Orderly Cpl of the Heeze detachment of No 16 Company.

3rd Witness (Cryderman)

At about 1300 hours I went over to the far billet to get some light duty men to cut wood for the camp stoves. I found that Sgt McArthur had left the group to get Lieut Davis, since the men of the bush crew had refused to go to work. I naturally stayed around to see what would happen and in a minute or two Lieut Davis arrived. I was standing to the rear and a little to one side of the group of men and heard several conversations regarding Sunday afternoon work. I remember distinctly hearing Pte Smid mentioning church and wanted to go to it. I did not see each of the fellows who had remarks to make and only recognized Smid because he was on the outside of the group. Then Lieut Davis ordered the men to get on the truck and go to work - nobody did. He repeated this order and gave them a time limit in which to obey. Still nobody got on the truck so he placed the bush crew under close arrest and instructed Sgt McArthur to put a guard on the billets.

Q.1 Did you hear Pte Dempsey made any remarks?

A.1 I heard various remarks but cannot swear who made them, with the exception, as I have mentioned, of Pte Smid.

Q.2 Did you see Pte Dempsey in the group?

A.2 I cannot recall seeing him in the group but I remember him walking away when the guards were called out and the group dismissed.

Q.3 Did you see Pte Dempsey get on the truck or go over towards the truck after Lieut Davis had given his orders?

A.3 No.

The accused elects to cross-examine this witness.

Q.1 Cpl Cryderman, do you remember if there was one group or two?

A.1 I can recall no separation - there seemed to be one group.

Q.2 Did you hear me say that if anyone got on that truck they would be damn fools?

A.2 No.

Q.3 Did you hear any such remarks as the above, (Q.2), from the group?

A.3 No.

Third Witness

Q.4 Did you hear me say that we would go to work this afternoon and pay up for it during the week?

A.4 No.

J.V. Cryderman

Fourth Witness H62501 Sgt Dubois, A.J., No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

I am a Sergeant of No.16 Company, Canadian Forestry Corps. On 21 January 45, I was head bush foreman of the Heeze operation of No.16 Company. During the morning I heard a number of the men discussing the work on Sunday afternoon and I formed the impression that they would probably refuse to go to work, although at the same time I thought it might just be talk. I did not hear the accused, Pte Dempsey, join in the talk. At noon time I told Lieut Davis of the impression I had and he said that the fall-in would go as usual. At about 1300 hours, I was loading a tractor line onto the truck, to take it to the woods, while Sgt McArthur was getting the men out to work. I noticed him walking away from the parade and he told me that he was going to get an officer, as the boys had asked to see one. Very shortly afterwards Lieut Davis arrived on the scene and stood about twenty-five feet from the men, while I stood about the same distance behind him. He asked them what the trouble was and I heard several men speaking; two that I can remember and am sure of were Ptes Dempsey and Smid. I cannot quote their exact words because even at the time I could not hear them properly owing to their distance away. I did hear Lieut Davis order the men to get on the truck and go to work, and I heard him repeat the order a second time when he gave them a two minute period, in which to obey. Nobody moved either time.

The accused elects to cross-examine this witness.

Q.1 Are you sure you heard me say anything?

A.1 Yes, but I cannot give the exact words.

Q.2 Did you hear it said that any man that gets on that truck is a damned fool?

A.2 I cannot say that I did.

...ch Witness

Q.3 Did you hear anybody say that we could go to work this afternoon but could work the day during the week to pay up for it?

A.3 No, I was too far away to hear what you did say.

Q.4 Do you remember if their were two groups of men over there? Were the Corporals standing to a side or in with the men?

A.4 There were two groups - the Corporals were standing about ten feet to the left of the group of men.

.....
(A.J. Dubois)

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I want to made a statement on oath.

The accused, having been duly sworn, states:-

First of all, on Sunday, 21 January 45, at about 1250 hours, we went into our room. I was lying down on my bed. The other boys gathered in from the other rooms and said they were going to see the officer for to go to church and have a bath parade, instead of working on Sunday afternoon. So after the signal went for the men to pile out to work we went outside; Sgt McArthur was standing there. Cpl Lessard asked us if we wanted him to go and tell Sgt McArthur that we wanted to see an officer. The answer from the men was yes. Sgt McArthur went and got Lieut Davis and brought him over. While Sgt McArthur was gone the Corporals were discussing something among themselves and when Lieut Davis came over the Corporals were with the men. When he first came there he asked what was wrong and Cpl Lessard told the men wanted Sunday afternoon off. There were remarks from several of the men but the only one I can remember is Reid asking about going to church. Lieut Davis then said: 'You are now about twenty minutes late and I am giving you a direct order to get on the truck; any man who refuses to get on the truck stand aside.' He said, 'If I can't make you work I'll damn soon get someone that will.' I then said; 'That is the best thing to do.' He then said;

"Sgt MacArthur, pick out two Corporals and twelve men for a guard and place the rest under close arrest in their billets."

...G. Dempsey.....
G. Dempsey

The accused elects to call witnesses for the defence.

First Witness called by the defense

D113223 Pte O'Quinn, T., No.16 Company, Canadian Forestry Corps, having been duly sworn, stated:-

On Sunday, 21 January 45, at about 1300 hours, I was in the bush crew. We had asked to see Lieut Davis and he gave us a direct order to get on the truck. No one moved. He then said: "If I can't get you fellows to work, I will get someone who can." I heard Dempsey reply, "I think that would be a good idea." At that time I was standing four to six feet from Dempsey about in the centre of the group near the front. I am sure that that is all that Dempsey said.

Cross-examined by accused:

Q.1 Was there one or two groups and where were the Corporals standing?

A.1 It was all one group and the Corporals were with the men.

Q.2 Where was Sgt Dubois standing?

A.2 Slightly to the left in front - I would say about ten feet from the group of men.

...T. Thomas O'Quinn...
T. O'Quinn

Second Witness called by the defense

A11672 Pte Gray, W.J., No.16 Company, Canadian Forestry Corps, having been duly sworn, stated:-

On Sunday, 21 January 45, I was working repairing a Scotch Bunch. At about 1300 hours I saw a large group gathered round and went over to see what was going on. Very soon after I got there Lieut Davis appeared and asked them what was wrong. I remember Cpl James asking him why they had to work on Sunday afternoon, or words to that effect.

Third Witness called by the Defense

I was right close to Cpl James at that time. There were several men who had something to say but I cannot tell just who said what. I remember Lieut Davis saying that if he could not run this detachment he would get someone who could. I remember Dempsey replying, "You should," just after that the men were ordered by Lieut Davis to get on the truck. No one moved. The order was repeated and when again no one moved a guard of twelve was picked and I was one of them. During this time I was no more than ten or fifteen feet from Dempsey and I heard him say nothing except what I have already mentioned. Cross

Cross-examined by accused:

Q.1 Do you remember if the Corporals were standing by themselves or mixed in with the men?

A.1 They were mixed in with the men, Cpl James was standing on my left and Cpl Lescard was on my right.

...W. J. Gray...
W.J. Gray

Third Witness called by the Defense

K99068 Cpl Ludwig, G.J., No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

On Sunday, 21 January 45, the fall-in whistle blew just after dinner, about 1300 hours. Everybody turned out and the men asked to see Lieut Davis. He came over and the boys said they thought they should have Sunday afternoon off. There was quite a lot of talk and some mention of church but I couldn't name the fellows who did the talking or exactly what was said. At one time Lieut Davis said that if he couldn't handle the detachment he would get somebody who could. Dempsey replied that that wouldn't be a bad idea. All N.C.Os. were standing together about twenty feet on the left flank of the group of men. There was Cpl James, Cpl Cryderman, Cpl Lawlis and Cpl Lescard there with me. How much more Dempsey may have said or if he said anything more I wouldn't know, I just happened to be looking his way when he made the remark I have mentioned.

Cross-examined by the accused.

Q.1 When Lieut Davis gave direct orders for us to get on the truck did you hear anybody say that any man that gets on the truck is a damned fool?

A.1 No, I didn't hear that.

Q.2 Did you hear anybody say that we could work this afternoon but funk the dog during the week to pay up.

[illegible] Witness called by the [illegible]

A.2 I don't remember hearing that either.

....C.J. Ludwig.....
C.J. Ludwig

Fourth Witness called by the defense

034129 Pte Smith, O.R., No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

During the parade at 1300 hours on Sunday, 21 January 45, I heard Lieut Davis say that if he couldn't run the outfit he would get someone who could. I heard Dempsey reply that that would be the best thing to do. I was standing about twelve feet from Dempsey at the time. That is all I heard Dempsey say but I could not swear whether or not he said other things.

The accused declines to cross-examine this witness

....O.R. Smith.....
O.R. Smith

Fifth Witness called by the defense

H62612 Pte Zahodnik, N., No.16 Company, Canadian Forestry Corps, Having been duly sworn, states:-

On Sunday, 21 January 45, I was in the group of men who paraded at 1300 hours. Lieut Davis came over and asked us what was wrong. We told him we did not want to work that afternoon. He said that if he could not run that group of men he would get someone that could. I heard Dempsey reply that that was the best thing he could do. I was eight to ten feet from Dempsey at the time and I can swear that that is all that I heard him say.

Cross-examined by accused:

Q.1 After Lieut Davis had given the direct order for everybody to get on the truck did you hear anybody say that any man who gets on the truck is a damn fool?

A.1 I didn't hear that.

Q.2 Did you hear anybody say that we could work Sunday afternoon but fuck the dog during the week to pay up for it?

[illegible] Witness [illegible] by the [illegible]

A.2 No, I didn't hear that.

Q.3 Would you say that there was one or two groups of men at the time? Where were the Corporals?

A.3 I would call it one group. We were standing in front of Lieut Davis in more or less of a semi-circle and as I remember it the N.C.Os were on our left hand edge of the group.

N. Zahodnik

Sixth Witness called by the Defense

C34277 Pte Stringer, G.R, No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

On Sunday, 21 January 45, at about 1300 hours, I was standing in the group of men in front of Lieut Davis and ten to twelve feet from Dempsey. I heard Lieut Davis say that if he could not run the outfit he would get someone that could. I heard Dempsey reply that that would be the best thing to do. I was standing quite close to Dempsey and listened carefully and that is all that I heard him say, although I could hardly swear that that is all that he said. I am almost positive that he said nothing else.

Cross-examined by accused:

Q.1 Would you say there was one group of men or more? Where were the Corporals?

A.1 I would say one group. Corporals James and Lescard were on the edge of the group on our left flank; Corporal Lawlis on our right flank and Corporal Cryderman, who was excused duty, was standing away from the group altogether. I don't know where Corporal Ludwig was.

Q.2 When Lieut Davis ordered us all to get on the truck did you hear anyone say that any man that gets on that truck is a damn fool?

A.2 No, I didn't hear that.

Q.3 Did you hear anybody say that we could work Sunday afternoon but funk the day during the week to pay up for it?

A.3 I don't remember and couldn't swear to it one way or the other.

G. Stringer

Seventh Witness called by the Defense.

Z41883 Pte Willett, A., No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

On Sunday, 21 January 45, at about 1300 hours, I was standing in the [illegible] about two feet from Dempsey. When Lieut Davis said that if he couldn't run that detachment he would get somebody who could I heard Dempsey reply, "It would be the best thing to do." That is all that I heard Dempsey say and being only two feet from him I am prepared to swear that that is all he did say.

Cross-examined by accused.

Q.1 When Lieut Davis first came over and asked the men what was wrong, who asked the first question?

A.1 Cpl James - he told him that the men wanted to know why they weren't getting their half day off.

Q.2 Did you hear anybody say that any man who gets on that truck is a damn fool, or words to that effect?

A.2 No.

Q.3 Did you hear anybody say that we could work this afternoon but fuck the dog during the week to pay up?

A.3 No.

A. Willett
A. Willett

Eighth Witness called by the defense

H94770 Pte Murphy, D., No.16 Company, Canadian Forestry Corps, having been duly sworn, states:-

On Sunday, 21 January 45, at about 1300 hours I was standing behind and slightly to the right of Dempsey about four feet from him. After Lieut Davis had come over I heard him say that if he couldn't run this outfit he would bring in somebody who could. Dempsey replied that that would be the best thing to do. That is all that Dempsey said.

Cross-examined by accused.

Q.1 When Lieut Davis gave us the direct order to get on the truck did you hear anybody say that any man who got on the truck was a damn fool?

A.1 No.

Q.2 Do you remember anybody saying that we could work this afternoon but fuck the dog during the week to pay up for it?

...ght Witness
...led by the
...ence
...nt'd)

A.2 No, I didn't hear that.

D. Murphy
.....
D. Murphy

I certify that the foregoing Summary of Evidence, consisting of twelve pages, was taken down by me in the presence of the accused and that RP 4 (C),(D),(E) and (F) have been complied with.

J.S. Prebble

(J.S. Prebble) Capt.,
2nd i/c, No.16 Company,
Canadian Forestry Corps,
Canadian Army, (Overseas).

...n the Field
... February 45

COUNTER NUMBER 545-088

HOUR 1035

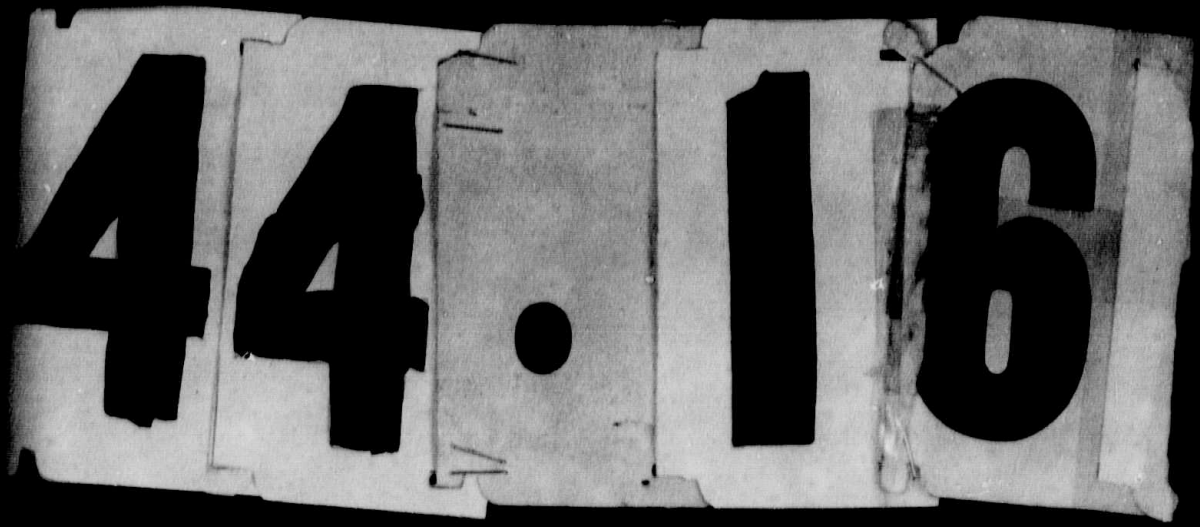
OPERATOR'S INITIALS CR

RELIEVING OPERATOR

END

FIRST

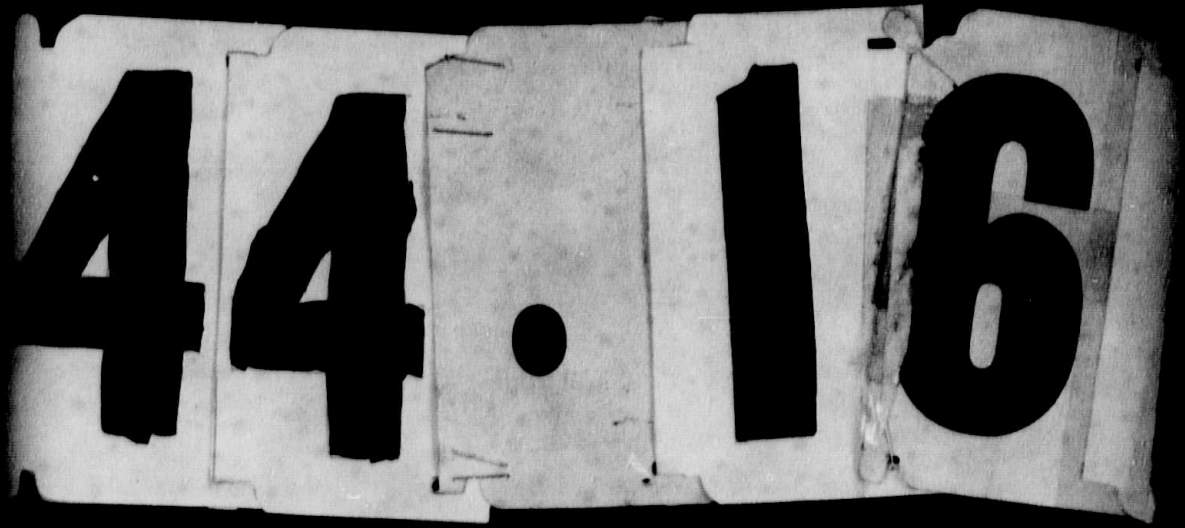
SIDE


44.16

START

SECOND

SIDE


44.16

GGG41

TPR DEMPSEY J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-131886 Tpr Dempsey, J. 3 CACRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40	Not Guilty	Guilty	
2nd				
3rd				
R 4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

R At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or MF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of fifteen (15) days.

(Sgd) ..... 18 Mar 44 (Sgd) D.L. Redman LtCol
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 120(F) to 6.46(A), 54-56, 120, MML pp 758-761, KR Con 562-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(4), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

I direct that the accused be not committed to prison on detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) T.J. Rutherford Brig

Date 22 Mar 44 Commanding HQ E Gp C.R.U.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 55, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B131886 Tpr Dempsey, J.	23 Mar 44	(Sgd) G.L. Marshall Lt & A/Adjutant 3 C.A.C.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. GGG-41

FIELD GENERAL COURT-MARTIAL (CFA96 (To Encl of AFA3) 40/P.S.S/1698 (2864))

Convened by Order of Brig T.J. Rutherford ED Comd 'E' Gp CRU dated 16 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-131886	Tpr	Jack	DEMPSEY	3 CACRU

PROCEEDINGS REVIEWED
K.G.Morden Maj
3 Apr 44
REVIEWING OFFICER, JAG BRANCH CMHQ

Certified true copy of original proceedings herein. CFA96, Charge Sheet, evidence and summary of evidence. [signature] Secretary [illegible] Branch

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) England on (date(s)) 18 & 22 Mar 44

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~working Member, Jdv, if any, and Offrs under instr~~, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all references from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which oaths are hereafter called "Notes". As to general provisions for conducting the trial see AA 23, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
R The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is (are) brought before the Court. At 1150 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
R ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 552. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

R A5. President to accused: ~~Do you object to the ..... as interpreter ? Ans~~

R ~~The Interpreter is sworn.~~(1) Do you object to S-Sgt Owen E.J. as shorthand writer ? Ans No sir
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

R A7. The President, Members, ~~Jdv, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs composing the Court, etc:

President	Lt-col	D.L. Redman	HQ, CRU
Member	Capt	C.W. Gallimore	1 CACRU
Member	Lieut	H.S. Hoadhouse	2 CACRU
R Judge-Advocate			
Prosecutor	Lieut	A.H. Flick	3 CACRU
Defending Offr	Capt	E.F. Henry	3 CACRU

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 26, 27, 109, 110. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 31)

R A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)
(1. If a special plea is made for separate trial on one or more charges (RP 16(2), 109), or as to the jurisdiction of the Court (RP 34, 35(B), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses sworn in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and names of the accused making the plea.)

R A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; unless several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, discuss and make appropriate record per Notes.)

R A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 4. 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. *RP 35 fn 2.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2] or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea, and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans ..... [5]

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by one of paras D5 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 *before proceeding with C 2.*[1]

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No sir [1]

(1. *If "yes", see RP 39(A) for procedure. Statement of evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.[1]

(1. *RP 39(B), 60(A) (B), 90, 91(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1] NOTE ATT

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans To give evidence

Do you intend to call witnesses on your behalf ? Ans No sir

(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1] NOTE ATT

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 44(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(G).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]

(1. *AA 54(7) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans No sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 44 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]

(1. *MFR 255 or MFR 294.* 2. *Same.* 3. *RP 44, KR Can 558. If above documents not produced, see RP 44 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans Only by Def Cnsl NOTE - ATT

(1. *RP 37(C), 44(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to speak on oath anything here or previously stated which would affect the amount of punishment. RP 37(C) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and also by the if any.[2] NOTE ATT

(1. *When several accused tried separately see RP 94(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-52, 69, 108, 119(A), KR Can 558, 330, 563-566, Overseas SO 2208, 2322, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. Where accused already under sentence of imprisonment or detention see AA 44(7)(8), 80(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of accused after trial see notice on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-1Z1686 Tpr Dempsey, J. on the strength of No 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, is charged with:-

WHILE ON ACTIVE SERVICE

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

1st Charge
Sec 40
Army Act

at No 3 CACRU, on 7 December 1943, so negligently handled a pistol as to cause it to be discharged and thereby injured his right foot and rendered himself temporarily unfit for service.

(Sgd) C.W. Little)Col
Commanding
No 3 C.A.C.R.U.

In the Field
16 Mar 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(Sgd) T.J. Rutherford
(T.J. Rutherford)Brigadier
Comd

In the Field
16 Mar 44

HQ, 'E' Gp Can Rft Units

DLR

F.G.C.M., B-131886 Tpr Jack Dempsey, No.3 C.A.C.R.U.

EVIDENCE FOR PROSECUTION NOTE D-3
DLR

FIRST Witness
for Prosecution
B-61574 Sgt LEWIS,D.E Having been duly sworn, states:-

I recognize the accused as being Tpr Dempsey.

On the 7 Dec 43, at approximately 1400 hrs, I was checking over details in the M/C store, when I heard the report of a shot which came from the inside office. On rushing in I saw Tpr Dempsey limping around on one foot.
On looking at his foot I noticed a bullet hole in the same, and on the floor was a revolver. I picked up the revolver and placed it on the table. I then rushed outside and got a truck and took him to the M.O.

DLR DLR cross-examined

DLR ~~Sgt Lewis, being interrogated, states as follows:-~~

The accused was employed as a D.R in this unit.
When D.Rs went out they would take a revolver with them.
As far as I know the accused had a revolver issued to him.
I am in charge of the Motor Cyclists in this Unit.
I am not sure whether D.Rs have their revolvers loaded when with them.
The lights were on in the hangar that day.
As M.C.C., I carry out the regular inspection of M/Cs.
I have never found that the accused had been either negligent or neglectful in his duties as a motor cyclist.
I cannot remember whether I saw the accused cleaning his pistol before the shot was fired.
I cannot remember whether I had been in the office where the accused was, before I heard the shot.

DLR The Def Officer declined to Cross Examine.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(

2nd WITNESS
for Prosecution
Capt G.J. Beatty, Having been duly sworn, states:-
of HQ. Sqn.

I recognize the accused as being Tpr Dempsey.

On the 7 Dec 43, I was Officer Commanding D & M WING, No.3.C.A.C.R.U. Shortly after lunch on that date I was in my office when I was told that the accused had met with an accident whilst cleaning his pistol in the M.C hangar.

I immediately went to the hangar, but the accused had been taken to the M.A.P.

On the table in the hangar I found a Smith-Wesson pistol along with four unexploded cartridges of .38 amn, and in the pistol one exploded round of ammunition. I also saw four pieces of 4 x 2 cleaning material and one cleaning rod. I took these articles and put them in a place for safekeeping.

DLR DLR cross-examined

DLR ~~Capt G.J. Beatty, being interrogated, states as follows:-~~

It was in order for the accused to have a pistol as a D.R They are not supposed to have these pistols loaded whilst acting as D.Rs to convoys.

I cannot say for sure whether, or not, they, (the D.Rs.) are issued with ammunition.

2nd WITNESS for Prosecution, Contd. Capt O.J. Beatty,

Cross-examined by Defending Officer, states:-

I did not tamper with the pistol, as I knew there had been an accident, and that the pistol would be needed as evidence.

I did not know whether or not it was the practice for D.Rs to carry their pistols loaded.

I personally did not lay a charge against the accused, and I did not know anything about laying a charge.

I consider the accused to be a good D.R.

IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

3rd WITNESS for Prosecution Lieut J.P.HUGHES, No.3 C.A.C.R.U.

Having been duly sworn. The Prosecutor states he had no questions to ask the witness.

Cross-examined by the Defending Officer, states:-

On the 7 Dec 43, I was acting as Asst-Q.M., of No.3 CACRU. I know nothing about the examination of the pistol which the accused had.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP83(B

THE PROSECUTION IS CLOSED.

EVIDENCE FOR THE DEFENCE, (Note D.5) First WITNESS for the Defence.

The accused, B-131886 TPR Jack Dempsey, having been duly sworn, states:-

On the 7 Dec 43, at 1045 hrs in the morning, Records had asked for a D.R, to be sent to D.A.D.O.S.

Sgt Lewis gave me the order to report to Records, and I loaded my pistol before leaving. It has been our custom in this unit to load our pistols when going out, and unloading it on our return. This had been the custom since I became a D.R. in this unit in May 43. Having loaded my pistol I left on a trip to the DA & Q.M.G., and arrived back about 1340 hrs. I had had no dinner as I knew I was too late, and so decided to clean my pistol.

I opened the chamber, and I pressed the plunger, and I took four cartridges out of the pistol in my hand, which I placed on the table.

It had been my custom to carry four rounds in the pistol as a safety precaution.

I placed the first cartridge in the chamber at 4 o'c, so that if the trigger accidentally contacted it would be able to do so at one, before contacting a live round.

I got my 4 x 2 and rod, and then proceeded to wipe the outside of the pistol with a piece of oily rag. As I was going so, holding the pistol in my right hand, my thumb slightly back of the hammer. When I was finishing wiping the barrel down I released the hammer from the pressure of my thumb and the pistol went off.

I took three or four steps and felt a burning feeling in my right foot. Sgt Lewis then came in and took me to the M.A.P. The M.O., applied a bandage and a splint.

EVIDENCE for the Defence - Note Db,
FIRST WITNESS for the Defence, contd.
B-131886 Tpr J. Dempsey.

The bullet was between my big toe and the one next to it, about half an inch back. There was a slight fracture of the big toe. I stayed in the hospital about a month. I limp slightly now: the big toe not being fully flexible. I have ridden my motor cycle since I came back from hospital. I had a fifth cartridge in my pocket which I may have put in with the other four. I am anxious to continue my job as a D.R., and hope I may be able to do so; although at present I have a little difficulty in operating the starter. This charge was first laid against me on Tuesday of last week.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63(2)

PROSECUTOR ADDRESSED COURT ON THE FINDING

The accused is charged with Neglect in Injuring his foot. The evidence shows it is customary for him to have ammunition and a pistol when in the performance of his duties. The pistol was in his charge and it was his duty to clean it.

The accused should have proved the pistol by making certain that no live round remained in the chamber. This was not done, and as a result of this neglect was that on explosion the bullet injured the foot of the accused.

THE DEFENDING OFFICER ADDRESSED THE COURT

As the Sgt, who was in charge of Tpr Dempsey when he was a D.R., stated in his evidence - "Tpr Dempsey has at no time been found negligent of neglectful in his duties, or maintenance of his motor cycle" - but he belongs to that renowned company known as D.Rs., and to be a D.R., as the officer in charge of him, stated in his evidence, he must have been very thorough in his work and taken good care of himself and equipment. He was doing this when cleaning his pistol; it was another part of his equipment, and although he had had no training in the firing of the pistol or maintaining the weapon in England, he had looked after it as a part of his equipment since it has been on his charge.

It has been brought out that the pistol was not proven before he commenced to clean in the academic sense of the word, but had he taken the precaution at the time to make sure it was not loaded it might possibly not have happened. He was surprised when the pistol was accidentally fired, as many people would have been in a similar case.

I certainly think it was an accident, one which may easily happen to the most experienced person, and therefore I submit he should not be convicted on the charge. I have no doubt that it would never have been laid except that C.A.R.C.....demands and makes it essential that a R.C.C.N., be held in respect of every case of accidental wounding.

DEFENDING OFFICER states: NOTE E-3 BLR

In Mitigation, that Tpr Dempsey has a specially good record, and is very well thought of by both his n.c.o.s, and his superior officer; but it is true that he had been A.W.L.; and has been in Detention. The accused being somewhat discouraged by the wound he had received had gone absent in January, which was his first

DEFENDING OFFICER , states, (Contd):-

was his first offence of any importance since he joined the regiment in 1942, otherwise the record is excellent, but he certainly not be given Detention in this case, to which we all agree. He is very anxious to continue as a R.H as he has not lost his nerve or ambition, and without doubt is very useful to the Army in the capacity.

DLR

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-131886 Tpr Dempsey, J. on the strength of No 3 CACRU, a soldier of the Canadian Army, Overseas.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS (for the prosecution) B-61574 Sgt Lewis, D.E., No 3 CACRU having been duly sworn states:-

"I am B-61574 Sgt Lewis, D.E., in charge of the M.C. Hangar No 3 CACRU. On 7 Dec 43 at approximately 1400 hrs I heard a shot which came from the inside of the office. When running in I saw Tpr (then A/L/Cpl) Dempsey limping around on one foot. On looking at his foot I noticed a bullet hole in his toe. On the floor was a revolver, which I picked up and placed on the table. I then ran out and got a truck and took him to the M.O. From the time of the shot until he got to the M.O. was, at the outside, 5 minutes.

The accused declines to cross-examine the witness.

(Sgd) D.E. Lewis
(D.E. Lewis)Sgt

SECOND WITNESS (for the prosecution) Capt C.J. Beatty., H Sqn, 4 CAD, having been duly sworn states:-

"I am Capt C.J. Beatty and was, on 7 Dec 43, OC D SM Wing No 3 CACRU. On 7 Dec 43 at approximately 1400 hrs I was told that Tpr (then A/L/Cpl) Dempsey, J. had injured his foot while cleaning his pistol in M.C. Hangar at No 3 CACRU. I immediately went to the M.C. Hangar but upon my arrival there Tpr (then A/L/Cpl) Dempsey had been taken to the R.A.P. In the M.C. Hangar on a table I found a .38" Smith & Wesson pistol (short barrel) with one expended round in the chamber. I also found lying on the table 4 non-expended rounds of .38 ammunition, several pieces of 4 x 2 cleaning material and a cleaning rod. I ordered that the pistol, the 4 non-expended rounds, the 4 x 2 and the cleaning rod to be placed in a safe place.

The accused declines to cross-examine the witness.

(Sgd) C.J. Beatty Capt
(C.J. Beatty) Capt.

THIRD WITNESS (for the prosecution) Lieut J.P. Hughes, No 3 CACRU, having been duly sworn states:-

I am Lieut. J.P. Hughes and was on 7 Dec 43, assistant Quartermaster, No 3 CACRU. I cannot remember anything having any bearing on the case.
The accused declines to cross-examine the witness.

(Sgd) J.P. Hughes Lt
(J.P. Hughes) Lieut.

SUMMARY OF EVIDENCE

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to sayanything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

After the above caution the accused elected to give evidence on oath as follows:-

FIRST WITNESS (for the defence) The accused B-131886 Tpr Dempsey, J. of No 3 CACHU, having been duly sworn, states:-

I am B-131886 Tpr Dempsey, J. of No 3 CACHU. I have been employed as a D.R. in Instructional Wing, No 3 CACHU, for approximately eleven months. At about 1400 hrs Tuesday, the 7th December, I was in the Motorcycle Hangar. I took out my pistol to clean it since I hadn't done so over the week-end. I opened the chamber to empty the cartridges, and used the plunger to remove them. Four cartridges came out and I closed the chamber. I had always at all times kept the weapon loaded with only four cartridges. As a safety precaution I always loaded these starting at four o'clock, in case anyone happened to pick up the weapon and fool around with it. I was cleaning around the hammer and had clicked it three or four times, but when I was wiping down the barrel I was holding the hammer back with my thumb. I took my thumb off the hammer, which clicked shut and a cartridge exploded. I took two or three steps and noticed a burning sensation in my right foot. Sgt. Lewis, D.E. came in, looked at my foot, then got a truck and took me to the RAF right away. At the R.A.F. the M.O. treated my foot for a bullet wound and then sent me to the hospital.

(Sgd) J. Dempsey
(Tpr Dempsey, J)

The accused does not call any witness for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that Rules of Procedure 4 (C),(D),(E), and (F) have been complied with.

(Sgd) D.H. Flick)Lt
(D.H. Flick)Lieut
No 3 CACHU.
Officer detailed to take this Summary of Evidence.

In the Field
10 Mar 44

PP. 9 (Case #3)
PTE DEMPSEY J.G.
See D-242 for last case
. N-146. 2nd .

G-17668 Pte. DEMPSEY, Joseph, Gordon,
Carleton and York Regiment,
7 Cdn Infantry Reinforcement Unit.

PP-9

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-seventh day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~] Ewh

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint~~ :—

*(~~1. Three Officers to form the Court.~~) Ewh

*(~~2. A Field Officer as President.~~)

~~for the following reasons, namely :—~~]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks, and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt-Col.	D. L. Redman	Calg. Highrs.

Members.

Rank.	Name.	Regiment.
A Major	to be detailed by C.O.	1 C.A.S.C.R.U.
A Captain	to be detailed by C.O.	1 C.S.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Ewhaldenby Brigadier.

Commanding "D" Group, Cdn Rft Units.
Convening Officer

[signature]

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
	First Charge A.A. Sec.15(1)	Guilty	Guilty	
	-:- Second Charge A.A. Sec.8(1)	Guilty	Guilty	
	-:- Third Charge A.A. Sec.10(3)	Guilty	Guilty	
	-:- Fourth Charge A.A. Sec.8(2)	not Guilty	not Guilty	
	-:- Fifth Charge A.A. Sec.40	Guilty	Guilty	
			Sentence	
G-17668 Pte. DEMPSEY, Joseph, Gordon. Carlt & York R. 7 C.I.R.U.			Vendergo Defendis for a period of Sixty (60) days and to be put under stoppages of pay until he has made good £1-1-0 the expenses of his arrest and return 31st Aug 1943 MM	Confirmed 4 Sept 43 E W Hardenby Brig
	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" Answer - NO

Answer (to be recorded on separate sheet if necessary) :—

(Signed) E W Hardenby Brigadier (Signed) [signature]

Commanding "D" Group, C.R.U.
Convening Officer (a) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 31st day of Aug 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
MM ~~(3. The Interpreter)~~
MM ~~(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 31st day of Aug 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

MM ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

MM Signed this ~~day of~~ 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders)~~ E W H

Signed this 4 day of Sept 1943

E W Hardenby Brig
Confirming Officer.

Part 4 do 170 date 7 Sept 43

Promulgated and extracts taken in the case of G17668 Pte Joseph Gordon Demsey Carlton and York Regiment F.X. Mac Neil Capt R.I.R. Deputy Officer

(a) (Dated) 4 Sept 43 (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. G 17668 Private Joseph Gorden DEMPSEY, Carleton & York Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service, is charged with:

FIRST CHARGE
SEC 15(1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at Haig Lines, Crookham, Hants, while undergoing Field Punishment absented himself without leave from 1800 hrs 14 Aug 43 until apprehended by the Corps of Military Police in Birmingham at 1030 hrs 18 Aug 43, thereby incurring a cost of apprehension in the amount of £1:1:0.

Total absence - 3 days, 16 hrs., 30 mins.

SECOND CHARGE
SEC 8(1)
ARMY ACT

When on Active Service, striking a superior officer being in the execution of his office,

in that he,

at Birmingham at Steelhouse Lane at 1030 hrs 18 Aug 43 did kick on the leg L/Cpl. Hobbs, G.A.K. Corps of Military Police who was attempting to arrest him.

THIRD CHARGE
SEC 10 (3)
ARMY ACT

When on Active Service, resisting an escort whose duty it was to apprehend him,

in that he,

at Birmingham at Steelhouse Lane at 1030 hrs 18 Aug 43 resisted arrest and escort by kicking and struggling.

FOURTH CHARGE
SEC 8(2)
ARMY ACT

When on Active Service, using threatening language to his superior officer,

in that he,

at Birmingham at Steelhouse Lane at 1030 hrs 18 Aug 43, used threatening language to L/Cpl. Miles, A.L. Corps of Military Police using the words "I will kick him in the bastard face".

J M Callen Lt.

MB

CHARGE SHEET

The accused No. G 17668 Private Joseph Gordon DEMPSEY, Carleton & York Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service, is charged with:

FIFTH CHARGE
SEC 40
ARMY ACT

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he,

at Birmingham, on 18 Aug 43, at approximately 1030 hrs stated to a NCO of the Corps of Military Police that he was on leave, well knowing said statement was false.

J.R. Calkin Col.

(J.R. Calkin) Colonel
Commander
7 Cdn Inf Rft Unit

In the Field
24 Aug 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

E.W. Haldenby

(E.W. Haldenby) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
27 AUG 1943.

Medical Offics' Certificate
K.R. (Canbara 557

I certify that I have this morning examined No. G 17668 Private (Rank)

of 7 Cdn Inf Rft Unit DEMPSEY, J.G. (Name)

trial by Court Martial. and in opinion he is fit ~~unfit~~ to undergo

Station: In the Field

Date:--- 31 August 1943

Sgd. P.D. Ferguson Capt.

(Medical Officer) 7 Cdn.Inf.Rft.Unit.

[signature]

Proceedings of a Field General Court Martial, Held at Gillemont Barracks, Cove, Hants., on Tuesday the 31st day of August, 1943.

TRIAL OF:	No. G-17668 Private Joseph Gordon DEMPSEY, Carleton & York Regt., on the strength of No. 7 C.I.R.U.				
PRESIDENT:	Lt-Col.	D.L.	Redman,	VD	HQ. C.R.U.
MEMBERS:	Major.	G.S.	Greig,	MSM ED	1 R.C.A.S.C.R.U.
	Capt.	G.V.	Eckenfelder,		1 CSRU.
PROSECUTOR:	Lieut.	G.W.	Rahm,		7 CIRU.
DEFENDING OFFICER:	Lieut.	D.R.	Neish,		7 CIRU
SHORTHAND WRITER:	B-85000 A/Sgt. Sheedy, J.S.		C.A.C.		H.Q. C.R.U.

1. The Order Convening the Court, the charge sheet and the Summary of Evidence are laid before the Court.

2. Rs. P. 22 and 23 complied with.

3. The Accused is brought before the Court, and the Order Convening the Court is read in his presence and hearing. Upon being asked whether he objects to being tried by the President or by any of the Officers named in the Convening Order, the accused answers "No, sir."

4. The President and Members are duly sworn.

5. The accused is asked whether he objects to A/Sgt. Sheedy being sworn as shorthand writer, and he answers, "No, sir".

6. The shorthand writer is sworn.

7. The Medical Certificate is produced, signed by the President and annexed to the Proceedings.

8. The accused is arraigned on the charges in the above mentioned charge sheet. The accused pleads 'Guilty' to the first charge, 'Guilty' to the second charge, 'Guilty' to the third charge, 'Not Guilty' to the fourth charge and 'Guilty to the fifth charge. R.P. 35 (b) complied with.

9. R.P. 39(a) is complied with, the accused answers "No, sir" which is recorded by the President.

10. The Prosecutor does not make an opening address.

The Prosecutor proceeds to call witnesses, in connection with the 4th charge:

FIRST WITNESS For The Prosecution. No. 7690545 L/Cpl. Miles, A.L., No. 168 Provost Coy, Corps of Military Police, Birmingham, being duly sworn is examined by:

THE PROSECUTOR:

Q.1 L/Cpl. Miles, do you recognize the accused sitting at that table?
A.1 Yes, sir.
Q.2 I shall read you the one charge against the accused with which we are concerned at the moment, "The accused is charged with Using Threatening Language to his superior Officer, under Sec. 8 (2) of the A.A., in that he at Birmingham at Steelhouse lane at 1030 hrs. 18 Aug 43, used threatening language to L/Cpl. Miles, A.L. Corps of Military Police, using the words, "I will kick him in the bastard face". - Will you tell us what you know of this charge?
A.2 Well, while I was struggling on the ground with Pte. Myers, Pte. Dempsey ran over to me saying, "I will kick him in the bastard face."

Cross-Examined by the Defending Officer:

Q.3 How far were you from the accused when he said that?
A.3 He was running towards me when he said that.
Q.4 Are you positive that these were the exact words which he used?
A.4 Yes, I am positive.
Q.5 Absolutely positive?
A.5 Yes, sir.
Q.6 There is no doubt in your mind whatsoever?
A.6 None whatever.

(In the opinion of the Court, it is not necessary to comply with R.P. 83 (b) in connection with this witness)

SECOND WITNESS For The Prosecution. No. 7673860 L/Cpl. Hobbs, G.A.K., No. 168 Coy, Corps of Military Police, Birmingham, being duly sworn is examined by:-

The Prosecutor:

Q.7 In connection with the 4th charge against the present accused, he is charged with, "When on Active Service, using threatening language to his Superior Officer, in that he at Birmingham at Steelhouse Lane at 1030 hrs. 18 Aug 43, used threatening language to L/Cpl. Miles, A.L., Corps of Military Police, using the words, "I will kick him in the bastard face". Will you give the Court your evidence relating to this charge?
A.7 I saw L/Cpl. Miles with Pte. Myers struggling on the ground. L/Cpl. Miles was lying on the ground, and I was holding Pte. Dempsey. He struggled from my grip and said, "I will kick him in the bastard face" and he drew back his right foot as if to kick.

The Defending Officer declines to Cross-Examine this Witness:

(In the opinion of the Court, it is not necessary to comply with R.P. 83 (b) in connection with this witness)

THE PROSECUTION IS CLOSED:

R.P. 40, fn 2, is complied with by the President, and the accused elects to give evidence on oath.

D E F E N C E

FIRST WITNESS For The Defence. The accused, No. G-17668 Pte. Joseph Gordon, Dempsey, Carleton & York Regt., on the strength of No. 7 CIRU, being duly sworn is examined by:

The Defending Officer:

Q.8 Do you remember this incident when you were apprehended in Birmingham?
A.8 Yes, sir.
Q.9 What exact words did you say to L/Cpl. Miles with regard to kicking him?
A.9 Pte. Myers had the Regimental Police down the street about 7 feet away and I hollered to Myers, "Kick the bastard in the face -- he is no good anyway".
Q.10 Are you sure that these were your exact words?
A.10 Yes, sir.

The Prosecutor declines to Cross-Examine the Witness:

(In the opinion of the Court, it is not necessary to comply with R.P. 83(b) in connection with this witness)

SECOND WITNESS For The Defence. No. F-40064 Pte. Myers, M.E., West Nova Scotia Regiment, on the strength of No. 7 CIRU, being duly sworn is examined by:

The Defending Officer:

Q.11 Do you recognize the accused?
A.11 Yes, sir.
Q.12 Do you remember a certain incident which occurred in Birmingham, which was more or less a fight with the Provost?
A.12 Yes, sir.
Q.13 Do you remember Pte. Myers, Pte. Dempsey saying something about kicking somebody in the bastard face -- or just what did you hear that day?

A.13 He said to me, "Kick him in the face, the bastard, he is no good anyway".
Q.14 You state that he said, "Kick him in the face, the bastard, he is no good anyway.
A.14 Yes, sir.
Q.15 Those were his exact words.
A.15 Yes, sir.
Q.16 Did he say he was going to do it.
A.16 No, he told me to do it.

The Prosecutor declines to Cross-Examine this witness:

(In the opinion of the Court, it is not necessary to comply with R.P. 83 (b) in connection with this Witness)

THE DEFENCE IS CLOSED:

THE DEFENDING OFFICER READS A CLOSING ADDRESS, WHICH IS ATTACHED TO THE PROCEEDINGS.

THE PROSECUTOR DECLINES TO MAKE A CLOSING ADDRESS:

THE COURT IS CLOSED FOR THE CONSIDERATION OF ITS FINDING ON THE FOURTH CHARGE:

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE COURT FIND THE ACCUSED 'NOT GUILTY' OF THE FOURTH CHARGE

The Accused having plead 'Guilty' to the First, Second, Third and Fifth Charges,—
[redacted]

The accused does not desire to make a statement in reference to the charges, R.P. 37 (b).

The Summary of Evidence is read by the President.

The Prosecutor produces MFB 355 and Certified True Copy of MFM 6 in connection with the accused.

The Court complies with R.P. 46 (b).

Pursuant to R.P. 37 the Accused reads a statement in Mitigation of punishment, which is attached to the proceedings.

The Defending Officer suggests to the Court that steps might be taken to bring about a transfer for the accused, to the Merchant Navy.

Overseas R.O. 3262 complied with.

The Court is closed to consider the sentence.

Closing address for the Defence.
In the Case of: G/17668 - Pte DEMPSEY J.G.:

31 Aug 43

With regard to the FOURTH CHARGE, under S. 8(2) — it has been clearly proven by the evidence, for the defence, that the accused did not threaten to kick L/Cpl. MILES, A.L. in the face but merely told Pte MEYERS to do so. In other words he was coaching Meyers from the sidelines, and did not address his remark to a SUPERIOR and is, therefore, NOT GUILTY of ~~using~~ threatening (or insubordinate) to his SUPERIOR OFFICER, namely, L/Cpl. Miles.

Now, since the remark was not addressed to his Superior Officer, I can see no alternative for the Court but to dismiss the accused on this, the Fourth Charge. (Authority - Note 5 to Sec. 8 of A.A.)

D. P. MacGillivray - Lieut
Defending Officer

SUMMARY OF EVIDENCE

In the case of No. G 17668 Private Joseph Gorden DEMPSEY, Carleton & York Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION — Lt. G.W. Rahm, Cdn Inf Corps, on the strength of 7 Cdn Inf Rft Unit, having been sworn states:

I am Lt. G.W. Rahm, Cdn. Inf. Corps, on the strength of 7 Cdn Inf Rft Unit. I produce Certificate in accordance with the Army Act, Section 163 (I)(jj) which relates to the accused, this document is marked exhibit "A". I also produce certificate of cost of apprehension C.M.H.Q. 1000:55 which relates to the accused this document is marked exhibit "B".

---Rahm---Lt.

(The accused declines to cross examine this witness)

SECOND WITNESS FOR THE PROSECUTION — F 55565 L/Cpl. Green, J., C.B. Highrs, on the strength of 7 Cdn Inf Rft Unit, having been duly sworn states:

I am F 55565 L/Cpl. Green, J., C.B. Highrs, on the strength of 7 Cdn Inf Rft Unit, on 14 Aug 43 at 1800 hrs I was Company Orderly Corporal of "C" Coy 7 Cdn Inf Rft Unit. I called the defaulters roll at 1800 hrs and G 17668 Pte. Dempsey,J.G, who was undergoing Field Punishment, did not answer his name. I have called the roll every day since 14 Aug 43 and Pte. Dempsey has not been present on any of the roll calls. The above evidence relates to the accused whom I now recognize as G 17668 Pte. Dempsey, J.G.

---J. Green---L/Cpl.

(The accused declines to cross examine this witness)

THIRD WITNESS FOR THE PROSECUTION — L/Cpl. Hobbs, G.A.K., Corps of Military Police, 168 Provost Coy, Birmingham.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

---Rahm---Lt.
(Officer taking Summary)

(The accused does not demand the attendance of this witness for cross examination)

RM

STATEMENT OF EVIDENCE IN THE CASE OF:-

No.G.17668. PRIVATE. J.G.DEMPSEY.
CARLETON AND YORKS REGT.
No.7.CANADIAN REINFORCEMENT UNIT.
ROYAL CANADIAN ARMY.
CROOKHAM. HANTS.

Sir,

At BIRMINGHAMon August 18.1943 about 10.30.hrs I was on duty in STEELHOUSE LANE accompanied by L/CPL. HOBBS, who was interrogating the above named soldier while I was questioning a PRIVATE MYERS who was with him. MYERS shouted out to DEMPSEY " We are not going with them are we" DEMPSEY replied "No we are not". Whilst I was struggling on the ground with MYERS, DEMPSEY ran towards me saying " I will kick him in the bastard face". He then raised his boot as if to kick me, L/CPL. HOBBS then closed with him and brought him to the ground. No.219 A. P.C. WILSON, Civil Police then came to my assistance. As I had PTE MYERS under control I asked Constable Wilson to go to the assistance of L/CPL. HOBBS which he did as PTE DEMPSEY was on the top of him and was attempting to gain a grip on his throat and was also trying to bite his arm. P.C. WILSON then went to the assistance of L/CL. HOBBS, the result of which PTE DEMPSEY received injuries which necessitated him being taken to the GENERAL HOSPITAL, STEELHOUSE LANE and was later transferred to the CENTRAL LOCK UP, STEELHOUSE LANE to be detained. He was formally charged by L/CPL. HOBBS and was cautioned. He replied " I can stand plenty more if you like". He was sober.

BIRMINGHAM.
18 Aug 43.

H.L.Miles L/CPL.
C.M.POLICE.

STATEMENT OF EVIDENCE IN THE CASE OF:-

(3)

G.17668. PTE. DEMPSEY.J.G.
CARLETON AND YORKS REGIMENT.
No.7.C.D.I. H.U.
CROOKHAM.HANTS.

Sir,

At BIRMINGHAM on the 18th Aug 1943 at about 10.30.hrs I was on duty in STEELHOUSE LANE accompanied by L/CPL. MILES, C.M.P.POLICE where I saw the above named soldier in company with another Canadian soldier, whom I now know to be F.40068. PTE.MILES. WEST NOVA SCOTIA REG, NO.7.C.A.I.H.U.

I asked him if he was on leave and he replied " Yes" and when ordered to produce his pass he said " I have lost it". The manner in which he answered caused me to suspect him of being an absentee and I asked him if he was absent and he said " What of it you are nothing to do with us".

At this moment, the other soldier who had up till now been questioned by L/CPL. MILES called to PTE DEMPSEY "We are not going with these are we" and PTE DEMPSEY answered "No we are not". PTE DEMPSEY then attempted to walk away and I gripped his arm and held him back, he struggled and kicked me on my right leg. At this point L/CPL. MILES was struggling on the ground with the other soldier and PTE DEMPSEY then broke away from my grip and went over towards L/CPL. MILES and said " I will kick his in the bastard face" and drew back his right foot as if to kick him.

I closed with him and pulled him away, I then pulled out my whistle and when I raised it to my mouth he struggled to prevent me, I managed however to blow my whistle several times. I then fell to the ground and he fell on top of me and put his hands round my throat and tried to bite my arm when I attempted to free myself.

Just then I saw P.C.WILSON. 219.A. of the BIRMINGHAM CITY POLICE approach and drew his truncheon and hit PTE DEMPSEY on the head, I was then able to free myself and got up from the ground.

PTE DEMPSEY who was bleeding from the head was then taken to the LOCK UP, STEELHOUSE LANE, where he was given first aid treatment and afterwards he was conducted to the OUT PATIENTS DEPT., GENERAL HOSPITAL to receive further treatment. This being completed he was then taken back to the LOCK UP, STEELHOUSE LANE where he was informed of the charges against him to which he replied " I can stand that and plenty more if you like". He was then detained to await escort. PTE DEMPSEY was dressed in uniform and he was sober.

It was later confirmed by telephone that PTE DEMPSEY was absent from Friday, 13 th August 1943.

P.C.

On my arrival to my H.Q., I reported my injury to my leg and at about 15.00.hrs I proceeded to the M.I.Room, 39 HADLEY ROAD and was examined by the S.M.O. whose report is herewith attached.

BIRMINGHAM.
18 Aug 43.

G. Robb. L/Cpl.
C.M.POLICE.

April. 18. 1918.
Fredericton
N. B.
Canada,

cc Joe?

I supose you will wonder why you should recieve a letter of this kind from me, i am a soldier also in the Canadian Army, i am not only writing you this letter for my self but mostly for your wife Margaret whom i have known for some 7 or 8 months and we have become very close friends, well to be frank with you, margaret has told me that some time ago you asked her for a divorse and she refused, as well Joe now its her turn she wants a divorse

because she is not getting
any pay from you or
the Army to support her
and the baby her check
has been stopped altogether
now margaret and i want
to get married you are
the only one who is
holding us up what about
it Doc will you write
to ottawa and grant her
a divorce she doesn't
want you or she would
write to you and tell
you so i know she
don't want you because
if she did she would be
be with me all the time
i love margaret you and
she loves me and we
both want to get
married so it is you

to you Joe, when you
write ~~me~~ to me in
answer this letter Joe
send it to margaret,
well Joe this will have
to be all for now
comrad, dont blam
any body but your self
for losing her, from
yours very truly
J. 1785.
Pt. L. Jr. Hopkins,
in cear of;
Mrs Margaret Dempsey
186 King St.
Fredericton, N.B.
Canada,
please write as soon,
as possible Joe,

30th day of August.
1943.

Sir,

I, Pte. Dempsey. T. G. do swear that this statement (~~written and~~ signed by me,) to be a true statement.

I enlisted at Woodstock. N. B. Canada, and after my training I was drafted to England in the Carleton + York Regt. 1st Div. C.A.O.S. In June 1940. I received a letter from my brother in Canada who was in the C.P.C. at that time, saying that my wife was unfaithful to me, and that she was illtreating my child by leaving it (alone) for several days on end.

She went around spending my allowance on drink, and other men, and only for neighbours, hearing my child cry, it may have died from hunger, and cold

After this letter arrived I reported (to) the illtreatment of my child to my Paymaster at 102 Camp. Witley.

The Paymaster had the case investigated through Ottawa, and word was returned to him saying, that the information received by me was untrue.

I then wrote a letter to Ottawa myself, and had it signed by my Company. Sgt. Mjr, and in answer to this letter, Ottawa confirmed that my

Page Three

Between the ruin of my home, and the breaking up of my family, the loss of my pay, and all the other bad luck which has befell me, since my enlistment, I know in my heart and soul that I shall never again have faith in the Army (I also know that never in God's creation shall I ever soldier for anyone in this country.

Therefore I ask you to either grant me a transfer into the Merchant Navy, and give me a chance to lead a decent life, or give me a dishonourable discharge, so that I may go home to Canada, and try to straighten out my home life Either way, I can see that my child is well cared for.

Signed by me this 30th day of Aug. 1943

G17668

Pte Joe G Dempsey
C.G.R England

former statement was correct, and that my allowance had been stopped, and was then assigned to a Childrens Aid Society, and they supported my wife and child, by a monthly allowance. The Balance left from each month, was put in the Bank in trust, these monthly sums amounted to $365.00.

Two weeks ago (August 13) I received another letter containing papers; stating that my wife had left with another man, and is living with him, as his mistress. My child was once more left alone, so the Authorities placed it in a childrens home in Fredricton N.B. where it still remains.

The Govt then assigned my $20.00. allowance to my child, but they also cut out of their own $12.00 allowance to my daughter.

Due to this, and the other complaints in my statement, and also the fact that my pay has been completely stopped, and I have drawn no pay since my enlistment, and according to my debits I shall not draw any for the next Six(6) years.

Mrs Annie Freda Haines
6/37 Stoke Street
Ladywood
Birmingham

Statement

At Birmingham on August 18. 1943 at 10.35 am I was walking down Shelbourne Lane where I saw two Military Police men talking to two Canadian soldiers. I saw one of the soldiers try to run away, but he was caught by one of the N.C.O's he then turned round and attacked the N.C.O. in question who drew his pistol, they stood and fell to the ground together, the Canadian soldier wrested the pistol from the Military Policeman and threw it into the ground that had gathered. Meanwhile the other soldier broke away from the other N.C.O. who had been holding him, and ran towards the Military Policeman who was on the ground and raised his boot saying, I will kick him in the bastard face. He was prevented from doing so by the other N.C.O. who stood with him and they also fell to the ground. At the time of arrival of the Civilian police both Military policemen were underneath the Canadian soldiers who also were kicking and striking one Canadian soldier had gripped one N.C.O. around the throat and was trying to bite him in the arm. With the assistance of the civil police the two Canadian soldiers were taken away. At no time did either of the Military

policemen strike the Canadian soldiers.

This statement was made by me and taken down by L/cpl MILES. C.M. POLICE in my presence.

Annie Fredu Louies.

Certificate in accordance with the Army Act. Section 163 (1) (ii) EXHIBIT "A"

I certify that No. 17668 ..... Rank PTE ..... Name DEMPSEY, J.G. .....

Unit CARLETON AND YORK, No. 7 C.D.I.R.U. ..... was arrested at BIRMINGHAM .....

..... at 10.30 ..... hrs. on 18 August 1943 .....

Station BIRMINGHAM ..... Signature of Provost Marshal, A.P.M. or other officer into whose custody the a/n person was taken on arrest ..... [signature]

Date 19 AUG 43 .....

A.P.M. CENTRAL MIDLAND DISTRICT

A.F. B 255.

Station Birmingham

Date 18 Aug. 1943.

MORNING SICK REPORT

MEDICAL INSPECTION REPORT *

Unit C.M. Police

Squadron, Battery or Company 168 Prevost Cy.

Army No.	Rank	Surname and Initials (M under name if married)	Completed years of service Age	Religion	If for duty †	Whether a defaulter	Disease	Disposal Medical Officer's Remarks and Signature
856616	L/C	HABBS G (21)	29 11/12	Unit			Abrasion Skin	
							Probably due to a kick.	

[illegible] Sgt. O/Sgt.

* Strike out whichever is not applicable. † State nature of duty for which warned. In the case of men for medical inspection, the reason such as "for trial by court martial," or "joining the Station," should be stated against their names.

P.T.O.

EXHIBIT "B"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 617668 Rank Pte. Name Hempay, J.F. Unit Carl & York 7CIRU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Birmingham

Date	Particulars (½ portion)	Amount		
20 Aug 43	Escorts return fare from LONDON To Birmingham		8	6
	Prisoners single fare to LONDON From Birmingham		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion		4	0
	Total £	1	1	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/35
40/P & S/465(1587)

SUMMARY OF EVIDENCE

In the case of No. G 17668 Private Joseph Gorden DEMPSEY, Carleton & York Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FOURTH WITNESS FOR THE PROSECUTION — L/Cpl. Miles, A.L., Corps of Military Police, 168 Provost Coy, Birmingham.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

----------Lt.
(Officer taking Summary)

(The accused does not demand the attendance of this witness for cross examination)

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence, consisting of TWO pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

----------Lt.
(Officer taking Summary)

In the Field
23 Aug 43.

ADDITIONAL SUMMARY OF EVIDENCE

In the case of No. G 17668 Private Joseph Gorden DEMPSEY, Carleton & York Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Additional Summary of Evidence is taken on oath.

FIFTH WITNESS FOR THE PROSECUTION

Mrs. Annie Freda LOINES, 6/37 Stoke Strret, Ladywood, Birmingham.

A written statement of this witness's evidence purporting to be signed by her has been read to the accused and is included in this summary of evidence. Having regard to the loss of time involved attendance of this witness cannot in my opinion be readily procured.

Lt.
(Officer taking Summary)

(The accused does not demand the attendance of this witness for cross examination)

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

I certify that the foregoing Additional Summary of Evidence, consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(C), (D), (E), (F) and (G) have been complied with.

Lt.
(Officer taking Summary)

In the Field
26 Aug 43.

CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT
CUSTODY OF (C.M.C. ARTHURS) CAPT/ADJT 7CIRU

Taken from M.F.M. 2

No. 317668 Name Dempsey J. S. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Suld	2 Sep 40	Pte		Forfeits 2 days pay 149(1)(A) D.R.O.		Forf 2 days pay	7 Sept 40		
Suld	30 Sep 40	Pte		AWL Awarded 14 days C.B. Forfeits 4 days pay D.R.O. 149(1)(A)		Forf 4 days pay	11 Oct 40		
Suld	16 Oct 40	Pte	1	Awarded 28 days detention (1) Drunkenness (2) Assault. Forfeits 4 days pay D.R.O. 149(1)(B)		28 days detention Forf. 28 days pay	25 Oct 40		
Suld	7 Jan 41	Pte		Refusing to obey an order given by a senior REO (Sec 40 AA)		5 days D.P. Forf 5 days pay	17 Jan 41		

(P.T.O.)

CERTIFIED TRUE COPY OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT
(C.M.G. ARTHURS) CAPT/ADJT
7CIRU

Taken from MFM 2

M.F.M. 6
(A.F. B.122)
40/P & /B136 (2965)

No. 317668 Name Dempsey J. S. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Mar 41	Pte		AWL Forfeits 7 days pay F.R. & I. (1)(A)		Forf 7 days pay	22 Mar 41		
Field	6 Apr 41	Pte		AWL 28 days detention. Forfeits 28 days pay & 5 days pay. F.R. & I 149 (A)		28 days detention 33 days pay forf	15 Apr 41		
Field	8 May 41	Pte		AWL 28 days detention. Total forfeiture of 35 days pay F.R. & I. 149(1) A & B		27 days detention Forf. 35 days pay	22 May 41		
Field	11 Nov 41	Pte		FSCM 180 days detention and total forfeiture of 243 days pay		180 days detention Forf. 243 days pay	19 Nov 41		
Field	6 Apr 42	Pte		AWL Forfeits 1 days pay 7 days C.B.		7 days C.B. Forf 1 days pay	15 Apr 42		

(P.T.O.)

Certified True Copy Officer
having custody of original document
(C.M.GARTHURS)CAPT/ADJT
7 C.IRU

No. F-40084 Name Myers, M.W. Sqn., Battery, or Company "B" Corps W.N.S.R. Date of enlistment G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /B136 (2963)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12-6-43	Pte.		AA Sect-15(1)AWL-from 2200 Hrs 12-6-43 to 0600 Hrs 13-6-43	Cpl. Stevenson	1 Days Pay	14-6-43	Major J.M. Harrison.	
"	15-6-43	"		AA Sect-15(1)AWL-from 1500 Hrs 15-6-43 to 1600 Hrs 1-7-43.	Cpl. Stevenson	27 Days Detn.	3-7-43	Lt-Col J.E. McRae	

(P.T.O.)

Certified true copy officer having custody of original document
(C.M.G.ARTHURS) CAPT/ADJT
CIRE

M.F.M. 6
(A.F.-[illegible])
40/F & /S[illegible] (2965)

No. F-40084 Name Myers, M.W. Sqn., Battery, or Company "B" Coy Corps [illegible] Date of enlistment G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1. Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	13-12-41	Pte.		(1)AA Sect-11-Neglecting to obey Coy standing orders-Was "Out Of Bounds". (2)AA Sect-22(3)-When in lawful Custody did escape. (3)AA Sect-15(1)AWL-from 2230 Hrs 13-12-41 until Appreh 2000 Hrs 14-12-41.	Sgt. Marshall Cpl. Graham Cpl. McLeod	21 Days Field Punishment.	16-12-41	Major P.B. Courtney	Forfs 24 Days Pay.
Field	17-1-42	"		AA Sect-15(1)AWL-from 2230 Hrs 17-1-42 till 2359 Hrs 17-1-42	Cpl. Ellis L/Cpl. Patterson	3 Days C.B.	18-1-42	Major P.B Courtney.	

(P.T.O.)

M.F.B. 355
2250—5-41 (372-3)
H.Q. 1772-30-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G 17768	Private	Dempsey, J.G.	Carlt & York R. 7 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets or Company Conduct sheets~~ Regimental ~~and Squadron, Battery~~ ~~Service and General~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15(1)	2 times	A.A. Sec 15 (1)	15 times
For	A.A. Sec 40	1 times	A.A. Sec 40	5 times
For		times	A.A. Sec 19	3 times
For		times	A.A. Sec 10(3)	1 times

~~Number of instances of gallantry or distinguished conduct.~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 years 10 months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 1 March 1940

7. The service which the accused is allowed to reckon towards discharge is 2 years 357 days

8. The accused is entitled to reckon 2 years 357 days. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to). State any air force decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ... Air Force ... the regimental rank of ...~~

~~11. (In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number G17668 Rank Private Unit ~~Regiment~~

Name Dempsey, J.G. of Carlt & York R - 7 CIRU

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	11 Nov 41 In the Field	A.A. Sec 15(1)	180 days detention	57 days
F.G.C.M.	4 Sep 42 In the Field	A.A. Sec 15(1)	9 months detention	83 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31st day of Aug 43 Rank Lieut Adjt 7 C.I.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

1. I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Leipzic Barracks, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

J G Dempsey
(J.G. Dempsey)

Dated at
this 24 day of
August 1943

2. I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at preliminary to my Court-Martial.

J G Dempsey
(J.G. Dempsey)

3. I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut. D.R. WELSH

if he is available.

J G Dempsey
(J.G. Dempsey.

Dated at
this 24 day of
August 1943

145 N. (2nd case)

Pte. DEMPSEY, J.G

See 242D for 1st case

O. H. M. S.

145 N.

Correspondence to be PINNED here.

Army Form A.3.

RECEIVED 6 SEP 1942 A.A.G. 1st Cdn. Div.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this SECOND day of SEPTEMBER, 1942

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[I am unable to appoint:-~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:-]~~

* Omit if not applicable.

PROCEEDINGS REVIEWED.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W.C. Gemmell	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt	E.M. Crouse	West N.S.R.
Lieut	W. Letourneau	R 22e R
Lieut	P.R.J. Gourdeaux	R 22e R

Waiting

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,

Commanding 3 Cdn Inf Bde.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G17668 Pte Dempsey, J.G. Carlt & York R	First Charge Sec 15(1) A.A.	Guilty	Guilty	Sentence confirmed and sentence for time already undergone remitted. Brigadier Comd 3 Cdn Inf Bde.
	Second Charge Sec 9(2) A.A.	Not Guilty	Guilty	5 months detention.
	Third Charge Sec 10(4) A.A.	Guilty	Guilty	5 months detention.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] Brigadier, Commanding 3 Cdn Inf Bde. Convening Officer (e)

(Signed) [signature] Major, President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the fourth day of Sept. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of ~~each~~ such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

* Omit if not applicable.

were duly sworn.

Signed this fourth day of September 1942

[signature] President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (d) on page 262 M.M.L. 1929

Signed this day of 19

[signature] President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority recommends suspension.

Signed this 5th day of September 1942

[signature] Brigadier, Comd 3 Cdn Inf Bde. Confirming Officer

Promulgated and extracts taken in the case of

(d) (Dated) 8 Sep 42. (Signed) [signature] Lt Col A/D of S & T 1 Cond Can Inf Bde

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(d) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Jas. Wm. Smith Ltd. Print 2-42 W & Co., Ltd. Grp. 7-42-2

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. C 17668 Pte. Dempsey J. G.

of Carleton & York Regiment and in my opinion he is fit ~~unfit~~

to undergo Trial by Court Martial

Station In the Field

Date 4 Sept. 42

A. Wallen Capt.
Medical Officer

Charge Sheet

The accused, G17668 Pte Dempsey, J.G., Carleton & York Regiment, a soldier of the Canadian Army (Overseas) in the field, is charged with:-

First Charge
Sec 15(1) A.A.

When on Active Service, absenting himself without leave

in that he

at Bishopstone, on 23 Aug 42, absented himself without leave from 1400 hrs 23 Aug 42 until 1800 hrs 29 Aug 42.

Second Charge
Sec 9(2) A.A.

When on Active Service, disobeying a lawful command given by his superior officer

in that he

at Seaford, on 23 Aug 42, did not return to his billets when ordered to do so by G17727 Sjt McKay, E.V.

Third Charge
Sec 10(4) A.A.

When on Active Service, breaking out of billets while a defaulter

in that he

at Bishopstone, on 23 Aug 42, broke out of billets, when a defaulter.

F. D. Tweedie Lt Col.
(F.D. Tweedie) Lt.-Col.,
Comd Carlt & York Regt.

In the Field

Date 1 Sep 42

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Charles Foulkes
(C. Foulkes), Brigadier,
Comd 3 Can Inf Bde.

In the Field
2 Sep 42

Connell

FORM A

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL held in the Field on the 4th day of Sep. 1944

Trial of Re

G17668 PTE. DEMPSEY J.G. CARLT + YORK R.

LIEUT. A.H. OLIPHANT

" B.A. KENNEDY

Prosecutor

Defending Officer

Officer Under Instruction

1. The Court assembled the Court is read in the presence of the accused.

2. The accused is asked the following question:

Do you object to being tried by the President or any Member of the Court, whose names you have heard read over?

Answer: No

3. The President, Members, Judge Advocate, Officers under the Prosecutor, Shorthand Writer, and Interpreter [illegible]

4. [illegible] the accused [illegible] [illegible]

5. The accused is asked the question [illegible] of A.P. A.3 and his answer is recorded [illegible]

6. The Prosecutor [illegible] opening Address.

Cummell

F.G.C.M. in case of Pte Dempsey J.J. G17668

1st charge Guilty

2nd charge: Not Guilty

3rd Charge: Guilty

(Q) Do you wish to apply ——— etc

A) No, sir.

---

by prosecution

1st witness G18391 Cpl Chiasson C.B. having been duly sworn

Q - On the 3rd of aug you were cog orderly sgt

A) - yes sir

Q) - At 1400 hrs you were in charge of defaulters parade

A) - yes sir

Q) - Will you tell court whether Pte Dempsey was present or not on that parade

A) - no he was not present

Q) - When did you next see Pte Dempsey

A) - When he came back to the orderly Room from dwh.

Q) - You did not see him again ~~between~~

A) - No Sir -

Cummins

2nd witness Sgt McKay 6th G 17727 C.Y. having been sworn

Q) - On the 23rd of aug were you acting C.S.M.

A) - Yes sir

Q) - In the afternoon of 23rd of August were you in Seaford

A) - Yes sir

Q) - Did you see the accused.

A) - Yes, sir I did

Q) - Were you alone at the time

A) - Yes sir I was

Q) - What did you say to the accused

A) - I told him to come back

Q) - Did he make any rejoiner

A) - He moved off sir

Q) - When did you next see Pte Dempsey after your conversation with him and where

A) - ~~Afterwards~~ Just across the street from where I saw him first, around 20 minutes afterwards

Q) What action did you take then

A) - I reported him to Regt Police Pte Cleghorn

Q) What exactly did you say to Cleghorn

A) I told him we met Pte Dempsey to pick him up in a restaurant

Q) Did you tell Cleghorn that you had already ordered Pte Dempsey to go back to camp

A) Yes sir

By Defence

Q) How big is your camp area

A) I could not tell you

Q) Could you give us an idea of how big it is

A) I would say about 1/2 mile

Q) Are you sure Dempsey did not go back to that area

A) I could not say for sure if he did it

Q) Then you are not sure whether he carried out your order or not

A) No sir. I am not exactly sure

Q) by count
From were you met Dempsey back to your billets how long would it take you to walk

A) 25 minute

Q) Is there any other means of transport such as bus to return if so how long would it take you to return

A) 15 minute

Q) Do you think the accused could have returned to his billets ~~from~~ in the interval of time between when you first saw him and second time

A) He could have if he had had a lift but

not by lies

Q) How long would that take

A) - About half an hour.

Q) - Did you say anything to the Deputy when you met him for second time

A) - No sir

Prosecutor: A.H. Alephan

Defending: B.A. Kennedy

LIEUT. A.H. OLIPHANT

A.B.

No.

Nil.

No

No

N/A

Summary of evidence in the case of G17668, Pte Dempsey, J.G., a soldier of the Carleton & York Regiment, Canadian Army (Overseas), in the Field

By direction of the Commanding Officer the summary is taken on oath.

First Witness for Prosecution

G18391 Cpl Chaisson, C.B. of "C" Company, Carleton & York Regiment, haveing been duly sworn states:-

I am and was at all times material hereto G18391 Cpl Chaisson, C.B. of "C" Company, Carleton & York Regiment. On the 23 Aug 42 I was acting Company Orderly Serjeant. At 1400 hrs G17668 Pte Dempsey, J.G. was absent from defaulter's parafe after having been awarded 7 days C.B. on 20 Aug 42. I went to look for him but failed to find him. I reported this to the acting C.S.M., G17727 Sjt McKay, E.V. A charge was laid against him for breaking out of billets when a defaulter, also a charge of absence without leave from 1400 hrs 23 Aug 42.

C B Chaisson

Accused declines to cross-examine this witness.

Second Witness for Prosecution

G17727 Sjt McKay, E.V. of "C" Company, Carleton & York Regiment, having been duly sworn states:-

I am and was at all times material hereto G17727 Sjt McKay, E.V. of "C" Company, Carleton & York Regiment. At about 1330 hrs 23 Aug 42 while acting C.S.M. I met the accused in Seaford. Knowing this man was a defaulter I Ordered him to return to camp. I also reported this to the regimental police. On my return I checked and found that he had not returned.

Sgt. E. V. McKay

Accused declines to cross-examine this witness.

Third Witness for Prosecution

G32062 L/Cpl Argyle, W.E. of "C" Company, Carleton & York Regiment, having been duly swornstates:-

I am and was at all times material hereto G32062 L/Cpl Argyle, W.E. of "C" Company, Carleton & York Regiment. At about 1800 hrs 29 Aug 42 I met Capt Duplisea in Pool Valley, Brighton. G17668 Pte Dempsey, J.G. was with Capt Duplisea. Capt Duplisea turned Pte Dempsey, J.G. over to me ordering me to escort Pte Dempsey to the Guard Room and place him under close arrest. I returned to billets with him at about 1900 hrs and turned him over to the Guard Commander.

W E Argyle

Accused declines to cross-examine this witness.

Fourth Witness for Prosecution

G18402 Cpl Firlotte, J.D. of "C" Company, Carleton & York Regiment, having been duly sworn states:-

I am and was at all times material hereto G18402 Cpl Firlotte, J.D. of "C" Company, Carleton & York Regiment. On 29 Aug 42 I was acting Company Orderly Serjeant. At about 1900 hrs G32062 L/Cpl Argyle, W.E. reported to me that he had placed G17668 Pte Dempsey, J.G. in the Guard Room under close arrest. Under orders from C.S.M. Doran G17668 Pte Dempsey, J.G. was sent to the Bn Guard Room.

Cpl Firlotte J.D.

Accused declines to cross-examine this witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4 E elected not to make a statement.

Certified that Rule of Procedure 4 (C) (D)(E)(F) and (G) have been complied with.

Taken down by me in the hearing and presence of the accused, in the field, this thirty-first day of August 1942.

B. L. Austin Lieut

List of Witnesses in the case of G17768 Pte Dempsey, J.G.
Carleton & York Regiment

For the Prosecution

Name	Unit	Address
G18391 Cpl Chaisson, C.B.	Carlt & York R	In the Field
G17727 Sjt McKay, E.V.	Carlt & York R	In the Field
G32062 L/Cpl Argyle, W.E.	Carlt & York R	In the Field
G18402 Cpl Firlotte, J.D.	Carlt & York R	In the Field

For the Defence

NIL

List of Exhibits in the case of G17668 Pte Dempsey, J.G.,
Carleton & York Regiment

NIL

Defending Officer in the case of G17668 Pte Dempsey, J.G.
Carleton & York Regiment

I, G17768, Pte Dempsey, J.G., Carlt & York R, desire the services of an officer to assist me at my trial by Court Martial.

Dempsey J.G.

[illegible]

No. G17668 Name Dempsey, J.G. Sqn., Battery, or Company "C" Coy Corps Carlt.& York R. Date of enlistment 1/3/40 G.C. Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Service or Proficiency Pay | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under Stoppages, ring with line	By whom awarded	Remarks
Aldershot NS	3-5-40	Pte		(1) Improperly dressed on street in Kentville. (2) Refusing to obey an order given by an N.C.O. (3) AWL from 2200/30/4/40 until 0600hrs 2-5-40. (4) Insubordination (5) AWL from Morning Parade (6) Malingering in R.A.P.	Cpl Steeves Pte Hunter Cpl Smith Dr Sutherland Cpl Hutchison Sgt Johnston	168 hours Detention		Lt.Col.H.W. Murdock	Forfeits 9 DAys pay
"	" 22-5-40	"		AWL from 2359hrs 22-5-40 to 1845 hrs 28-5-40	Cpl Currie Sgt Izzard Cpl Brown	14 Days C.B.		Lt.Col.H.W. Murdock	Forfeits 6 Ds.Pay
"	" 1-6-40	"		(1)Ringleader in disturbance in Guard Detention Room, causing damage to windows(2)Using obscene language in front of visiting ladies.	Sgt Daniels	96 hrs detention & $15 damages		Lt.Col.H.W. Murdock	

No. G17668 Name Dempsey, J.G. Sqn., Battery or Company "C" Coy Corps C.Y.H.

Date of last entry in Company Conduct Sheet | No. and date of last drunk 2/6-2-41 | Period not reckoning towards freedom from extra fine | Date of enlistment 1-3-40 | G.C. Badges | Signature O.C. Company, etc. | Sheet No. 2 | Service or Proficiency Pay | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley, Eng	25-2-41	Pte		AWL from 2215/25-2-41 to 1200/27-2-41 A.A. 15(1)	Cpl Lyons Cpl McKay Cpl McDaid Sgt Coates	7 days C.B. £ 1o fine	28-2-41 3-3-41	Maj.W.J. MacCallum Maj.W.J. MacCallum	Forf.2 Days Pay
Witley "	1-3-41	"	3	Drunkenness	Cpl Firlotte Pte Dennison	14 days C.B.	7-3-41	Major F.E. Belanger	Forf. 8 Days Pay
Witley "	13-3-41	"		AWL 2359/13-3-41 to 0630/14-3-41 " 0830/14-3-41 to 1530/20-3-41	Cpl McDaid	28 Days Detention	15-4-41	Lt.Col. F.S.	Forfeits 5 days Pay
Witley "	6-4-41	"		1. AA 15(1) AWL from 0630hrs 6-4-41 to 1640hrs 10-4-41. 2. Neglecting to obey standing orders by not wearing anklets.	L/C Mansball L/C Poulson Cpl Lyons			Matheson	
Witley "	8-5-41	"		AA15(1) AWL 2200/8-5-41 to 1050/16-5-41	L/Cpl Craig L/C Prowse	27 days Detention	17-5-41	Lt.Col.F.S. Matheson	Forf. 8 Days Pay
Witley "	9-6-41	"		2359/9-6-41 2. Breaking out of bks while C.B.	Cpl Legere	14 days C.B.	10-6-41	Maj. W.J. MacCallum	

No. G17668 Name Dempsey J.G. Sqn., Battery or Company "C" Coy Corps C. & Y. R. Date of enlistment 1-3-40 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc.

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 July 42	Pte		AWL From 2359hrs 1 Jul 42 to 2359 hrs 2 Jul 42. AA15(1)	Sgt Crawford	12 Days C.B.	4 Jul 42	Lt. Col. F.D.Tweedie	4 Grf. 1 Days Pay
Field	19 Aug 42	"		AWL from 1200hrs 19 Aug 42 to 1700hrs 19 Aug 42 Sec 15(1) A.A.	CSM Doran. C.H.	7 Days C.B.	20 Aug 42	Capt W.F. Steen	

Certified True Copy

(W.F. Steen) Capt.,
O.C. "C" Coy., C.Y.R.

"B"

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED.

Carleton & York Regiment

G17668 Pte Dempsey J.G

(a) The accused has been in confinement awaiting trial on the present charges for Nil days in Civil Custody and 6 days in military custody making a total of 6 days of which Nil were spent in hospital.

(b) The present age of the accused according to his own statement is 22.

(c) The date of his attestation specified in his attestation papers is 1 Mar 40.

(d) The accused is in possession of, or entitled to no military decoration or military award (or is in possession of or entitled to)

I hereby certify that the foregoing partciulars are true extracts from the Regimental Books in my custody.

[signature]

[signature]

[illegible]
[illegible] Pte J. G. Dempsey

G-17668 Pte. Dempsey, J.G.
No.2 C.I.H.U.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this 5th day of November, 1941.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

*(1. [redacted]

*(2. [redacted]

*(3. [redacted]

[redacted]

President.

Rank.	Name.	Regiment.
Major	W.W. Henderson	No.3 Cdn Inf Hldg Unit

Members.

Rank.	Name.	Regiment.
Captain	R.H. Jorgenson	No.3 Cdn Arty Hldg Unit
Lieutenant	B.W.S. Wood	No.3 Cdn Arty Hldg Unit
Lieutenant	A.T. Seals	No.2 Cdn Inf Hldg Unit

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding Cdn Base Units, Cdn Army.
Convening Officer.

SCHEDULE.

Number, Rank (a). Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-17668 PTE. DEMPSEY, J.G. No.2 Cdn Inf Hldg Unit.	First Charge A.A. sec 15(1) See charge sheet attached.	Guilty	Guilty. 180 days detention.	Confirmed [illegible] Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [illegible] Brigadier (Signed) W.H. Henderson Maj
Commanding Cdn Base Units, Cdn Army. President.
(Convening Officer (e))

(a) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of Nov, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) [illegible]
*(4. ~~The officers under instruction~~) [illegible]

* Omit if not applicable.

were duly sworn.

Signed this 11th day of Nov 1941.

W.H. Henderson Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~And direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 15th day of November 1941.

[illegible] Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of G17668 Pte Dempsey J.G.

(a) (Dated) 20 Nov 41 (Signed) [illegible] Lieut.
Officer Commanding No. 2 Cdn Inf Hldg Unit. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, G17668 Private DEMPSEY, J.G., Carleton & York Regiment Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas) is charged with:-

First charge

When on Active Service, absenting himself without leave,

in that he,

at Laurentide Camp, Witley, Surrey, at about 2200 hours on the 8th September 1941 absented himself without leave until surrendering himself at his Company Orderly Room at about 1130 hours on the 22nd September 1941.

(F.S. MATHEWSON) Lieut-Col.
Officer Commanding
No. 2 Cdn. Inf. Holding Unit.

Laurentide Camp
Witley, Surrey
31st October 1941

To be tried by Field General Court Martial

(P.R. Phelan) Brigadier
Commanding Cdn Base Units.

Farnborough, Hants
This 5th day of Nov 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT Laurentide Camp ON THE 11th DAY OF Nov. 41.

TRIAL OF:- No. G17668 Pte Dempsey, G. J. (Carlton York Reinf., No 2 CIHU)

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) Lt. J. E. Fox (Unit) No 2 C.I.H.U.

Defending Officer:- (Name) Lt. E. R. Bennett (Unit) No 2 C.I.H.U.

At 1400 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1-

The President, members and judge-advocate (if any) are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to M15888 Pte Gottsegating as shorthand writer?

A2.- No sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.-

Q4. Do you wish to give evidence yourself or to call any witnesses as to character? A4.- Yes, Lieut. E. R. Bennett, (No 2 CIHU)

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

Lieut. E. R. Bennett having been duly sworn states:-

May it please the Court as it is abundantly proven from the accused's AFM6 that his record has not been any too good since he enlisted in the army, but it shows that the accused thought he was one of our 'tough guys'. He has not been before a Court Martial before and I think that if he got a sentence it might make a different man out of him, and may even cure him of being a tough guy. The Court should take into consideration that this man was held a long time awaiting trial (50 days), and that he is a married man with one child.

Wm Henderson - Lt

Exh.

SUMMARY OF EVIDENCE
in the case of

G17668 Private Dempsey, J.G., Carleton & York Regiment, Reinforcements, on the strength of No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Evidence taken under oath by direction of the Commanding Officer.

First Witness Prosecution G17782 Pte. King, A.J. Carleton & York Regt. Company, #2 C.I.H.U., having been duly sworn, states:

"On 8th Sept. 1941 I was Orderly Corporal of the Carleton & York Regt. Company, #2 C.I.H.U. I was present when Sgt. Christie detailed the accused to go on the Rodborough Hill Guard that evening. He was warned twice in my presence on the 0800 hours parade and on the 1700 hours parade. At 1700 hours Pte. Dempsey asked my permission to go to Milford. I told him he could go but warned him he had to be back for 2200 hours which he promised to do. At 2200 hours Sgt. Clifford reported to me that Dempsey was absent. I immediately sent a replacement and made a search of the Company lines. Pte. Dempsey was nowhere to be found. I did not see him again until he surrendered to me at 1130 hours on the 22 September 1941.

A.J. KING Pte.

Accused declines to cross-examine this witness.

Second Witness Prosecution G18037 Sgt. Clifford W.G., Carleton & York Company, #2 C.I.H.U having been duly warned, states:

"On 8th September 1941 I was in charge of the Rodborough Hill Guard. Pte. Dempsey was to go on guard at 2200 hours. At the appointed time he failed to show up. I notified L/C King and asked him for a replacement which he gave me.

W.G. CLIFFORD Sgt

The accused declines to cross-examine this witness.

SUMMARY OF EVIDENCE
in the case of

G17668 Private Dempsey, J.G., Carleton & York Regiment, Reinforcements, on the strength of No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Accused having been duly cautioned under R.P. 4(e) reserves his defence.

Certified that Rules of Procedure 4(c) (d) (e) and (f) have been duly complied with.

Taken down by me in the presence and hearing of the accused this 24th day of October 1941 at Laurentide Camp, Witley, Surrey.

_____ Lieut.
Officer detailed by O.C. #2 C.I.H.U. to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
24 October 1941

WAH.

SUMMARY OF EVIDENCE - SUPPLEMENTARY
in the case of

G17668 Private Dempsey, J.G., Carleton & York Regiment, Reinforcement, No. 2 Canadian Infantry Holding Unit, a soldier of the Canadian Army (Overseas)

Third Witness Prosecution G45501 C.S.M. Fournier, H.J. having been duly sworn, states:

"As C.S.M. of the Carleton & York Company, I always check on the absentees shown on the absentee report. From the time Pte. Dempsey was reported A.W.L. on 8-9-41 he remained absent until he surrendered to L/C King on the 22-9-41.

H J Fournier C.S.M.
(H.J. Fournier)

Accused declines to cross-examine this witness.

Accused having been duly warned under R.P. 4(e) reserves his defence.

Certified that Rules of Procedure 4(c) (d) (e) and (f) have been duly complied with.

Taken down by me in the presence and hearing of the accused, this 31st day of October 1941 at Laurentide Camp, Witley, Surrey.

J. Fox Lieut.
Officer detailed by O.C. #2 C.I.H.U. to take Summary of Evidence.

Laurentide Camp
Witley, Surrey
31 October 1941

W. Henderson Maj.

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No G-17668 Pte. DEMPSEY J.G. .....

of Carlton and York Rgm't. ...and in my opinion he

is fit / unfit to undergo Trial by Court Martial.

Station Laurentide Camp.....

Date 11-11-41.

W. C. Boulter Major
Medical Officer R.C.A.M.C.

Description of Court by which trial, or status of Officer dispensing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1/3 day of November 41

[signature] Adjutant.
No. 2 Canadian Infantry Holding Unit,
C.A.(O.)

[signature]

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

G17668 Pte. Dempsey, J.G. of the Carleton & York Regt. Reinforcements #2 C.I.H.U.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 684, K.R. 1935.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for disconnection the matters for disconnection must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A. 15(1)	12	times	16	times.
For A.A. 15(2)		times	1	times.
For A.A. 19	3	times	3	times.
For Other crimes	11	times	17	times.

Number of instances of gallantry or distinguished conduct, nil

or,

~~[illegible]~~

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

[illegible]

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for / / /

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18 day of November 41

[signature] Adjutant,
No. 2 Canadian Infantry Holding Unit,
C.A.(O.)

W.W. Henderson Maj.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

G17668 Pte. Dempsey, J.G. of the Carleton & York Regt. Reinforcements #2 C.I.H.U.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

Fire Pass. 664, E.R., 1905.

*The numbers herein stated should correspond with the number of Entries in the Conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.		*Since Enlistment.	
For A.A. 15(1)	12	times	16	times
For A.A. 15(2)		times	1	times
For A.A. 19	3	times	3	times
For Other crimes	11	times	17	times

Number of instances of gallantry or distinguished conduct, nil

or,

~~[illegible]~~

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W.H. Anderson Maj.

No. G17668 Name DEMPSEY J.G. | Sqn., Battery, or Company | Corps C.Y.R. | Date of enlistment 1-3-40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

M F M 4 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ALDERSHOT				1)Improperly dressed on street	CPL STEVENS				
CAN.	1-5-40	Pte		in Kentville. 2) Refusing to	PTE HUNTER	168 hr detn		Lt-Col H.W.	Forfeits 9
"				obey an order given by an N.C.O.	CPL SMITH			Murdock	days pay
				3) A.W.O.L. from 2200/30-4-40 till	Dr.Sutherland				
				0600/2-5-40. 4) Insubordination	Cpl Hutchinson				
				5)AWL from Morning Parade	Sgt Johnston				
"	22-5-40	"		6) Malingering in R.A.F.	Cpl Currie				
				AWL from 2359/22-5-40 to 1545	Sgt.Izzard	14 dy C.B.		Lt-Col.H.W.	Forfeits
"	1-6-40	"		28-5-40	Cpl Brown			Murdock	5 dy pay
				1)Ring leader in disturbance in	Sgt Daniels				
				Detention Room, causing damage to					
				windows (2) Using obscene		96 hr Detention			
				language in front of and to		Fined $15 damages		Lt Col H.W. Murdock	
				visiting ladies					

(P.T.O.)

Place	Date of offence	Rank	Cause of absence	Offence	Name of Offender	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Gordon Eng	6-9-40	Pte		AWL from 0600/1-9-40 to 1145/ 2-9-40 A.A. 15(1)	Sgt Craig	7 days C.B.	6 Sep 40	Major W.J. MacCallum	Forfeits 2 days pay
In Billets	26-9-40	"		AWL from 2200/26-9-40 to 0900 30-9-40	Sgt Ramearenx	14 dy C.B.	30-9-40	Lt J.B. Deveber	Forfeits 3 dy pay
In billets	15-10-40	"	1	(1) Drunkenness (2) Assault Released from the detention Barrack-Aldershot-on 8 Nov 40. Sentence having expired. Remission earned under Rules for Detention Barracks and Military Prisons" 4 days Improperly dressed on Coy Parade	C.P.C.	28 dy detn	16-10-40	C.O.	
Caterham Eng	3-1-41	"			C.S.M.	3 days C.B.	4-1-41	Lieut Beatty	

No. G17668 Name DEMPSEY J.G. Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Corps C&YR | Period not reckoning towards freedom from extra fine | Date of enlistment 1-3-40 | G.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay | Character | Sheet No. 2

M.F.M. 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
Aldershot 6-2-41		Pte		1) Not wearing anklets in Godalming A.A. 40	Cpl Boyd				
				2) Not carrying respirator, steel helmet, paybook or	L/C Conquet				
			2	identification discs AA 11	Cpl Boyd	14 days detention			
				3) Drunk in Godalming AA 19	L/C Conquet		24-2-41	Major E.J. Belanger	
				4)AWL from 2230/6-2-41 to 2300	Sgt Pope				
				6-2-41 AA 15-1	L/C Groh				
				5) Broke out of barracks when	L/C King				
				under open arrest at 2200 hr AA	L/C King	FINED $5			
				6) AWL from 2200/8-2-41 to 0700	L/C King	10-4			
				8-2-41 AA 15-1	L/C Carpenter				
				7)Broke out of barracks when					Reprimand & forfeits 1 days pay
				under open arrest at 0930 hr	Sgt MacInn				
				8) AWL 0930/9th to 1750 12-2-41	L/C Perry				
									For. 4 dy pay (P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	25-2-41	Pte		AWL from 2215/25-2-41 to 1200 27-2-41 AA 15-1	Cpl Lyons " McKay	7 days C.B.	28-2-41	W.J. MacCallum	Forfeits 2 dy pay
Witley Eng	1 Mar 41	Pte	3	Drunkenness	Cpl McDaid Sgt Coates	£10 fine	3 Mar 41	W.J.MacCallum Major	
"	" 13-3-41	Pte		AWL from 2359 hr 13-3-41 to 0630 hr 14-3-41	CplFirlotte PSM Dennison	14 days C.B.	21-3-41	J.E.Belanger Major	Forfeits 8 daysPy
"	" 6-4-41	"		AWL from 0830 hr 14-3-41 to 1530	L/C Carpenter				
				1) AA 1r-1 AWL from 0630 hr 6-4-41 to 1640 10-4-41 2) AA 11 Neglecting to obey standing orders by not wearing anklets	Cpl McDaid L/C Segar Met.Police L/C Marshall	28 days detention	15-4-41	Lt.Col.F.S.M.	Forf. 5 dy pay
Witley	6-5-41	"		AA 15-1 AWL fr 2200 18-5-41 to 1050 hours 16-5-41	CplLyons L/C Craig	27 days Detention	17-5-41	Lt.Col.Mathewson'	Forf. 3 days pay
Witley	9-6-41	"		1)AA 15-1 AWL fr 2230/9-6-41 to 2359/9-6-41 2) AA 10(4) Breaking out of Barracks while C.B.	L/C Prowse Cpl Legere Cpl Giberson	14 days C.B.	10-6-41	Major W.J.MacCallum	

No. G17668 Name DEMPSEY J.G. Sqn., Battery, or Company Corps C&YR Date of enlistment 1-3-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.P.B. 122) 500M—4-39 (1703) H.Q. 1772-42-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	12-6-41	Pte		1) AA 15-1 AWL from 1800/12-6-41 until appr in London about 1145 hours 20-6-41 2) AA 40 Neglected to obey an order	Cpl Gibeson Doc.Evid. Lt J.L.McKenna		CERTIFIED TRUE COPY [signature]		Lieut.
Laurentide Camp	22-7-41	Pte		Brought civilians into camp area on night 22-23 July 41 without permission AA 40	Capt Anderson Lt De Veber	14 days C.B.	24-7-41	Major P.E.Belanger	
"	25-7-41	Pte		1)AWL 1800/25-7-41 to 2100/1-8-41 AA 15-1 2) Not carrying identification A.A. 40	Sgt MacLean Documentary R.C.M.P.	21 days Detn	6-8-41	Lt-Col.F.S.Mathewson	
"	2-9-41	Pte		AWL 2200/2-9-41 to 2300/2-9-41 AA 15-1	CPL THOMAS	3 days C.B.	3.9.41	Major Waterson	

(P.T.O.)

BBB-2 (Count #1)

Pte Dempsey J.G.

See D-242 for last case
" N-146 " 2nd
" PP-9 " 3rd

G-17668 Private JOSEPH GORDON DEMPSEY
5 Bn, 2 CBRD BBB-2

Correspondence to be PINNED here

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this third day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Base Rft Group on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

PROCEEDINGS REVIEWED
T. C. Nash Lieut.
10 Feb 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

President

Rank		Name	Regiment
Major	W.J.	PRATT	RCOC, 8 Bn, 2 CBRD

Members

Rank		Name	Regiment
Captain	J P	O'NEIL	L Edmn R 2 Bn, 1 CBRD
Lieut	V O	AUGER	PPCLI 2 Bn, 1 CBRD

* Must be signed personally by the Officer actually in command at the time, and of sufficient rank in the composition of the Court to be entitled to do so.

Signed E W Halienby
Commanding (E W Halienby) Brigadier, 1 Cdn Base Rft Group.
Convening Officer

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-17668 Private JOSEPH GORDON DEMPSEY 5 Bn, 2 CBRD	First Charge Section 15(1) A.A. Absenting himself without leave	Not guilty	Not guilty M Pratt	
	Second Charge Section 15(1) A.A. Absenting himself without leave	guilty	guilty M Pratt	
	Third Charge Section 24(2) A.A. Losing by neglect his equipment clothing and Regimental necessaries	Not guilty	Guilty with the exception of all items listed after great coat drain M Pratt	
	(See Charge Sheet attached)		2 years imprisonment with hard labor M Pratt Jan 6/44	I confirm the findings but vary the sentence to read "To undergo free punishment for 60 days and to forfeit 60 days pay ~~to be paid~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ E W H Haldenby Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(Signed) E W Haldenby (Signed) M Pratt Mjr

(E W Haldenby) Brigadier,
Commanding 1 Cdn Base Rft Group.
Convening Officer (e)

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

(1)

CHARGE SHEET

The accused G-17668 Private Joseph Gordon Dempsey, on strength of 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A. A. 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Canada Barracks, Avellino, absented himself without leave from 2200 hours on 14 Dec 43 until apprehended at 2359 hours on 14 Dec 43.

SECOND CHARGE
A. A. 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Canada Barracks, Avellino when in open arrest absented himself without leave from 0350 hours on 15 Dec 43 until he surrendered himself at 2000 hours on 17 Dec 43.

THIRD CHARGE
A.A. 24 (2)

WHEN ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

at Canada Barracks, Avellino, on 18 Dec 43 was deficient of the following articles of clothing and equipment:

		Vocab. Price	Worn Price
Greatcoat drab	1	$17.22	12.93
Jersey pullover	1	1.51	1.14
Shirts Angola drab	1	2.06	1.53
Vests woollen	1	1.14	.87
Brush tooth	1	.09	.09
Knife table	1	.18	.18
Towels hand	1	.21	.21
Socks pairs	1	.37	.37
Peak	1	2.13	1.59
Straps shoulder haversack	2	.90	.69
Straps web supporting	2	.34	.25
Shirts bush	1	1.00	.75
Spoons n.s. dessert	1	.08	.08
TOTAL		$27.30	$20.68

Avellino, Italy
24 December 1943.

D. B. Conrad
(D. B. Conrad) Lt. Col.
Commanding
5 Bn 2 C. B. R. D.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

3 Jan 44

E. A. Baldenby
(E. A. Baldenby) BT/Lt.
Comd. 1 Cdn Base Ftt Group

Correspondence to be PINNED here

G-17668 Private JOSEPH GORDON DEMPSEY
5 Bn, 2 CBRD BBB-2

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this third day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 1 Cdn Base Rft Group on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

I hereby convene a Field General Court Martial to try said persons, and to consist of the Officers hereunder named.

*[redacted]

PROCEEDINGS REVIEWED
10 Feb 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

President

Rank		Name	Regiment
Major	W.J.	PRATT	RCOC, 6 Bn, 2 CBRD

Members

Rank		Name	Regiment
Captain	J P	O'NEIL	L Edmn R 2 Bn, 1 CBRD
Lieut	V C	AUGER	PPCLI 2 Bn, 1 CBRD

*Signed (E W Haldenby) Brigadier,
Commanding 1 Cdn Base Rft Group.
Convening Officer.

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not available.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-17668 Private JOSEPH GORDON DEMPSEY 5 Bn, 2 CBRD	First Charge Section 15(1) A.A. Absenting himself without leave	Not guilty	Not guilty M Pratt	
	Second Charge Section 15(1) A.A. Absenting himself without leave	Guilty	Guilty M Pratt	
	Third Charge Section 24(2) A.A. Losing by neglect his equipment clothing and Regimental necessaries	Not guilty	Guilty with the exception of all items listed after great coat drab M Pratt	
	(See Charge Sheet attached)		2 years imprisonment with hard labor M Pratt Jan 6/44	I confirm the findings but vary the sentence to read "To undergo free premishment for 60 days and to forfeit 60 days pay ~~[illegible]~~ E W Haldenby Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
" Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (to be recorded on separate sheet if necessary) :—

(Signed) E W Haldenby (Signed) M Pratt Mjr

(E W Haldenby) Brigadier,
Commanding 1 Cdn Base Rft Group.
Convening Officer (e)

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

(38)

MEDICAL OFFICER'S CERTIFICATE

(K.R. (Can) para 557)

I certify that I have this morning examined No. G-17666 Private Dempsey J.G. of 5 Battalion 2 C. B. R. D. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station..Field.....

Date.23.Dec.43

(Medical Officer)

39

MEDICAL OFFICER'S CERTIFICATE

(K.R. (Can) para 557)

I certify that I have this morning examined No. G-17668 Private Dempsey J.G. of 5 Battalion 2 C. B. R. D. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 23 Aug 43

[signature]
(Medical Officer)

(2)

3 Cdn Field Dressing Station

5 Jan 44.

G/17668, PTE DEMPSEY, G.J. S/Bn 2CKRD

This is to certify that the m/n soldier is fit to undergo trial by Court-Martial.

(L.W.B. Card) Major

(3)

MEDICAL OFFICER'S CERTIFICATE

(K.R. (CAN) Para 557)

I certify that I have this morning examined No.G-17668 Private Dempsey J. G. of 5 Battalion 2 C. B. R. D. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station...Nick.....

Date...6 Jan 44.....

[signature]
Medical Officer)

(1)

PAGE 1

Accused G 17668 Pte. Joseph Gordon, Wempsey 5Bn 2CBRD
(Number) (Rank) (Christian Names) (Surnames) (Unit)

Held in the Field in Italy on 5. Jan. 44.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT	Major	M. J. Pratt	RCOC 8Bn 2CBRD
MEMBERS	Captain J. F. O'Neill	Ldmn R	2Bn 1CBRD
	Lieutenant	V. O. Auger	PPCLI 2Bn 1CBRD
JUDGE ADVOCATE (if any)	N/A		
OFFICERS UNDER INSTRUCTION:	Lieut. L. A. Craig	Hsqn.	5Bn 2CBRD
	Lieut. J. C. Oliphant	12 CTR	5Bn 2CBRD
	Lieut. J. A. Wean	14 CTR	5Bn 2CBRD
PROSECUTING OFFICER	Lieut. J. K. C. Wallace	5Bn 2CBRD	no.
DEFENDING OFFICER	Lieut. R. G. P. MacLellan	CAC 5Bn 2CBRD	no.

(The following procedure must be actually carried out.)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(a)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members and the Court satisfy themselves that it is properly convened (A.A.49; R.P 105) and constituted that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P. 106).

The accused is (are) brought before the Court, and at 1000 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to the Accused:
Do you object to n/a as Interpreter? Answer _____
The interpreter is duly sworn.

Do you object to n/a as shorthand writer? Ans _____

The shorthand writer is duly sworn (Forms of Oath on Page "D").
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to the accused:

Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Answer no.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page "D"))

M J Pratt Mj.

(3)

Page 2

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has(has not) elected trial by Court Martial (A.A. 46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs 62(E) 108); or as to the jurisdiction of the Court (R.P.34) or in bar of trial (R.P. 36) or as to accused's mental fitness to stand trial (A.A. 130, R.P.57), record such pleas and evidence (if any) on separate sheet (s) to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112)
He pleads as follows.

FIRST CHARGE not guilty

SECOND CHARGE guilty

THIRD CHARGE not guilty

FOURTH CHARGE

FIFTH CHARGE

SIXTH CHARGE

SEVENTH CHARGE

EIGHTH CHARGE

NINTH CHARGE

TENTH CHARGE

ELEVENTH CHARGE

TWELFTH CHARGE

THIRTEENTH CHARGE

FOURTEENTH CHARGE

FIFTEENTH CHARGE

SIXTEENTH CHARGE

(For procedure on alternative charges, see R.P.37, fn 2)

Further proceedings are recorded on Pages hereto attached.

The following officers under instruction are duly sworn :-

Lieut. L. A. Craig, 4 Sqn. 5 Bn., 2 CBRD

Lieut. J. C. Oliphant, 12 CTR. 5 Bn. 2 CBRD

Lieut. J. A. Uran, 14 CTR, 5 Bn. 2 CBRD

[signature]

PAGE "C"

(For use when there are pleas of "Guilty" and "Not Guilty"

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. R.P.35(B) is complied with, in respect to "Guilty" pleas, by the President ascertaining that accused understands the nature of the charge(s)(fn 3) and his plea thereto, explaining the difference in procedure by the plea(RP37)(B) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. President to the Accused:
Q Do you wish to apply for adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence? (R.P.39(A). Ans No.

3. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See Record of Ebidence on Page "D").

4. The Prosecution is closed.(If submission that no prima facie case established, see R.P.40 fn 1; R.P. 70 fn 1).

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination.(R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross examined (R.P.40(D)(ii)(a)).

6. President to the Accused
Q. Do you apply to give evidence yourself as a witness? Ans No
Q. Do you intend to call any other witness in your defence? Ans No
Q. Is he a witness as to character only? (R.P.40(D)(ii)(B) Ans No

7. The evidence for the defence(if any) is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto.(For order of addresses, see R.P. 40,41 and 42).

9. The Court is now closed to consider the finding.(R.P.43 and 117)(Record Finding on Page 2 of A.F.A.3).

10. The Court being re-opened, the accused is again brought before it and the findings of "Not Guilty" (if any) are pronounced (RP117(B)).

Where the Court acquits the accused of one or more charges and find him guilty of any other charge or charges, the President of the Court, when announcing the finding(s) of not guilty will add that "The findings of the Court on the 2 & 3 charge(s) being subject to confirmation, will be promulgated later".

11. The charges, to which the accused pleaded "Guilty" are read to the accused.

12. President to the Accused
Q. Do you desire to make an statement of the circumstances in reference to the charge(s) to which you have pleaded "Guilty"(R.P.37(B) Ans No

(Statement(if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross examination thereon).

13. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings(R.P.37(B)

(P. Ia Q.)

(10)

PAGE "C" (CONT'D)

14. President to accused:

Q. Do you wish to make any statement in mitigation of punishment? R.P.37(C)
Ans Nil

No cross examination.
(Statement(if any) is recorded on separate sheet, initialled by the President and attached hereto).

15. President to accused:

Q. Do you wish to give evidence yourself or call witnesses as to character? (R.P.37(C) Ans Nil

16. Statement of Character and Service(A.F.B.296) and Field Conduct Sheet MFM 6 signed in the manner required by A. 163(1)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked "C", and "D", initialled by the President and attached to the proceedings. (R.F.46; Overseas R.C.3131).

17. President to the accused

Q. Do you wish to address the Court on the Statement of Character Service and Conduct and in mitigation of puighment? (R.P.46(D).
Answer Nil. No cross examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto).

18. The Court is now closed to consider the sentence. (Record on Page 2 of AFM.3).

When the President announces that "The Court is closed for the consideration of the sentence", he will add that "the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated".

.....
(Signature of President)

(12)

Sheet One. Charge One

First Witness (Prosecution) F34592 Sgt. Lewis Victor Dwinell 2Bn., LCBRD
The witness is sworn.

Question One. Do you recognize the accused.

Answer Yes.

Question Two. What happened on the 14th Dec. 1943?

Answer I was in charge of the town picquet. At 1700 hours I marched the town picquet to the Prov. HQ. in Avellino and turned them over to the CSM in charge. At 2130 hours I returned to march the picquet back to their barracks. I checked the picquet and Dempsey was then present. Then I Marched them back to their barracks and dismissed them.

Question Three What time did you leave the Prov. HQ?

Answer about 2140 or 2145 hours.

Question Four What time did you arrive at barracks?

Answer At about 2200 hours. It takes about 15 minutes to get there.

Question Five. Did you check the picquet on arrival at barracks?

Answer No.

Cross-examined

Question One. Did you check the picquet when it was dismissed?

Answer No.

RP 83(A) complied with.

Second Witness (Prosecution) H59040 Sgt. John Albert Tippett 1 Can. L of C Prov. Coy. Witness is sworn.

Question One. Do you recognize the accused?

Answer Yes.

Question Two What happenedon 14 Dec. 43?

Answer On the night of 14 Dec. 43 I was on duty with L/Cpl Luchene patrolling the streets of Avellino. At about 2359 hours we saw three soldiers on the streets. We placed them under arrest and took them to the Prov. Office where I took down their particulars. One of them was Dempsey. I had these soldiers escorted to their own barracks and released to open arrest.

Question Three. Why did you arrest these soldiers?

Answer Because they were out on the streets after the military curfew 2100 hours.

Defence declines to cross-examine.

RP 83 (A) complied with

Sheet Two. 1 Cdn. H of C. Prov Coy.

Third Witness (Prosecution) L55216 L/Cpl George Andrew Luchene (The witness is sworn.

Q1 Do you recognize the accused?

A Yes.

Q2 What happened the night of 14 Dec. 43?

A Sgt. Tippett and I saw the accused with two other soldiers on the streets after curfew. They could give no satisfactory answer as to why they were there. We took them to the Prov. Office and took their particulars. I then escorted them to 2CBRD where I turned them over to the guard Cmndr. with particulars of the case.

Q3 What time approximately were you at the Prov. H.Q.?

A About 2359.

Q4 What time did you arrive at the men's own barracks?

A At about 0030 hours.

Defence declines to cross-examine.

Defence moves under R.P. 40 fn 1; R.P. 70 fn 1 that no prima facie case has been established by the prosecution.

The court is now closed to consider defence's submission that no prima facie case has been established.

Court re-opens

Pres. The accused is found not guilty on the 1st charge.

Charge Three

First Witness (Prosecution) K42841 C/SM William Gordon Hall 5 Bn., 2 CBRD The witness is sworn.

Question one. Do you recognize the accused?

A Yes.

Q2 Give a statement regarding your kit inspection and deficiencies discovered of the accused's kit.

A I am the C/SM of 5 coy. 5Bn. 2 CBRD. at 0630 hours on the morning of 15 Dec. 43 I was notifiedof the Absence of the accused. I removed to my stores the kit which the accused had left behind. On the morning of the 16th I was notified that the accused had returned and I returned his kit. Later in the morning I had a kit inspection and found deficiencies as listed.

Defence declines to cross-examine.

Examined by the Court.

Q1. Is the accused short of kit now?

A I don't know.

Q2 Have you any idea if any of it has been replaced?

A no idea at all.

Hall mjr (14)

Sheet Three

Q3 Have you a list of prices of the articles of clothing and neccessaries?

A. yes.

Q4 Can you show an up-to-date price list?

A. That is the only one I have.

The defence submits no prima facie case has been established by the prosecution R.P. 40 fn 1 and AA24 fn 6

The court is closed to consider the submission by the defence that no prima facie case has been established by the prosecution

The court re-opens under R.P. 86 d and recalls C MS Hall

The court examines the witness.

Q1 Can you tell us to the best of your knowledge if the accused had his kit prior to your inspection?

A Yes. The accused was issued with kit in Casserta and again at Canada Barracks prior to his absence.

Q2 This kit would include the items listed as short?

A Yes.

Q3 Since coming to Canada Barracks do you recall when the last kit inspection was at which the accused would be present?

A I could not swear to it.

Q4 The prices as listed would be turnedin by yourself?

A Yes.

Q5 Can you give the prices as they stand now?

A Yes.

Q6 Will you submit to the court a list of these prices?

A Yes.

A vocabulary price is produced by the C MS and marked exhibit "A"

Sheet Four

Cross-examined by defence

Q1 At Casserta or Canada Barracks were a large number of men issued ith kit they were short?

A Yes

Q2 Would this include the items on the list in the summary of evidence

A Yes. The larger shortages were jersey pull-overs and shirts, anigola, drab.

Q3 Could you say definitely that Dempsey was issued with the items shown listed short?

A Yes

The court questions the accused

Q1 Are you able to or have you been able to find this kit or are you still short?

A I have some ot the items.

Q2 Can you bring these items ofkit to the court?

A They are at 3 FDS

The court is closed in order to allow the accused to produce the items.

The court is re-opened at 0945 hours 6 Jan.44

The accused produces some kit. COMS Hall is called by the court to check the kit. The accused produces a list of this kit which is checked against the items and is handed in as evidence and marked exhibit "B"

RP&3(6) complied with

COMS Hall is re-called by the defence and is sworn.

Q1. What is this list?

A A list of clothing and equipment belonging to the accused and just produced in court before me.

Q2 Is it correct according to the check just made by you?

A Yes, it is correct.

Cross-examined

Q1 Would you have any way of knowing that this is his kit?

A His number is on part of it.

Q2 Was his original kit all marked?

A I don't believe all of it was.

RP&3(6) complied with

Exhibit "B"

(21)

Jersey Pullover — 1
Shirts angola drab — 1
Vests woolen — 1
Brush tooth — 1
Knife table — 1
Towels hand — 1
Socks pr. — 1
Pack — 1
Straps Shoulder Haversack — 2
Straps web Supporting — 2
Shirts bush — 1
Spoons N.S. Dessert — 1

Part of Kit Produced By Accused
[illegible]

(20)

Article	Vocab. Price. Exhibit "A"
Greatcoat drab.	$ 17.22
Jersey Pullover	1.51
Shirts Angola drab.	2.05
Vests Woollen	1.14
Brush Tooth	.09
Knife Table	.18
Towels Hand.	.21
Socks. prs.	.37
Pack.	2.13
Straps Shoulder Haversack	.45
Straps Web. Supporting	.17
Shirts Bush	1.00
Spoons. N. S. Dessert	.08

W G Hall.
C. I. M. S. 3 Coy.
5 Bn. 2 C. B. R. D.

[illegible]

(36)

LIST OF EXHIBITS

EXHIBIT "A" - List of Deficiencies of kit.

(33)

LIST OF WITNESSES FOR THE PROSECUTION

FIRST WITNESS: F-34592 Sergeant Lewis Victor Dwinell
5 Battalion 2 C. B. R. D.

SECOND WITNESS; H-59040 Sergeant John Albert Tippett
No. 1 Cdn L. of C. provost Coy.

THIRD WITNESS; L-55216 L/Cpl George Andrew Lachene
No. 1 Cdn L. of C. Provost Company.

FOURTH WITNESS: C-221424 Sergeant Bernard Patrick Wilmot
5 Battalion 2 C. B. R. D.

FIFTH WITNESS: F-34561 Company Sergeant Major David Percy Gammon
5 Battalion 2 C. B. R. D.

SIXTH WITNESS: L-93641 Sergeant Dan James Stewart
5 Battalion 2 C. B. R. D.

SEVENTH WITNESS: F-86727 Private Henry Joseph Blise
5 Bn 2 C. B. R. D.

EIGHTH WITNESS F-43821 Private Merlin Lyle Spidle
5 Bn 2 C. B. R. D.

NINTH WITNESS H-77146 Sergeant George William Harrod
5 Bn 2 C. B. R. D.

TENTH WITNESS K-42841 C.Q.M.S. William Gordon Hall
5 Battalion 2 C. B. R. D.

LIST OF WITNESSES FOR THE DEFENCE

N i l.

(23)

G.17668 Pte. Dempsey J.G.

Deficiencies of kit as of 18 Dec.43

Greatcoats Drab	1	$17.22
Jersey Pullover	1	1.51
Shirts Angola Drab	1	2.05
Vests Woollen	1	1.14
Brush Tooth	1	.09
Knife Table	1	.18
Towels Hand	1	.21
Socks prs	1	.37
Pack	1	2.13
Straps Sholder Haversack	2	.90
Straps Web Supporting	2	.34
Shirts Khush	1	1.00
Spoons N.S. Dessert	1	.06
		$27.30

W.G.W.C.
C.Q.M.S. #3 Coy.

This is Exhibit "A" referred to in the case of G-17668 Pte Dempsey J.G. taken before me this 22nd day of December 1943.

J Cowley Lieut
Officer detailed to take the summary of evidence

REQUEST FOR DEFENDING OFFICER

I, No. G-17668 Private Dempsey J. G. request that in event of a Court Martial being held, that I be represented by Lieutenant J.A. Brooks, Canadian Armoured Corps, on strength 5 Battalion 2 Canadian Base Reinforcement Depot.

Avellino, Italy
22 December 1943.

G-17668 Private Dempsey J.G.

Witnessed by:

(D.G. Blair) Lieut.

C.17668 Pte. Dempsey J.C.

Deficiencies of kit as of 18 Dec.43

Greatcoats Drab	1	$17.22
Jersey Pullover	1	1.51
Shirts Angola Drab	1	2.05
Vests Woollen	1	1.14
Brush Tooth	1	.09
Knife Table	1	.18
Towels Hand	1	.21
Socks prs	1	.39
Pack	1	2.13
Straps Shoulder Haversack	2	.90
Straps Web Supporting	2	.34
Shirts Khaki	1	1.00
Spoons N.S. Dessert	1	.08
		$27.30

C.Q.M.S. 73 Coy.

This is Exhibit "A" referred to in the case of C-17668 Pte Dempsey J.C. taken before me this 22nd day of December 43

Officer detailed to take the Summary of Evidence

(40)

[illegible]

I. G 17668 Pte. Joseph Gordon Dempsey request that in event of a court-martial being held that I be represented by Lieutenant J. A. Brooks, Canadian Armoured Corps, on strength 5 Battalion 2 C. B. R. D.

J. G. Dempsey
G 17668 Pte Dempsey J.G.

Witnessed by
J Gourlay Lieut
(J Gourlay) Lieut.

Summary of Evidence in the case of G-17668 Private Joseph Gordon Dempsey, on strength of 5 Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken upon oath.

FIRST WITNESS (For the Prosecution)

F-34592 Sergeant Lewis Victor Dwinell, on strength 5 Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, States:

"Sir, On 14 Dec 43 I was in charge of the town picquet. I marched the picquet to Provost Headquarters at 1700 hours and turned it over to the C.S.M. in charge. At 2130 hours I returned to pick up the picquet and march it back to barracks. I checked the picquet and all were present, including Pte Dempsey and Pte Capstick. I fell in at the head of the party and marched it back to barracks. After returning to the barracks, I dismissed the picquet. That is all, Sir:

Q. Did you check picquet to see that all were present before dismissal.

A. No Sir.

The accused declines to cross examine the witness.

Signed: L.V. Dwinell

F-34592 Sgt Dwinell L.V.

SECOND WITNESS (For the Prosecution)

H-59040 Sergeant John Albert Tippett, of No. 1 Cdn L. of C. Provost Coy, a soldier in the Canadian Army Overseas, having been duly sworn states:

On the night of 14 Dec 43, I was on street patrol in Avellino accompanied by L/Cpl Inchame, At approximately 2359 hours I checked Pte Capstick and Pte Dempsey for being on the street after Military Curfew. They were escorted to Provost Company Headquarters where I took their particulars. I detailed a Provost escort to take them back to 5 Battalion and released them under open arrest. That is all sir.

Q. Do you recognize the two men?

A. I Do sir.

Accused declines to cross examine the witness.

Signed: J.A. Tippett.

H-59040 Sgt Tippett J.A.

THIRD WITNESS (For the Prosecution)

L-66216 L/Cpl George Andrew Inchame, of No. 1 Cdn L. Of C. Provost Company, a soldier in the Canadian Army Overseas, having been duly sworn states:

While on duty on the night of 14 Dec 43, accompanying Sergeant Tippett, we saw Pte Capstick and Pte Dempsey on the street in Avellino. We questioned them but they could not give us a satisfactory answer for being out on the street. We placed them under arrest and escorted them to the Provost office. Sgt Tippett took their particulars and warned them a charge would be forwarded. I escorted them to their billets

Mj Pratt Mjr (29)

at 2 C. B. R. D. and gave their names to the Sergeant in charge of the guard. That is all sir.

Q. At what time did you meet these men on the street in Avellino?

A. At 2359 hours.

Q. What time did you escort them to their billets?

A. At approximately 0030 hours.

Accused declines to cross examine the witness.

Signed: G.A. Luchene

L-55216 L/Cpl Luchene G.A.

Fourth Witness
(For the Prosecution)

C-221424 Sergeant Bernard Patrick Wilmont, on strength 5 Battalion 2 C. B. R. D., a soldier in the Canadian Army Overseas, having been duly sworn states.

During my tour of duty as guard commander 15 Dec 43 at approximately 0030 hours a Lance Corporal from the Provost reported to me that he had brought three men from No. 3 Company in from town and had taken them to their billets. He said charges would be sent in next morning, also that they were under open arrest. The names he gave were Privates Capstick and Dempsey and McLenaghan. At approximately 0310 hours a report came to me that three men were seen near No. 3 Company billets with packs on. I sent out one N.C.O. and part of my guard to investigate. They did not find anyone. At approximately 0325 hours Private Spidle who was on sentry duty at the West gate reported to me that three men were trying to get out. I sent one N.C.O. and four men to bring the three men to the guardroom. On arriving the guards found the three men gone. I reported to No. 3 Company Sergeant Major. I then turned in a report to the Military Police on duty. That is all Sir.

Accused declines to cross-examine the witness.

Signed: Sgt. Wilmot B.P.

C-22142 Sgt Wilmot B.P.

Fifth Witness
(For the Prosecution)

F-34561 Company Sergeant Major David Percy Gammon, on strength 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn states.

At approximately 0330 hours 15 Dec 43, I was awakened by the guard commander, Sgt Wilmot, who told me he had information that three men were seen leaving the buildings occupied by No. 3 Company. I checked my company lines. I found three men absent, one of which was the accused, Private Dempsey. At reviello 15 Dec 43 I asked the Company Orderly Sergeant coming on duty to check as to whether or not Private Dempsey was present. He reported him still absent.

That is all.

Accused declines to cross-examine the witness.

Signed: D.P. Gammon

F-34561 C.S.M. Gammon D.P.

SIXTH WITNESS (For the Prosecution) L-93641 Sergeant Dan James Stewart, on strength 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states.

As Orderly Sergeant No. 3 Company, I checked the Company lines at reveille 15 Dec 43 for absentees. Private Dempsey was not present. I turned in an Absentee Report. That is all, Sir.

Accused declines to cross-examine the witness.

Signed: D.J. Stewart

L-93641 Sgt Stewart D.J.

SEVENTH WITNESS: (For the Prosecution) F-86727 Private Henry Joseph Muise, on strength 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states.

At approximately 0330 hours 15 Dec 43, I was on duty as a sentry at the West gate of Canada Barracks when Private Dempsey and Private Capstick appeared at the gate accompanied by another soldier. They wanted to get out and I wouldn't let them through the gate. The three men were carrying packs. They left the gate and I sent Private Spidle to get the guard commander. I heard some noise along the wall. When I stepped out from the gate I saw a man disappear over the wall. Later Private Spidle came back with four more guards. The three men had disappeared by this time.

Q. Did they have anything else besides packs in the way of equipment?

A. They were wearing cap comforters and greatcoats.

Q. Were they wearing webbing or carrying weapons?

A. No, Sir.

Q. Do you recognize Private Dempsey?

A. Yes Sir.

Q. Was it a moonlight night or very dark?

A. It was a moonlight night.

The accused cross-examines the witness.

Q. When you were put on post by the guard commander were you issued with a light?

A. No.

Q. How could you recognize the three men without a light?

A. The men were standing within two or three feet from me and I could easily recognize them.

Q. How far away were the soldiers getting over the fence when you saw them?

A. About one hundred yards.

H. J. Muise H. J.

F-86727 Pte Muise H.J.

NINTH WITNESS
(For the prosecution)

P-43821 Private Merlin Lyle Spidle on strength 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

While I was on sentry duty at the West Gate of Canada Barracks at approximately 0330 hours on 15 Dec 43, three soldiers came to the gate wanting to get out. The other guard and I refused to let them out. They then left the gate. Private Muise, the other guard, sent me for the sergeant of the Guard. The sergeant sent four men to the gate and when we got there, Private Muise said he had seen the men go over the wall. He saw the last man go over the wall.

Q. What were the men wearing on first approaching the gate?

A. They were wearing greatcoats and carried packs.

Q. Do you know Private Dempsey?

A. Yes Sir.

Q. Would you say he was one of the men who came to the gate?

A. Yes Sir.

Q. Did Private Dempsey use abusive language?

A. No Sir.

The accused cross examines the witness.

Q. When the three above soldiers approached the gate did you challenge them?

A. No. Sir. It was moonlight and the gate was shut.

Q. Did you ask the three soldiers for identification?

A. No Sir.

Signed: M. L. Spidle

P-43821 Private Spidle M. L.

(32)

TENTH WITNESS
(For the Prosecution)

H-77146 Sergeant George William Herrod, on strength 5 Battalion, 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states.

At approximately 2000 hours on 17 Dec 43, I was guard commander. G-17668 Pte Dempsey J.G. walked into the guardroom and said he was A.W.L. and was giving himself up. On questioning he admitted being A.W.L. since the previous Wednesday morning 15 Dec 43. I placed him under close arrest and sent him to Detention Barracks under escort. That is all Sir.

Accused declines to cross-examine the witness.

Signed: Geo Herrod

H-77146 Sgt Herrod G.W.

TENTH WITNESS
(For the Prosecution)

K-42841 C.Q.M.S. William Gordon Hall, on strength of 5 Battalion 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas having been duly sworn states.

I am the C.Q.M.S. of No. 3 Company. On the morning of 15 Dec 43 at 0630 hours on being notified of the absence of Pte Dempsey, I immediately picked up all the clothing and equipment he had left behind. On morning of 18 Dec 43 I returned the clothing and equipment belonging to Pte Dempsey. Later the same morning I inspected his kit and found deficiencies.

Q. I show you this document. What is it?

A. It is a list of deficiencies in the kit of Private Dempsey and signed by me on the 18 Dec 43.(Attached hereto) and marked Exhibit "A")

Accused declines to cross-examine the witness.

Signed: W.S. Hall

K-42841 C.W.M.S. Hall W.G.

The accused was cautioned as follows:
Do you wish to make a statement or give evidence on oath?
You are not required to do so unless you wish but any statement you may make or any evidence you may give will be taken down in writing and may be used in evidence.

Accused declines to make any statement or give evidence on oath.

I certify that the foregoing Summary of Evidence was taken down by me in the presence and hearing of the accused and in accordance with Rules of Procedure 4 (c) (d) (e) and (f).

J. Gourlay Lieut

Lieut. J. Gourlay.

1

Summary of Evidence in the case of G. 17668 (47)
Private Joseph Gordon Dempsey, on strength of 5 Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken upon oath.

1st Witness

F 34592 Sergeant Lewis Victor Dwinell, on strength 5 Battalion, 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas having been duly sworn states:

"Sir, On 14 Dec 43 I was in charge of the town picket. I marched the piquet to Provost Headquarters at 1700 hrs. and turned it over to the C. S. M. in charge. At 2130 hrs. I returned to pick up the piquet and march it back to barracks. I checked the piquet and all were present, including Pte. Dempsey and Pte Capstick. I fell in at the head of the party and marched it back to barracks. After returning to the barracks, I dismissed the piquet. That is all, Sir:

Q. Did you check piquet to see that all were present before dismissal

A No Sir

The accused declines to cross examine the witness

[signature]

L. V. Dwinell
F 34592 Sgt Dwinell L. V.

Witness H 59040 Sergeant John Albert Tippett, of No 1 Cdn L of C. Provost Coy, a soldier in the Canadian Army Overseas, having been duly sworn states,

On night of 14 Dec 43 I was on street patrol in Avellino accompanied by Lt Cpt Luchese. At approximately 2359 hours I checked Pte Capstick and Pte Dempsey for being on the street after Military Curfew. They were escorted to Provost Coy Headquarters where I took their particulars. I detailed a Provost escort to take them back to 5 Battalion, and released them under open arrest. That is all sir.

Q. Do you recognized the two men?

A. I do sir.

Accused declines to cross examine the witness

J. Tippett
H 59040 Sgt Tippett J A.

[illegible] mjr

Witness L55216 L/Cpl George Andrew Luchene, of ~~the L.L.of C.~~ No 1 Cdn L.of C. Provost Coy., a soldier in the Canadian Army Overseas, having been duly sworn states,

While on duty on night 14 Dec 43 accompanying Sergeant Tippett we saw Pte Capstick and Pte Dempsey on the street in Avelino. We questioned them but they could not give us a satisfactory answer for being out on the street. We placed them under arrest and escorted them to the Provost Office. Sgt Tippett took their particulars and warned them a charge would be forwarded. Escorted them to their billets at 2 C.B.R.D. and gave their names to the Sergeant in charge of the guard. That is all sir.

Q. At what time did you meet these men on the street in Avelino?

A. At 2359 hrs.

Q. What time did you escort them to their billets?

A. At approximately 0030 hrs.

Accused declines to cross-examine the witness

G. A. Luchene
L55216 L/Cpl Luchene G.A.

[illegible]

(41)

4 Sergeant
Witness G 22142 Bernard Patrick Wilmot, on strength 5 Battalion 2 CBRD. a soldier in the Canadian Army Overseas, having been duly sworn states:

During my tour of duty as guard commander 15 Dec 43 at approximately 0630 hours a Lance Corporal from the Provost reported to me that he had brought three men from No 3 Company in from town and had taken them to their billets. He said charges would be sent in next morning, also that they were under open arrest. The names he gave were Privates Capstick and Dempsey and ~~[illegible]~~ McLanaghan. At approximately 0310 hours a report came to me that three men were seen near No 3 Company billets with packs on. I sent out one N.C.O. and part of my guard to investigate. They did not find anyone. At approximately 0325 hours Private Spidle who was on sentry duty at the West gate reported to me that three men were trying to get out. I sent one N.C.O. and four men to bring the three men to the guardroom. On arriving the guards found the three men gone. I reported to No 3 Company Sergeant Major. I then turned in a report to the Military Police on duty. That is all sir.

Accused declines to cross examine witness

Sgt Wilmot B.P.
G 22142 Sgt Wilmot B.P.

[illegible] Maj

Witness F 34561 Company Sergeant Major David Percy Gammon, on strength 5 Battalion 2 C.M.D., having been duly sworn states,

at approximately 0830 hours 15 Dec 43 I was awakened by the guard commander, Sgt Wilmot who told me he had information that three men were seen leaving the buildings occupied by No 2 Company. I checked my company lines. I found 3 men absent, one of which was the accused, Private Dempsey. At reveille 15 Dec 43 I marked the Company Orderly Sergeant coming on duty to check as to whether or not Private Dempsey was present. He reported him still absent.

That is all.

Accused declines to cross-examine the witness.

D.P. Gammon.
F 34561 CSM Gammon D. P.

(46)

Witness L 93641 Sergeant Dan James Stewart, on strength 5 Battalion 2 C.A.R.D. a soldier in the Canadian Army Overseas, having been duly sworn states,

As Orderly Sergeant No 3 Coy. 2 checked the Company lines at Reveille 15 Dec 42 for absentees. Private Dempsey was not present. ~~That is all sir.~~ I turned in an Absentee Report. That is all. Sir.

Accused declines to cross examine the witness

D J Stewart
L 93641 Sgt Stewart D.J.

D J Reid Maj.

Witness F86727 Private Henry Joseph Muise on strength 5 Battalion, 2 C.B.R.D., a soldier in the Canadian Army Overseas, having been duly sworn states.

At approximately 0330 hours 15 Dec 43, I was on duty as a sentry at the West gate of Canada Barracks when Private Dempsey and Private Capstick appeared at the gate accompanied by another soldier. They wanted to get out and I wouldn't let them through the gate. The three men were carrying packs. They left the gate and I sent Private Spidle to get the guard commander. I heard some noise along the wall. When I stepped out from the gate I saw a man disappear over the wall. Later Private Spidle came back with four more guards. The three men had disappeared by this time.

Q. Did they have anything else besides packs in the way of equipment?

A. They were wearing cap comforters and greatcoats.

Q. Were they wearing webbing or carrying weapons?

A. No, sir.

Q. Do you recognize Private Dempsey?

A. Yes sir.

Q. Was it a moonlight night or very dark?

A. It was a moonlight night.

The accused cross examines the witness.

Q. When you were put on post by the guard commander were you issued with a light?

A. No.

Q. How could you recognize the [illegible] without a light?

A. The men were standing within two or three feet from me and I could easily recognize them.

[illegible]

8

(48)

Q. How far away were the soldiers getting over the fence when you saw them?

A. About one hundred yards.

M J Pratt Mgr

H J Muise

F 86727 Pte Muise H.J.

8.A

W J Pratt Mgr

(49)

8th Witness

F 43821 Private Merlin Lyle Spidle on strength 5 Battalion 2 C B R D, ~~has~~ a soldier in the Canadian Army Overseas, having been duly sworn, states as follows:

While I was on sentry duty at the West Gate of Canada Barracks at approximately 0330 hours on 15 Dec 43, three soldiers came to the gate wanting to get out. The other guard and I refused to let them out. They then left the gate. Private Muise the other guard sent me for the Sergeant of the Guard. The Sergeant sent four men to the gate and when we got there, Private Muise said he had seen the men go over the wall. He saw the last man go over the wall.

Q. What were the men wearing on first approaching the Gate?

A. They were wearing Greatcoats and carried packs.

Q. Do you know Private Dempsey?

A. Yes sir?

Q. Would you say he was one of the men who came to the gate?

A. Yes sir.

Q. Did Private Dempsey use abusive language?

A. No sir.

The accused cross-examines the witness

Q. When the three above soldiers approached the gate did you challenge them?

A. No. Sir. It was moonlight and the gate was shut.

Q. Did you ask the three soldiers for ~~identity~~ identification?

8[illegible].

A. No sir.

M J Rae Dry

(50)

M L Spidle

F43821 Private Spidle M.L.

9. (51)

9th Witness H 77146 Sergeant George William Herrod, on strength 5 Battalion, 2 Canadian Base Reinforcement Depot, a soldier in the Canadian Army Overseas, having been duly sworn states.

At approximately 2000 hours on 17 Dec 43 I was guard commander. G 17668 Pte Dempsey J.G. walked into the guardroom and said he was A.W.L. and was giving himself up. On questioning he admitted being A.W.L. since the previous Wednesday Morning 15 Dec 43. I placed him under close arrest and sent him to Detention Barracks under escort.

That is all Sir.

Accused declines to cross examine the witness

G W Herrod
H 77146 Sgt Herrod G.W.

[illegible] Mjr

10th Witness. K 42841 C.Q.M.S. William Gordon Hall, on strength of 5 Battalion 2 C.B.R.D. a soldier in the Canadian Army Overseas having been duly sworn states.

I am the C.Q.M.S. of No 3 Coy. On the morning of 15 Dec 43 at 0630 hours on being notified of the absence of Pte Dempsey I immediately picked up all the clothing and equipment he had left behind. On morning of 18 Dec 43 I returned the clothing and equipment belonging to Pte Dempsey. Later the same morning I inspected his kit and found deficiencies.

Q. I show you this document What is it?

A. It is a list of deficiencies in the kit of Private Dempsey and signed by me on the 18 Dec 43. (attached hereto and marked Exhibit A)

Accused declines to crossexamine the witness

W. G. Hall
K 42841 C.Q.M.S.
Hall W. G.

[illegible]

The accused was 11 cautioned as follows:
Do you wish to make a statement or give evidence on Oath? You are not required to do so unless you wish but any statement you may make or any evidence you may give will be taken down in writing and may be used in evidence.

Accused declines to make any statement or give evidence on Oath.

I certify that the foregoing summary of evidence was taken down by me in the presence and hearing of the accused and in accordance with Rules of Procedure 4 (c) (d) (e) and (f)

J Gourlay Lieut
Lieut J Gourlay

[illegible]

M.F.M. 6
(A.F. B.122)
40/P & /S136 (2965)

(24)

No. G-17668 Name Dempsey, J.G. COPY Sqn., Battery, or Company Taken from MFM 2 Corps Date of enlistment G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Capt. A.C. Allen Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Mar 41	Pte		AWL forfeits 7 days pay F.R.& I (1)(a)		Forf. 7 dys pay	22 Mar 41		
Field	6 Apr 41	Pte		AWL 28 Days Detention, Forfeits 28 days pay & 5 days pay FR & I 149(a)		28 days detention. 33 dys pay forfeits.	15 Apr 41		
Field	7 May 41	Pte.		AWL 27 days detention. Total Forf. of 35 days pay FR & I 149(1)a & b		27 dys. detention Forf. 35 dys. pay	22 May 41		
Field	11 Nov 41	Pte.		FCCM 180 dys detention and total of forfeiture of 243 dys pay		180 dys detention Forf 243 dys pay	19 Nov 41		
Field	6 Apr 42	Pte.		AWL Forf 1 dys pay 7 dys CB		7 dys CB Forf 1 dys pay	15 Apr 42		

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 May 42	Pte.		A.A. Sec 40 7 dys F.P. 7 dys pay		~~7 dys pay~~ 7 dys F.P.	22 May 42		
Field	20 May 42	Pte.		AWL 28 dys detention. Forf. 32 dys pay Stoppage of 7/4. RR&I 149(1)(a) &(b)		28 dys Detention 32 dys pay Forf.	1 June 42		
Field	4 Jul 42	Pte.		Awarded 12 dys CB Forf. 1 dys pay RR&I 149 (1)(a)		12 dys CB Forf. 1 dys pay	6 Jul42		
Field	4 Sep 42	Pte.		WOCM 9 months detention. Forf. 285 dys pay		9 months Detention Forf. 285 dys pay	14 Sep 42		
Field	27 Apr 43	Pte.		Sec. 15(1) Forf. 8 dys pay		Forf. 8 dys pay	15 May 43		
Field	25 May 43	Pte.		Sec. 40 A.A. Awarded 3 dys pay		3 dys pay	2 Jun 43		

COPY

TAKEN FROM MFM 2

No. C-17668 Name Dempsey, J.C. Sqn., Battery, or Company Corps Date of enlistment G.C. Badges Service or Proficiency Pay (23) M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. A.C. Allen Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Sep 40	Pte		Forf. 2 days pay 149 (1)(a) F.R.& I		Forf 2 days pay		7 Sep 40	
Field	30 Sep 40	Pte.		AWL. awarded 14 days CB forf 4 days pay F.R. & I 149 (1)(a)		Forf 4 dys pay		11 Oct 40	
Field	16 Oct 40	Pte	1	Awa ded 28 dys Det. (1) Drunkeness (2)Assault Forf. 4 dys pay FR&I 149(1)(b)		28 dys detention Forf. 28 dys pay		25 Oct 40	
Field	7 Jan 41	Pte		Refusing to obey an order given by a Sr. NCO (Sec 40AA)		5 dys F.P. Forf 5 dys pay		17 Jan 41	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 41	Pte	2	W.O.A.S. was at 1845 hrs, 6 Feb 41 without anklets(2)not carrying respirator or steel helmet, not carrying Pay Book or identification disc(3) Drunkenness(2)(4)AWL from 2200 hrs. 6 Feb 41 to 2300 hrs. 6 Feb 41(5) Breaking out of barracks when under open arrest 9 Feb 41(6) AWL from 2200 hrs 8 Feb 41 to 0700 hrs. 9 Feb 41.(7) Breaking out of barracks when under open arrest 9 Feb 41 (8) AWL from 0930 hrs. 9 Feb 41 to 1750 hrs. 14 Feb 41		14 dys Detention $5.00 Fine Forf. 4 dys pay	18 Feb 41		
Field	28 Feb 41	Pte		AWL 25 Feb 41 7 dys CB Forf 3 dys pay KR&I 149 (1)(a)		7 dys CB Forf. 4 dys pay	1 Mar 41		
Field	3 Mar 41	Pte	3	Drunk in Barracks 3 Mar 41		Fine $10.00 KR&I 151 (g)	5 Mar 41		

G-17668

No. Name Dempsey, J.G. COPY Sqn., Battery, or Company Corps C.I.C. Date of enlistment G.C. Badges Service or Proficiency Pay (25) M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Capt. A.C. Allen Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	14 Aug 43	Pte.		A.A. Sec 15(1) 3 dys, 16 hours, 30 min A.A. Sec 8(1) 1030 hrs. did kick on L/Cpl. Hoobs, G.A.K.A.A. Sec 10 (3) Resisted arrest A.A. Sec. 40 told a falsehood to a NCO	Documentary	60 dys detention	31 Aug 43	FGCM	

Certified True Copy

(G.M.C. Arthurs) Capt. & Adjt.
7 Cdn. Infantry Rft Unit
5 Sept 1943

(26)

M.F.M. 6
(A.F. B.122)
49/P & /S136 (2966)

No. G-17668 Name Dempsey, J.G. COPY Sqn., Battery, or Company Corps Date of enlistment 1-3-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Temporary Signature O.C. Company, etc. Capt. A.C. Allen Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET 10 Aug 43	F.J.	Dempster, Major			
Field	1-9-43	Pte.		WOAS AWL while a defaulter from 1330 hrs. 7/8/43 till 0800 hrs. 10/8/43 (Abs 2 days) 18 hrs.)30 min.)A.A.Sec.5 (1)	L/C Green,J.	7 dys F.P. 7 dys pay	10 Aug 43	W.C. Lawson Lt. Col.	3 dys pay FR& I 149(1)(a)
Field	14 Aug 43	Pte.		(1)WOAS AWL whilst undergoing FP from 1800 hrs 14 Aug 43 until being appre. by CMP 1030 hrs. 18 Aug 43, incuring costs of apprehension 1-1-0 (Absent 3 dys, 16 hrs, 30 min.)A.A. Sec 15(1)	L/Cpl. Green Documentary	60 dys detention Cost of Appre. £1-1-0 (Combined punishment)	31 Aug 43	FGCM	Total Forf. of pay 73 dys DO 180(1) (4 dys ofa/m Forf. under FRI 149(1)(a)
				(2)WOAS charged under A.A. Sec 8(1)	Documentary				
				(3)WOAS charged under A.A. Sec 10(3)	Documentary				
				(4)WOAS charged under A.A. Sec 8 (2)	Documentary				

TEMPORARY SHEET

No. G-17668 Name Dempsey, J.C. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | (27) M.F.M. 6 (A.F. B.1121) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. Capt. A.C. Alle | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Dec 43	Pte.		(1)A.A.40WOAS conduct to the prejudice, etc. causing disturbance on the street (2) A.A.9(2)when ordered to move by provost failed to do so	Documentary	7 dys F.P. and to forf. 7 dys pay under Rule 140 (1)(b)	2 Dec 43	T.N. Mills Major	
In the field	20 Nov 43	Pte.		WOAS contrary to the prejudice of good order and military discipline in that he did not report to the Coy Ord room at 1650 hrs. 20 Nov 43(A.A. Sec 40	Sgt. Tatteriel	3 dys CB	21 Nov 43	Capt. P.C. Seaby	A

CERTIFIED TRUE COPY

P C Seaby Capt.

(P.C. Seaby) Capt.

The Officer having custody of the Original Documents.

Exhibit (C) (22)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

NUMBER	RANK	NAME	REGIMENT
G-17668	Pte	Dempsey G. S.	5 Bn 2 C. B. R. D.

1. The following is a fair and true summary of the entries in the Company Conduct Sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since Enlistment
For A. W. L.	Two (2) times	Thirteen (13) times
For A. A. Sec 40 Four (4)	times	Ten (10) times
For Drunkenness	NIL times	Three (3) times
For Breaking Barracks	NIL times	Two (2) times

2. Previous convictions of the accused by a Court-Martial are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges for nil days in civil custody, and 19 days in military custody, making a total of 19 days in custody, of which 10 days were spent in hospital.

5. The present age of the accused according to his record of service is 24 years 6 months 23 days

6. The accused is in possession of or entitled to no military decoration or military reward.

SCHEDULE

Of convictions by a court-martial of accused, Number G-17668 Rank Pte. Name Dempsey G. S. of 5 Battalion 2 Canadian Base Reinforcement Depot.

Description of Court by which tried	Date and place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F. G. C. M.	Field 11 Nov 41	Unknown	160 days detention Forfeits 245 days pay	Unknown
F. G. C. M.	Field 4 Sep 42	Unknown	9 months detention Forfeits 285 days pay	Unknown
F. G. C. M.	Field 14 Aug 43	(1)WOAS AWL whilst undergoing FP from 1800 hrs 14 Aug 43 until being apprehended by CMP 1030 hrs 18 Aug 43 incurring cost of apprehension fl.1.0 (Absent 3 dys 16 hrs 30 mins)A.A.Sec.15(1) pay 75 dys. (2) WOAS Charged under A.A.Sec 8 (3)WOAS charged under A.A.Sec 10. (4)WOAS charged Under A.A.Sec 8.	60 dys detn. Cost of apprehension fl.1.0 (combined Punishment) Total Forf. of	Unknown

I hereby certify that the foregoing schedule of convictions is a true extract from the regimental books in my custody.

Signed this 5 day of Jan. 1944 A.D.

Otho A. Hogg
S/S - 2 i/c 5 Bn R.D.

The above statement (with the schedule of convictions) is read, marked signed by the president, and annexed to the proceedings.

Evidence and Charge Sheets (if necessary) to be PINNED here

B Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of Jan 1944 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that —

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter)~~ mjd
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable

Signed this 6th day of Jan 1944 mjd

[signature] Mjr

President of the Court Martial.

C Certificate in case of death sentences.

* See footnote b) on page 762 M.M.L. 1929

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this 6th day of Jan 1944~~

~~[signature] Mjr~~

~~*President of the Court Martial.*~~

D Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted where penal servitude or imprisonment having been awarded, the confirming Officer has no authority to commit to prison, or [illegible] such authority, [illegible] commutation.

Signed this 13 day of Jan 1944

Ewstaedenby Brig

Confirming Officer.

Promulgated and extracts taken in the case of G 17668 Pte Dempsey, J.G.

(a) (Dated) 16 Jan 44 (Signed) [signature] Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

[a] When several cases are promulgated in one unit on the same day the Officer need only sign once.

S.P. 141

Pte. Dempsey, J.G.

SP 141

FIELD GENERAL COURT-MARTIAL

CFA96 (1st Issue of AFA31 40/P & S/1868) 4/9/41 4/388

Convened by Order of Brig W N Bostock Comd A Tps Area 1st Cdn Army dated 3 Jul 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G17668	Pte	Joseph Gordon	DEMPSEY	17 Cdn Spec Emp Coy

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) HOLLAND on (*date(s)*) 9 Jul 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 36/15

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~and~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to~~ as interpreter? Ans ~~No Sir~~ ~~Interpreter is sworn.(1)~~

(1. RP 71. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major FO	LEWIS	25 Cdn Armd Regt
Member	Captain AW	LEES	2 Bn RCE
Member	Captain VA	WHITE	HQ First Cdn Army Terminals
Judge-Advocate	Captain JK	Kidd	HQ First Cdn Army
Prosecutor	Lieut HA	RECORD	17 Spec Emp Coy
Defending Offr	Lieut JG	MacKay	17 Spec Emp Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir

(1. RP 2n, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 81 (2) and fn 2 were not followed. See Vol 2 p 2.)

The accused G17668 Pte Dempsey J G before arraignment makes(s) (no) ~~a~~ plea. (1)

Copies 3 Aug 45

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge. There is no amendment to be made to the Charge Sheet.(2) The President records ~~a~~ plea(s) in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and ~~considers~~ the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol 3 p.42

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G17668 Pte DEMPSEY J G 17 Cdn Spec Emp Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st ~~AA~~ 9 (2)	Guilty	Guilty	
2nd ~~AA~~ 8 (2)	Guilty	Guilty	
3rd ~~AA~~ 40	Guilty	Guilty	
4th ~~AA~~ 15 (1)	Guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~He~~ present under sentence for ~~beginning on (date)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 144 days, of which 42 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR A PERIOD OF EIGHTEEN (18) MONTHS.

(Sgd) "J K Kidd" Capt — Judge-Advocate, if any. 9 Jul 45 — Date awarded. (Sgd) "F O Lewis" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I decline that the accused be not~~ ~~a~~ ~~accused~~ ~~detention~~ ~~hereafter~~ ~~part~~ ~~of~~ ~~the~~ ~~sentence~~ B&E

(1. AA 57A. Delete if not used.)

(Sgd) "B Ward" Lt Col

Date 11 July 1945 Commanding A/Comd A Tps Area Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

Sentence promulgated and extracts taken

16 Jul 45 "J B Dent" Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the statement(1). The Court decides (not) to advise accused to change his plea (absent plea(s) of Guilty to Not Guilty on ~~ charge(s). The accused is (not) so informed, and he (does) (does not) change(s) his (their) plea(s) as to ~~ charge(s). Para 1 of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 73 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans .....

Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interests, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Yes Sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)

(1. *MFE 255 or MFE 256.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(2) Ans By my Defending Offr

(1. *RP 37(C), 46(B).* 2. *Address, if any, recorded per Notes. Court should not take account of his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* *RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 125(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (2). Give sentence only, comprised of the punishment or punishments (and dates) in AA 41, 44 and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 64, 138, 182, RP 46-50, 68, 138, 119(A), KR Con 308, 310, 563-566, Overseas RO 309, 2323, 3006, p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. Where accused already under sentence of imprisonment or detention see AA 44(1)(3), 56(1), KR Con 564. As to assembly and disposal of record after trial see leaflet on back of Convening Order, Confirming Offr see KR Con 567. As to suspension of sentence see RP 48.* 2. *RP 50. As to release from arrest by Pres see RP 53.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICER'S CERTIFICATE

(KR(Can) Para 557)

I certify that I have this day examined G.12668 Pte

Dempsey J G and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station Field

"R Cullen" Capt (Sgd)
Medical Officer

Date 9 Jul 45

Unit

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jun 45 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (or, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 86(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 86 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 86.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on *new matter*, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (on *matters other than to mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 81.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by J.A., if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A., if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A., if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 537.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 114(*C*), *MML* p 789.)

4. The President or J.A., if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

"FCL"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
G17668	Pte	J G	DEMPSEY	17 Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Jul 45 endorsed by me "~~[illegible]~~" To be tried by Field General Court-Martial". WNB

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to the superior authority~~ WNB

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. WNB

~~I exercise inable to appoint (A) three Offrs to form the Court, (b) a Fd Offr as President for the reasons I have stated above.~~ WNB

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)			(Must be named. RP 106.)	(Unit.)
Major	FC	LEWIS		25 Cdn Armd Del Regt

MEMBERS.

(Rank.)			(Named or detailed. RP 106.)	(Unit.)
Captain	AW	LEES		2 Bn RCE
Captain	VA	WHITE		HQ First Cdn Army Terminals

WAITING MEMBER.

(Rank.)			(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	MM	BERESFORD		First Cdn Army Terminals Sig Sec

JUDGE-ADVOCATE.

(Rank.)			(Must be named, if any. RP 106.)	(Unit.)
Captain	JK	KIDD		HQ First Cdn Army

On Active Service in the Fd

in HOLLAND (Country.)

Dat 3 Jul 45

"W N BOSTOCK" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(WN Bostock)

Commanding ATps Area, First Cdn Army

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 66 (In Dept of AFA 2 80/P & S/1507 (6162))

G-17668 DEMPSEY J.G.
No Name

Sqn, Battery, or Company SUPPLEMENTARY
Corps C.I.C.

Date of last entry in Company Conduct Sheet

No and date of last drunk

Period not reckoning towards freedom from extra fine

Date of enlistment 1 March 1940

QC Badges

Sheet No

Signature OC Company, etc

Service or Proficiency Pay

MFM 6
(AFB 122)
40/PA3/128 (3438)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Jan 45	Pte		A.A. Sec 10 (4) Breaking out of Camp. (absence 7 hrs 25 min)	Bdr Markey Sgt Blackwood	14 dys C.B.	20 Jan 45	Major F.M. Nash	Forf 1 days pay FR&I 149 (1)(a) "FMS"

No | Name | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badge | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature GC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Feb 45	Pte		A.A. Sec 40 M.C.A.S. creating a disturbance in a private dwelling	Doc'tty	28 days F.P. 28 days pay	14 Feb 45	Maj J.R. Dent	

PTO

No [illegible]68 Name Dempsey JG Pte Sqn, Battery, or Company Corps CIC Date of enlistment 1 Mar 40 GC Badges Service or Proficiency Pay $1.40 MPM 6 (APR 1[illegible]) 40/PAN/[illegible]

Date of last entry in Company Conduct Sheet No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc 28 Oct 44 Character

JKK
Exhibit 2

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
UK				AA 15(1)	7 days CB 2 Dys Forf of Pay		2 Sep 40		
"				AA 15 (1)	14 days CB 4 Dys Forf of Pay		30 Sep 40		
"				AA 19 1st off (2)Assault	28 days detention		16 Oct 40		
"				AA 40	5 days FP 5 days Forf of Pay		7 Jan 41		
"				?	14 days Detn Fine $5.00		14 Feb 41		
"				?	Fined $10.00		3 Mar 41		
"				?	14 Dys CB 7 dys pay		21 Mar 41		
"				?	28 dys Detn Forf 33 days pay		12 Apr 41		
"				?	27 Dys Detn Forf 35 dys pay		25 Jun 41		
"				?	21 Dys Detn Forf 29 Dys pay		6 Aug 41		
"				AA 15(1) FGCM	180 Dys Detn Forf 243 dys pay		11 Nov 41		
"				AA 15(1)	7 Dys CB Forf 1 Dy's pay		6 Apr 42		
"				AA 15(1)(Absent 4 Dys 11¾ hrs)	28 dys Detn Forf 33 dys pay		27 May 42		
"				AA 15 (1)	12 Dys CB Forf 1 Dy's pay		4 Jul 42		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
UK				AA 15(1) AA9 AA10 FGCM	9 Mos Detn	Forf 985 Dys Pay	4 Sep 42		
"				AA 15(1)		Forf 7 Dys Pay	22 Apr 43		
"				AA 40		For 3 Dys Pay	25 May 43		
"				?	Sixty days civil imprisonment		17 Jun 43		
"				AA 15(1)(Absent 2 hrs 31 Min)	7 Dys FP	For 10 Dys Pay	10 Aug 43		
				AA 15(1)AA8(1) AA10(3) AA8(2) AA 40	60 Dys detention		18 Aug 43		
CMF				(2 Offences) ?	7 Dys FP	Forf 7 dys pay	2 Dec 43		
"				AA 15(1) AA 15(1) AA24(2)	60 Dys FP	Forf 60 Dys Pay	6 Jan 44		
"				AA 11 AA40	14 Dys CB	Forf 7 Dys Pay	20 Jun 44		
"				AA 15(1)		Forf 3 Dys Pay	21 Jul 44		
"				AA 40		Forf 28 Dys Pay	23 Dec 44		
UK				AA 15 (1) (Absent 7 Hrs 25 Min)	14 Days CB	Forf 1 Dys Pay	20 Jan 45		
				?	27 Days Detn	Forf 35 Days Pay	19 May 41		

Certified true extracts from MFM 4
Capt WH Laughlin "WH Laughlin"
Officer having custody of document

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
G17668	Pte	DEMPSEY JG	17 Cdn Spec Emp Coy

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

	AA8(1)	1	Time
	AA8(2)	1	"
For	AA9	1	times
	AA10	1	
For	AA10(4)	1	times
	AA10(3)	1	
For	AA11	2	times
	AA15(1)	16	
For	AA19	1	times
	AA24(2)	1	
	AA40	9	

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....N/A.....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for NIL.... days in civil custody; and for 144 Days 10 hrs. days in military custody, making a total of 144 Days 10 hrs. days of which 42.... days were spent in hosp.

5. The present age of the accused is ..25.....

6. The date of his attestation is 1 Mar 40....

7. The service which the accused is allowed to reckon is .....N/A.....

8. The accused is in possession of # CVSM and CLASP

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of N/A	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

* Strike out if not applicable

\# State the military decorations (if any) held by accused.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
FGCM	11 Nov 41 UK	AA 15(1)	180 Days detention	
FGCM	4 Sept42 UK	AA 15(1)AA10, AA 9,	9 Mos detention	
?	17 Jun 43 UK	AA ?	60 days civil Imprs	
FGCM	18 Aug 43 UK	AA 40	60 days detention	
FGCM	6 Jan 44 CMF	AA ?	60 days FP	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 9 th day of July 45

"WJ Doran" Capt

There was a piece of paper with writing on it in the original Court market Exhibit "A". The No of this paper was AFE 252

Shortage of Kit for G17668 Pte DEMPSEY JG

1 pr boots ankle	5.46
1 pr boots rubber high	1.52
1 greatcoat	11.55
1 leather jerkin	5.77
1 jersey pullover	1.79
Total	26.09

I certify that the above shortages are correct as from clothing and equipment statement Part 111 of Jan 20/45. and Army Form B253 Inventory of Kit statement taken on April 16/45.

"B Herdman"for
CQMS

April 30th 1945

CERTIFICATE OF SURRENDER UNDER ARMY ACT SEC 163 (1)(11)

1. I the undersigned certify that No G17668 Rank PTE

NAME DEMPSEY JG OF 17 Special Employ Platoon,1 Cdn Corps

SURRENDERED HIMSELF TO No B76918 NAME BROCKLEBANK WR

of Provost HQ at Apeldoorn AT 0950 hrs 1945 as a soldier absent without leave/~~XXXXXXXXXX~~

Orderly room Stamp

"WR Brocklebank" SGT
Signature of Officer of
Senior NCO into whose
custody the soldier was
taken upon arrest.

"J Kosack" Cpl

Third Witness for the Prosecution

B127769 Pte HERDMAN B 17 Cdn Spec Imp Coy CAO having been duly sworn states: I am B127769 Pte Herdman B 17 Cdn Spec Imp Coy CAO, storeman for the Coy. On April 16, 45 kit of G17668 Pte Dempsey JG was turned in to QM Stores by Cpl Daniels and inspected by myself with Cpl Daniels as witness. On 30 April 45, when asked for Kit shortages of Pte Dempsey, I found in computing the Inventory of Kit of April 16, 45 against Pte Dempsey's clothing and equiptment statement of January 20th 45, that he was short the following articles:

1 Pr Boots ankle--- ----------	5.46
1 Pr Boots rubber high--------	1.52
1 Greatcoat----------	11.55
1 Jerkin Leather----------	5.77
1 Jersey pullover----------	1.79
Total	26.09

" B Herdman"
B127769 Pte Herdman B
17 Cdn Spec Emp Coy CAO

Fourth Witness for the Prosecution

B76718 Sjt Brocklebank WR 3 Cdn Provost Coy:
Document purporting to be a signed statement of the evidence of B76718 SGT Brocklebank WR, 3 Cdn Provost Coy was read over to the accused, marked exhibit A, and attached hereto.

I certify that in my opinion owing to the exigencies of the service including the time and expense involved, the attendance of this witness at the taking of the summary of Evidence can not readily be procured.

"JA Poirier"
Signature of Officer taking Summary

Question to the Accused.

Do you wish to make a statement or to give evidence upon Oath? You are not obliged to do so, but any statement you make or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused
The Accused declines to make a statement or to give evidence.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused and that the Rules of Procedure 4 (c)(d)(e) and (f) have been complied with.

"JA Poirier"
(JA Poirier)
Officer detailed to take
Summary of Evidence

Summary of Evidence in the case of G17669 Pte DEMPSEY JG,

on the strength of 17 Cdn Spec Emp Coy C.A.O.

The Commanding Officer directs that the evidence be taken on oath.

First Witness Prosecution

F87973 Pte McIssac D H 17 Cdn Spec EMP Coy CAO having been duly sworn states:-

I am F87973 Pte McIssac DH, 17 Cdn Spec Emp Coy CAO a member of the Regimental Police. I recognize Pte Dempsey J as the accused. At approximately 2400 hrs 15 Apr 45 when I went on guard at 2400 hrs I looked to certify whether Pte Dempsey was in his tent and found that he had escaped.

"D H McIssac"
F87973 Pte McIssac D H
17 Cdn Spec Emp Coy C A O

Second Witness Prosecution

L100805 Pte Polishak M, 17 Cdn Spec Emp Coy CAO, having been duly sworn states:-

I am L100805 Pte Polishak M, 17 Cdn Spec Emp Coy CAO, a member of the Regimental Police, I recognize Pte Dempsey as the accused, at approximately 2400 hrs, 15 Apr 45, I went on guard duty and went down to check Pte Dempsey's tent and he wasn't there.

"M Polishak"
L100805 Pte Polishak M
17 Cdn Spec Emp Coy C A O

Third Witness Prosecution

E14705 L/Cpl Desbiens C.H., 17 Cdn Spec Emp Coy., having been duly sworn states:-

I am E14705 L/Cpl Desbiens C.H., 17 Cdn Spec Emp Coy L/Cpl of No. 1 Section. On the 2 Feb 45 approx 1245 hrs. Pte Dempsey whom I recognize as the accused, came up to my room asking to see Sgt Fahy. I told him where the sgt could be found, and then Cpl Clausen told him that he would have to be on parade that afternoon and he told him that he wouldn't be on parade, he said, he wanted to see the MO. I asked him if he had been on sick parade that morning and if he did where was his chit. He said he didn't have any chit and had gone on sick parade that morning. He said that he would not go to see that Cpl, that he wasn't any good. I told him that he would have to go on paradejust the same that we had to be at work at 1330 hrs at the station, he answered, "I am not bomb happy" and kept arguing The sgt came in and I went out and called the roll. The accused did not come on parade. The Sgt sent me to look for him but I couldn't find him so the Sgt laid a charge of absent without leave.

Witness questioned by accused.

Q-1 Did you figure that I was drunk or sober?

A-1 I did not know whether you were or not.

E-14705 L/Cpl Desbiens C.H.

Fourth Witness Prosecution

B75240 Pte Lea VE, 17 Cdn Spec Emp Coy having been duly sworn states:

I am B75240 Pte Lea V E, 17 Cdn Spec Emp Coy. On the 2 Feb 45 at approximately 1245 hrs I was sitting in the Cpls roomand Pte Dempsey whom I recognize as the accused, came in and asked for the Sgt. Cpl Clausen told him that the Sgt was in the Mess. The accused said that he had been on sick parade and that he wasn't going to see the horse corporal doctor no more that he wanted to see a doctor, just after that the Sgt came in and told us all to go on parade. The accused followed the Sgt to the top of the stairs and asked the Sgt whether he could ask a question. He asked the Sgt whether he had to go on parade at 1300 hrs. The Sgt asked him what he got when he was on sick parade that morning. The accused said that he had medicine and duty. The Sgt said that he would have to report on the 1300 hrs parade. The accused said "Fuck it, I'm going to see an MO". The Sgt said if you don't go on parade I'll have to mark you AWL. The accused then said do you want to take this to court, that is what I want you to do, because I've broken better men than you will ever be." Then we went out on parade and the accused was missi

Witness questioned by accused.

Q-1 In your opinion was I drunk or sober?

A-1 Sober enough to know what you were saying.

"Pte Lea VE"
B75240 Pte Lea V E

The accused was warned as follows: Do you wish to make a statement or to give any evidence upon oath? You are not obliged to do so, but any statement you make or any evidence you give, will be taken down in writing and may be given in evidence.

The accused refuses to make a statement or give evidence.

I certify that the foregoing summary of evidence was taken down by me in the presence of the accused and that rules of procedure 4 (c)(d)(e)and (f) have been complied with.

In the Field
Feb 10 1945

"J A Poirier" Lt
(J A Poirier)
Officer detailed to take S of E

Exhibit "A"

Summary of Evidence in the case of G17668 Pte Dempsey J G a soldier of the Canadian Army Overseas, on the strength of 17 Cdn Spec Emp Coy CACMF.

The Commanding Officer directs that the evidence be taken on oath.

First Witness — F55700 Sgt Fahey P, 17 Cdn Spec Emp Coy No 1 Sec, Sgt., having been duly sworn states:

I am F55700 Sgt Fahey P.L. 17 Cdn Spec Emp Coy, Section Sgt, of No 1 Section, On the 2 Feb 45 at approximately 1245 hrs, I entered the billets where my section were living and to call th out for parade. I met Pte Dempsey J G whom I recognize as the accused, and he told me that he was not going on parade. I told him to fall out with the rest of the men and he told me again that he fucking well wasn't going out on parade, and that he was going to see an MO before he fell out on parade. I asked him if he had been on sick parade that morning, he said, he had been on sick parade, but that no miserable bastard that was up there with two pieces of tape on his arm was going to give him medicen and duty. He was not even fit to be a horse doctor. I told him that as far as I was concerned I couldn't do anything but tell him to fall out on parade, and that I had to take the medical and orderlies word for that he was fit for duty. He told me that regardless of what I thought or anybody thought he wasn't going out on parade, I told him that he had to, that when I called his name on parade and he didnt answer to it I would place him under close arrest. He told me to go ahead that he was not going on parade, so I then left him and went upstairs to my corporals room and he followed me and told me that I could go fuck myself that he was going on no fucking parade, I warned him again and went downstairs and fell in my section for roll call. When I called the roll Pte Dempsey did not answer his name I repeated his name three times and when he did not answer I sent my Cpl into the billets for him. The Cpl couldn't find him so I went in myself and could not find him. I then put a charge of absent without leave against him. Pte Dempsey told me when I said I would charge him, to go ahead that he would refuse anything but a court martial and that we would have a fight for it. He said he busted better NCO's than I was.

The accused declines to Cross-Examine the witness.

"Sgt Fahey P I"
F55700 Sgt Fahey H.I.

Second Witness Prosecution — M15906 Cpl Clausen E.F., 17 Cdn Spec Emp Coy., having been duly sworn states:

I am M15906 Cpl Clausen E F 17 Cdn Spec Emp Coy., Sec Cpl. of No. 1 Sec. On the 2nd Feb 45 at approximately 1245 hrs., Pte Dempsey whom I recognize as the accused came into my room and said he was looking for Sgt Fahey and that no Cpl horse doctor could give him medicine and duty and that he wouldn't go on parade. He continued in that manner for awhile and then went over to Cpl Desbiens and I heard him say the same thing, he told me and also stated that he wasn't shell whacky that he was put out of his regiment because he drank too much and he might just as well be in jail, or words to that effect. Sgt Fahey then came out in the room and he followed him out. At 1300 hrs he did not show himself on parade.

Witness questioned by accused.

Q. 1 When I went into your room was I drunk or sober?

A. You were not drunk.

"E F Clausen"
M15906 Cpl Clausen EF

While I endeavor to draw to your attention that this man has committed offences under circumstances that did temporarily unbalnce his reasoning, I do not imply or even suggest that these circumstances justify this man's behaviour, nor are they legitimate excuses for his offences, but, I do beseech you to consider them in passing your judgement. I do also maintain that, a bullying treatment and severe punishment will not and did not in the past show the accused he was wrong nor did it help the army.

The accused is quite defeated and has a broken spirit, which at a time when we must soon rehabilitate ourselved and become citizens again is detrimental, not only to the person himself but also for the welfare and development of Canada.

We want this man to be proud of Canada, he volunteered and despite the fact that he has, in the past, given the Army trouble, he has served and risked his life at the front.

Once again I ask that leniency and consideration be shown towards this man and I am certain that it will do more to mend his behaviour and mind than the punishments he has served in the past.

JKK

"J G MacKay" Lt
(J.G. MacKay) Lieut.,
Defending Officer,
17 Cdn Spec Emp Coy

Plea in Mitigation

The defence of this case has been duly considered by the accused and myself. The accused has pleaded guilty, knowing and realizing fully that he is guilty and while he has been under arrest for the past four months, he has repented many times for his misdemeanors.

It is only fair to yourselves, that, before you judge this man I should draw to your attention a few facts. Facts about this man's Army life that are very seldom shown in Army documents.

Firstly, since this man came overseas in 1940 his married life has been anything but happy. Volunteering and coming overseas he left his wife, he was sorry to leave her but trusting and happy in his hopes that he would some day return to her. Then when in a strange country he finds out his wife is no longer faithful to him. He found out that his wife was behaving badly and that she eventually had an illegitimate child, which she did not and is not yet supporting. In an effort to forget he began to drink excessively, which is so very often the case, this led to a wave of petty offences and punishments. These punishments did not show the man that he was doing wrong but only made him more stubborn. Punishments did nothing to alleviate his family troubles. Having a feeling that everyone was against him, the Army, his wife, the church, and worries made him a habitual offender and led to more serious punishments.

Had a proper investigation been made as to why this man was behaving as he was and advice given as to how he could solve his family troubles. I am convinced that the accused would not be before you today. I base this opinion on the fact that he is in this Company on the direction of a Psychiatrist. The reasons being worry combined with battle exhaustion.

While with an Infantry Regiment, this man, I find, did his job and after the Hitler Line battle in Italy, he was evacuated to hospital suffering from nervous exhaustion. While in the hospital he was told he could not return to an infantry Bn., but was allowed to go to a L.A.A. Regt, then a re-organization took place and the L.A.A. were disbanded and made into a traffice control unit in an infantry Bn., namely the Lanark & Renfrew Scottish. The accused chose to go to the Infantry Unit but after five and a half months service he was once again evacuated to hospital and from there he was sent to a Spec Emp Coy. This made the accused even more dissatisfied and he came to this Company to be, in my opinion, disciplined.

Onee again his drinking and petty offences began and under the influence of wine, he was insubordinate to a senior N.C.O. and quite rightly was charged. Here again he was drinking to excess and still more worries and mental anguish, not only was he suffering from War Nerves but he had been indiscreet and contacted syphilis. Since that time he has been given the best of Medical treatment and is cured. But due to a discrepancy in treatment by the American Medical Corps where he received treatment and our Canadian Medical Corps, in as much as they did not agree on a date set for re-examination caused him more worry. The accused in an unbalanced frame of mind, broke out of the guard room which maked him guilty of the Fourth Charge.

E 1.

G17668 Pte Dempsey J G Sworn states:-

I am 26 yrs of age went to school till grade III. I stopped school as my mother died when I was 13. I worked in lumber mills. My father was cruel to me before I lefthome. I am married 15 June 39. I have one girl. I came overseas 15 June 40. I have never seen my child. I was happily married. About 2 years after I came overseas my wife had an illegitimate child. I took it pretty hard and everything from then onhas never gone right. When I came to 17 Special emp Coy I had had boils. I saw medical corporal and was given medicine and duty. It bothered me considerably. I tried to get compassionate leave and also applied for a divorce. I was with Carlton & York Regiment for two months in Italy. I was rifleman. I was at Ortonnaand Hitler line, with regimen'.

R P 83 (b) complied with.

CHARGE SHEET "FO Lewis"

The accused, G-17668 Pte Dempsey J G, 17 Cdn Spec Emp Coy., a soldier of the Canadian Army Overseas is charged with,

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMM[illegible] GIVEN BY HIS SUPERIOR OFFICER

in that he

First Charge Section 9(2) Army Act. — In the Field on the 2 Feb 45 when ordered by his superior Officer, Sgt. Fahey, P.I. to fall in on 1245 hrs parade refused to do so, saying, "I'm fucking well not going on parade" and did not do so.

USING INSUBORDINATE LANGAUAGE TO HIS SUPERIOR OFFICER

in that he

Second Charge Section 8 (2) Army Act — In the field on the 2 Feb 45 on being ordered to fall in on parade by his superior Officer, Sgt Fahey P I did say, "You go fuck yourself, I'm not going on no fucking parade" or words to that effect.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

Third Charge Section 40 Army Act — in the field on the 2 Feb 45 on being ordered to fall in on parade, said, "That no miserable bastard that was up there with two pieces of tape on his arm was going to give him medicine and duty" or words to that effect.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

Fourth Charge Section 15(1) Army Act — In the Field, while under close arrest, absented himself without leave from 2300 hrs 15 Apr 45 until he surrendered himself at 0950 hrs 29 APR 45. (Time absent, 13 days, 10 hrs, 50 mins).

TO BE TRIED BY F.G.C.M.

"J.R. Dent"
(J.R. Dent) Major
OC 17 Cdn Spec Emp Coy

TO BE TRIED BY FIELD GENETAL COURT MARTIAL

in the field
3 Jul 45

"W N Bostock"
(W N Bostock) Brig
Comd A Tps Area, First Cdn Army

5 T-104

Gen. Dempsey, N.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 44775 Gnr Marvin John DEMPSEY, 4 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all Ordinary Pay for a period of forty five (45) days

17SEP/45 (Sgd) [illegible] President. (RP 45, 50.)

(Sgd) ..... Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 740.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 4, 44(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Sentence and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 18 Sept 45 Commanding E. Sqn C.R.U. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 574, 577.)

Accused. Date. Signature of Offr.

B 44775 Gnr. Marvin John Dempsey 19 Sept 45 [illegible] Lieut. Administrative Officer 4 Cdn Repat Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 OCT 1945 ADJ GENERAL'S BRANCH CMHQ

RECORDED AT CMHQ IN [illegible] 57-104

CFA96 (in lieu of AFA31) 40/P & B/1698 (6/44) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig T J Rutherford, CBE Comd "E" Gp CRU dated 13 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 44775	Gnr	Marvin John	DEMPSEY	4 Repat Dep

PROCEEDINGS REVIEWED 18 Sept 45

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the ~~Field~~ (country) England on (date(s)) 17 Sep 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 40c(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to S 16462 Sgt Bowes R.E.A.(2) ..... shorthand writer? Ans No

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D L REDMAN	HQ CRU
Member	CAPT	J G MIMMS	1 REPAT
Member	LIEUT	D M HOLTON	1 REPAT
Judge-Advocate			
Prosecutor	LIEUT	K B KNOX	4 REPAT
Defending Offr	LIEUT	R M MacINTOSH	4 REPAT

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 28, 37, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (3) and fn 1 were not followed. See DI p 23.)

A8. The accused ..... before arraignment makes(s) (no) (~~a~~) plea. (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(5), 108), or as to the jurisdiction of the Court (RP 34, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and one separate copies of CF 495 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JAG, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MAML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. No. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part 1 of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not charged the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Do you intend to call witnesses on your behalf ?

Ans. Are they witnesses as to character only ? Ans.

Ans.
(1. *RP 115.* 2. *RP 40(A), see 80(C).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record both Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117.* 2. *RP 44(A).*) *See Notes in Part I of Schedule.*

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part 1 of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) No. Give evidence NOTE—ALL

Ans.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex and Ex respectively.(3)
(1. *AFB 251 or AFB 296.* 2. *AM 4.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Nothing further. Court should permit accused or his witnesses to prove or say anything here or previously stated which would affect the amount of punishment. *RP 37(F) fn 7.*)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A., if any~~.(2)
(1. *Where several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 120, 142, RP 46-52, 69, 118, 119(A), KR Can 338, 339, 563-566, Courtesies 307 309, 2323, MML p 80, 737-739. As to sentences assigned for civil offences by the Law of England see AA 41(3), MML p 120. When accused already under sentences of imprisonment or detention see AA 44(1)(b), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"B" WING NO. 4 CANADIAN REPATRIATION DEPOT
CANADIAN ARMY ENGLAND

CHARGE SHEET

in the case of

B-44775 Gunner Mervin John, DEMPSEY, of "B" Wing, 4 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Laurentide Camp, Witley, Surrey, absented himself without leave from 2359 hours, 4th August, 1945, until apprehended by the Civil Police at West Harting, at 1250 hours, 1st September 1945. Total absence 27 days, 12 hours, 51 minutes.

(R.Z.A. Morton) Colonel
Officer Commanding,
4 Can Repat Depot

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Comd
"Z" Gp CRU

Fd
13 Sep 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 109. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 44775	Gnr		Mervin John	DEMPSEY	4 Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [have] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Sep 45 endorsed by me, [or by any officer of my command on my behalf on me], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [and that it is not practicable to delay the trial or reference to a superior qualified offr]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I am unable to appoint (a) the Offr to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO 1 Cdn Repat Dep	1 Repat Dep
Lt	To be detailed by CO 1 Cdn Repat Dep	1 Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 13 Sep 45

(Signed personally. RP 106 fn 2.)
(T J RUTHERFORD)
Commanding "E" Gp CRU
Convening Officer.

Brig (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAMS 10 Drill of AFAI) (See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 96(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in *rebuttal* or on new matter, if allowed by Court (*RP 96(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, *if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, *if any*, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 537.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (ii).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 708.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Medical Officers' Certificate
K.R. (Can) Para 557.

I certify that I have this morning examined B44775 (No) G.N.R. (Rank)

DEMPSEY M (Name) of #4 CON. REPAT. DEPOT "B" WING (Unit)

and in my opinion he is fit to undergo trial by Court Martial.

Station FIELD

Dated 17 SEPT 45

Sgd. [signature] (Medical Officer)

STATEMENT IN PLEA OF MITIGATION OF SENTENCE, by
B 44775 Gnr DEMPSEY, M. J.

On August 2nd, 1945, I was given a 48 hour pass to Petersfield, Hants, where my wife is living. When I arrived at my wife's place, I found her feeling ill. Therefore I did not wish to leave here when my pass fell due on August 4th.

I remained at the house with my wife. On August 7th, I visited Dr. Campbell-Cooke in Petersfield as I was not feeling well myself. He gave me a bottle of medicine and implied that my condition was serious enough to warrant my returning to camp and reporting sick. He also gave me a note stating that I had gone to him.

However, my wife was still not well, and she asked me if it were possible for me to stay with her. I decided to remain. During this time my wife was often nauseated and could not keep her food down at all. Then she believed that she was pregnant. Finally, about August 23rd, my wife thought that she had a miscarriage. This left her weak and unwell. Therefore I continued to remain with her.

My wife's illness and subsequent miscarriage were the only reasons which caused me to remain away from my unit. I did not intentionally go AWL with the idea of avoiding duty. I did it because in this instance I thought my first duty was to my wife, while she was in this unfortunate condition. On these grounds I ask the court for a lenient punishment.

M J Dempsey

E-1

MJ

I should like to submit to the court a brief statement on Gnr Dempsey's service record.

He enlisted in October, 1942, was posted overseas in August, 1943. He was placed in the 14th Fd Regt, RCA, and employed as a gun layer. He was with his unit in the first days of the Normandy invasion until wounded about D plus five. He was evacuated to the UK and spent seven months in hospital and has since then held a category.

From October, 1942 until May of this year Dempsey's MFM 6 was clean. I submit that this is an excellent record, and warrants consideration in the passing of sentence.

E-3

Statement by Mrs. B.M. Dempsey

My husband came home on August 2nd. At that time I was not feeling well. I asked him to remain with me as otherwise I should be left alone at home during the day. He stayed, and a short time later I thought that I was pregnant. I continued to feel ill, and about Aug. 23 I thought that I had a miscarriage. My mother thought the same. My husband remained home during this time & finally was picked up by the police on September 1st.

Mrs. B.M. Dempsey

E-3

4 CANADIAN REPATRIATION DEPOT

SUMMARY OF EVIDENCE

In the case of:

B 44775 Gnr DEMPSEY, M. J. on the strength of "B" Wing, No 4 Cdn Repat Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer all evidence is taken on oath.

FIRST WITNESS
For the Prosecution

Lieut R. G. Butler, on the strength of "B" Wing, No 4 Canadian Repat Depot, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lieut R. G. Butler, assistant adjutant of "B" Wing, No 4 Canadian Repat Depot. I produce herewith a certified true extract of No 4 Canadian Repat Depot Part II Daily Order Number 22, dated 10 Aug 45, showing an entry stating that B 44775 Gnr Dempsey, M. J. is AWL from 2359 hrs 4 Aug 45. I further produce Army Form C 1618, showing apprehension of B 44775 Gnr Dempsey, M. J. by civilian police at 1250 hrs, 1 Sep 45.

The accused declines to cross-examine the witness:

R. G. Butler
(R. G. Butler) Lt

The certified true extract of Part II Daily Order Number 22 referred to by this witness is shown to the accused as well as Army Form C 1618, marked and initialed by me, as exhibit "A" and "B" respectively, for the Prosecution and attached to summary.

J. J. Dunn Lt
(J. J. Dunn) Lt,
officer detailed to take down Summary of Evidence

SECOND WITNESS
For the Prosecution

R. Campbell-Cooke, M.R.C.S. (Member Royal College of Surgeons) having been duly sworn states:

I am R. Campbell-Cooke, M.R.C.S., a registered Medical Practitioner practising at Petersfield. On the morning of 7 Aug 45 at about 9:30 a.m., Gnr Dempsey, M. J. came to see me complaining of sickness. I gave him a bottle of medicine and instructed him to return to his Unit and report sick. As he got up he asked me for a statement that he had been to see me, which I gave him.

Accused declines to cross-examine the witness.

R. Campbell Cooke
(R. Campbell-Cooke) M.R.C.S.
Petersfield

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to give evidence on oath or make a statement.

The accused does not wish to call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of (2) pages was taken down by me in writing in the presence of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) were complied with.

Witley, Surrey
10th September, 1945

(J. C. Dunn) Lt,
Officer detailed to
take down Summary
of Evidence.

EXA

STATEMENT IN ACCORDANCE WITH
RULES OF PROCEDURE 14(b)

I, B 44775 Gunner Dempsey, Mervin John, "B" Wing, 4 Cdn Repat Depot, desire to have an officer assigned to represent me at my trial by Court Martial.

If he is available, I desire to have the services of

Lieut R. M. MacIntosh,
"B" Wing, No 4 Cdn Repat Depot

B 44775 Gnr Dempsey, M. J.
"B" Wing, No 4 Cdn Repat Depot

Witley, Surrey
10 Sep 45

(J. C. Dunn) Lt, Officer taking down Summary of Evidence

EXHIBIT "A"

NO. 4 CANADIAN REPATRIATION DEPOT (CAC)

PART II ORDERS

BY

Last Order No. 21 dated 8 Aug 45 — Colonel R.E.A. MORTON, D.S.O. Officer Commanding — This Order No. 22 dated 11 Aug 45

X-X-X-

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the _____

Police in connection with the apprehension of _____ and are

payable to _____

DESCRIPTIVE RETURN OF § B.44775. DEMSEY, John who was arrested at Harting (hour) 12-50 on the 1st. day of Sept.45., and was committed to confinement at Midhurst Pol. Stn. on the 1st. day of Sept. 1945 as ~~a Deserter~~ (or Absentee without leave) from the --- Bn. of the No.4. Repat Depot, Whitley

Regiment of Canada.

Age 27 years. Height 5 feet 11 inches

Complexion Fair. Hair blonde. Eyes blue.

Marks Tatoo both arms In uniform or ~~plain clothes~~

Probable date and place of attestation	27-10-42 , Toronto, Ontaroi, Canada.
Probable date of desertion or beginning of absence and from what place	7th. August, 1945.
Name occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	P.C. No.245. Arthur FINN. Police Cottage, South Harting, Sussex.
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given	*At 12-50.p.m. Sat. 1st. Sept.45, I was at West Harting when I saw Gnr. DEMSEY. at 49, West Harting. I told him I had reason to believe that he was absent without leave, and he said, "Yes, that is right". I escorted him to Midhurst Pol Stn.

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an Absentee without leave from the before-mentioned Corps.

R C Clough Signature
Bepton Road Residence
Midhurst Post Town
of Committing Magistrate.

1st. Sept. 1945. Date of Signature

M J Dempsey Signature of Prisoner

A. Finn. P.C.245. Signature of Informant
1-9-45

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, ~~but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until~~ the 1st day of September 1945 ~~for the purpose of obtaining such evidence.~~

R C Clough Signature
Bepton Road Residence
Midhurst Post Town
of Magistrate.

1st September 1945 Date of Signature

§ Care should be taken to insert Army No. and Rank.
‡ Insert "was apprehended" or "surrendered," as the case may be.
* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. _____ of _____

Regiment at _____ on _____ by _____

who was committed as a Deserter (or Absentee without leave) on the _____

RECOMMENDATION FOR REWARD.

I RECOMMEND* _____

Address _____

for a reward of _____ Signature of Committing Magistrate.

_____ Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-44775	Gunner	Mervin John DEMPSEY "H" Wing, 4 C Repat Depot	

NOTE.—The Field Conduct Sheet is to be produced to Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.W.L. Sec 15 (1)	1 times.
For	A.W.L. Sec 15 (1)	1 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 27th March, 1945

Date of last entry in Field Conduct Sheet 22nd May, 1945

2. [redacted] N/A

*Strike out if not applicable.

*3. [redacted] N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 9/6 days in military custody, *i.e.*, Nil days in open arrest, 9/6 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 years, 9 months, 9 days.

6. The date of his attestation is 27th October, 1942

7. [redacted] N/A

[State the military decorations (if any) held by accused.

8. The accused is in possession of: Canadian Volunteer Service Medal and Clasp.

9. (*If the accused is a warrant officer or N.C.O.*) [redacted] N/A

	Date of Promotion.
[redacted] N/A	
[redacted] N/A	
[redacted] N/A	

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21124) Wt. 44178/P68 120,000 6/42 A. & E. W. Ltd. Gp.698
(21124) Wt. 57724/1473 80,000 8/42 Forms/B.296/War/1

No R44775 Name DEMPSEY, M.J. Sqn, Battery, or Company — Corps R.C.A. — Date of enlistment 27 Oct 42 — Badges — Service or Proficiency Pay — MFM 6

Date of last entry in Company Conduct Sheet N-A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No ONE — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	26Mar 45	Gnr		AWL from 0830 hrs 26 Mar 45 until 2115 hrs 26 Mar 45. Sec 15 (1) A.A.	BQM Morrow Bdr Barnett	7 days C.B.	27 Mar 45	Capt C.B. Mills	1 day Aut forf of pay
Field	14May 45	Gnr		WOAS AWL from 1200 hrs 14 May 45 until 2315 hrs 20 May 45. Absent 6 days 11 hrs 15 mins	Sgt Gavin Documentary	7 days C.B.	22May 45	Capt Cornelius	7 days Aut forf of spy Total forf 7 days Pay

CERTIFIED TRUE COPY OF ORIGINAL HELD IN MY CUSTODY

J. Smith Lt-Col
Officer Commanding, "B" Wing
4 Canadian Repatriation Depot

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-44775	Gunner	Mervin John DEMPSEY	"B" Wing, 4 C Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. Sec 15 (1) 1 times.

For A.W.L. Sec 15 (1) 1 times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 27th March, 1945

Date of last entry in Field Conduct Sheet 22nd May, 1945

2. [redacted]

*3. [redacted]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~9~~ 16 days in military custody, *i.e.*, Nil days in open arrest, ~~9~~ 16 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 years, 9 months, 9 days.

6. The date of his attestation is 27th October, 1942

7. [redacted]

8. The accused is in possession of: Canadian Volunteer Service Medal and Clasp.

9. (*If the accused is a warrant officer or N.C.O.*). [redacted]

Date of Promotion.

[redacted]

[redacted]

[redacted]

*Strike out if not applicable.

*State the military decorations (if any) held by accused.

EXB

MM

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

A. & E. W. Ltd. Gp.296 Form B.296 War/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of September, 1945

(J.C. Dunn) Lieut
A/Adjt, "B" Wing, 4 C Repat Depot

SS:109 (AFRICA)
TPR DEMPSEY R

H46525 ,Tpr(A/L/Cpl.)Dempsey, R.,
3 Bn., 1 Cdn Base Rft Depot

SS·109

B-7

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this seventh day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Base Reinforcement Depot, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~ GB

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~[illegible]~~
~~[illegible]~~
~~[illegible]~~
~~[illegible]~~ GB

Gen Graham Capt [illegible]
29 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	F. M. Nash, E.D.	CAC, 1 Bn., 1 C.B.R.D.

Members.

Rank.	Name.	Regiment.
Captain	D. W. Hay,	CIC, 2 Bn., 1 C.B.R.D.
Captain	T. R. Wood,	RCASC, 3 Bn., 1 C.B.R.

*Signed G. Jeremy Basher.
Commandant, 1 Cdn B[illegible]
Commanding Convening

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H46525, Tpr(A/L/Cpl) Dempsey, R., 3 Bn., 1 C.B.R.D.	FIRST CHARGE AA Sec 15(1)	Guilty	Guilty To suffer Field Punishment for 90 days. Forfeit 14 days pay. 10-10-43.	Confirmed C. Kellam Barker Colonel Commandant, 1 Can Base Reinforcement Depot

FOR FULL DETAILS OF CHARGE SEE CHARGE SHEET.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer to be recorded (*on separate sheet if necessary*) :—

(Signed) C. Kellam Barker Colonel (Signed) F.W.D. Nash. Major
Commandant, 1 Can Base Reinforcement Depot 1 Bn. 1 C.B.R.D.
Confirming Officer (d) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 10th day of Oct 43. and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 10th day of Oct. 1943.

F.W.D. Nash. Major
President of the Court Martial.

C.

Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (h) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*I direct that the soldier named in the margin be ~~not~~ ~~discharged with ignominy~~ ~~from the service~~ ~~but~~ suffer ~~imprisonment~~ ~~detention~~ in ~~prison~~ ~~detention barrack~~ until further orders.)

~~not~~ ~~discharged with ignominy~~ ~~from the service~~ ~~but~~ suffer ~~imprisonment~~ ~~detention~~ in ~~prison~~ ~~detention barrack~~ until further orders.

Signed this 14th day of Oct. 1943.

C. Kellam Barker Colonel
Confirming Officer
Commandant, 1 Can Base Reinforcement Depot

Promulgated and extracts taken in the case of H41525 A(a/L/Cpl) Dempsey R 1 Bn 1 C.B.R.D.

(a) (Dated) 14 Oct - 43 (Signed) [illegible] Lieut. A/Adj't. 1 C.B.R.D.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, H.46525 Tpr(A/L/Cpl) Robert DEMPSEY, Canadian Armoured Corps, on strength "B" Coy, 3 Bn, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec. 15(1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field , absented himself without leave from 1500 hours 24 Sep 43 till 1800 hours 24 Sep 43. Total Time Absent 3 hours.

In the Field
24 Sep 43.

(Vincent McKenna) Lt-Col, MC, ED
Commanding Officer,
3 Bn, 1 Cdn Base Rft Depot

To be tried by D.S.C.M.
10443

Colonel
Commandant, 1 Cdn Base Reinforcement Depot

ify that I have this morning examined H 46525 TRG

R....3 Bn., 1 C.B.R.D. and that in my opinion Fach

undergo trial by Court Martial.

W. S. Noolner Capt.

.day of

...1943.

PAGE 1

Accused H-46x6 Tpr (A/Sgt) Robert Dempsey. 3 Bn. C.B.R.D.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in North Africa on 10 Oct 42.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT	Major	E.M. Nash	R.D. C.A.C. 1 Bn 1 C.B.R.D.
MEMBERS	Capt	D.W. Hay	C.I.C. 2 Bn 1 C.B.R.D.
	Capt	T.R. Wood	R.C.A.S.C. 3 Bn 1 C.B.R.D.
JUDGE ADVOCATE (if any)			
OFFICERS UNDER INSTRUCTION:	Major	J.D. Shaunessy	C.D.C. 3 Bn 1 C.B.R.D.
	Lt	J.A. MacDonald	R.C.A. 3 Bn 1 C.B.R.D.
	Lt	R.E. Mullin	R.C.A. 3 Bn 1 C.B.R.D.
	Lt	S. Dixon	R.C.A.S.C. 3 Bn 1 C.B.R.D.
	Lt	G. McCraig	R.C.A.S.C. 3 Bn 1 C.B.R.D.
PROSECUTING OFFICER	Capt	R. Phillpot	Lawyer? Ans. No.
DEFENDING OFFICER	Lt	R.G. Mulcaster	Lawyer? Ans. No.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs P 17(E), 22(a)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members and the Court satisfy themselves that it is properly convened (A.A.49;R.P.105) and constituted that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P. 106).

The accused is (are) brought before the Court, and at 1530 hrs. hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can) 557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to the Accused:
Do you object to _____ as interpreter? Answer _____

The interpreter is duly sworn

Do you object to Lieut Edwards as shorthand writer? Ans. No.

The shorthand writer is duly sworn (Forms of Oath on Page "D").
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10

President to the accused:

Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Answer No

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page "D"))

(PTO)

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused has(has not) elected trial by Court Martial (A.A. 46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs 62(E), 108); or as to the jurisdiction of the Court (R.P.34) or in bar of trial (R.P. 36) or as to accused's mental fitness to stand trial (A.A. 130, R.P.57), record such pleas and evidence (if any) on separate sheet (s) to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112)
He pleads as follows.

FIRST CHARGE Guilty
SECOND CHARGE
THIRD CHARGE
FOURTH CHARGE
FIFTH CHARGE
SIXTH CHARGE
SEVENTH CHARGE
EIGHTH CHARGE
NINTH CHARGE
TENTH CHARGE
ELEVENTH CHARGE
TWELFTH CHARGE
THIRTEENTH CHARGE
FOURTEENTH CHARGE
FIFTEENTH CHARGE
SIXTEENTH CHARGE

(For procedure on alternative charges, see R.P.37, fn 2)

Further proceedings are recorded on Pages hereto attached.

Final

PAGE "A"

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. R.P. 35(B) is complied with by the President, ascertaining that accused understands the nature of the charge (s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(b) and advising him to withdraw his plea if he thinks the accused ought to plead "NOT GUILTY" thereto.

2. President to the Accused
Q. Do you desire to make any statement of the circumstances, in reference to the charge (s) (R.P.37(B)) Ans. No.

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross examination thereon).

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the Proceedings.(If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to the Accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P. 37(C). Ans No

(Statement (if any) is recorded on separate sheet, initalled by the President and attached hereto. No cross-examination).

5. President to the Accused
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C)). Ans. No

(Such evidence, confined to character only, is recorded on separate sheet, initalled by the President and attached hereto).

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by A.A. 163(i)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P. 46; Oversens R.O. 3131).

7. President to the Accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans No (No cross examination).
(Record address, if any, on separate sheet, initalled by the President and attached hereto).

8. The Court is now closed to consider sentence.(Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48). Sentence should be dated

NOTE: When the President announces that "The Court is closed for the consideration of the sentence", he will add that "the sentence is to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated".
The sentence is not announced to the accused by the Court.

(Signature of the President)

PAGE "B"

(For use when accused pleads "Not Guilty" to all Charges.

(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President).

1. President to the accused
Q. Do you wish to apply for any adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P. 39(A)). Ans._____

2. The Prosecutor's opening address(if any)(R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.(See RECORD OF EVIDENCE on Page "D").

3. The Prosecution is closed.(If submission that there is no prima facie case established, see R.P.40 fn1;R.P.70 fn 1).

4. The accused is informed that he may, if he wishes, give evidence but if he does so he will be liable to cross examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined.(R.P.40(D)(ii)(a)).

5. President to the accused:
Q. Do you apply to give evidence yourself as a witness?Ans_____
Q. Do you intend to call any other witnesses in your defence? Ans._____
Q. Is he a witness as to character only? (F.P.40(B)) Ans_____

6. The evidence for the Defence(if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing address of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto.(For order of addresses see Rs P 40, 41 and 42).

8. The court is now closed to consider the finding(Rs P 43 and 117

9. The court being re-opened, the accused is again brought before it, and the findings of "Not Guilty"(if any) are pronounced and(if findings of "Not Guilty" on all charges) the accused is released.

Where the Court acquits the accused of one or more charges and find him guilty of any other charge or charges, the President of the Court, when announcing the findings of not guilty will add that "The findings of the Court on the.....charge(s) being subject to confirmation, will be promulgated later".

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (MFM 6) signed in the manner required by AA 163(1)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings, (R.P. 46; Overseas R.O.3131).

11. President to the accused:
Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of the punishment(R.P. 46(D)). Ans._____(No cross examination).
(Record address, if any, on separate sheet, initialled by the President and attached hereto.

(Continued)

PAGE "C"

(For use when there are pleas of "Guilty" and "Not Guilty"

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. R.P.35(B) is complied with, in respect to "Guilty" pleas, by the President ascertaining that accused understands the nature of the charge(s)(fn 3) and his plea thereto, explaining the difference in procedure by the plea(RP37)(B) and advising him to withdraw his plea if he thinks the accused ought to plead "Not Guilty" thereto.

2. President to the Accused:

Q. Do you wish to apply for adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence?(R.P.39(A).Ans_____

3. The Prosecutor's opening address(if any) (R.P.39(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.(See Record of Evidence on Page "D").

4. The Prosecution is closed.(If submission that no prima facie case established, see R.P.40 fn 1; R.P. 70 fn 1).

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination.(R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross examined (R.P.40(D)(ii)(a)).

6. President to the Accused
Q. Do you apply to give evidence yourself as a witness? Ans_____
Q. Do you intend to call any other witness in your defence? Ans_____
Q. Is he a witness as to character only?(R.P.40(B) Ans._____

7. The evidence for the defence(if any)is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge Advocate(if any) are recorded on separate sheets, initialled by the President and attached hereto.(For order of addresses, see RsP. 40,41 and 42).

9. The Court is now closed to consider the finding.(RsP43 and 117) (Record Finding on Page 2 of A.F.A.3).

10. The Court being re-opened, the accused is again brought before it and the findings of "Not Guilty"(if any) are pronounced(RP117(B)).

Where the Court acquits the accused of one or more charges and find him guilty of any other charge or charges, the President of the Court, when announcing the finding(s) of not guilty will add that "The findings of the Court on the_____charge(s), being subject to confirmation, will be promulgated later".

11. The charges, to which the accused pleaded "Guilty" are read to the accused.

12. President to the Accused
Q. Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded "guilty"(R.P.37(B) Answer_____

(Statement(if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross examination theron).

13. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings(RP37(B)

(P. T. O.)

12. The Court is now closed to consider the sentence(Record on Page 2 A.F.A. 3).
(Punishments, A.A.44, K.R.(Can)563-566; one sentence only awarded, (R.P.48); sentence should be dated.

When the President announces that "The Court is closed for the consideration of the sentence" he will add that "The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

The sentence is NOT announced to the accused by the Court

.....
(Signature of President).

Record evidence in narrative form, i.e, "No. 1357, Corporal W. Jones, W.R., being duly sworn states:- "I am a Corporal of #5 Platoon to which the accused belongs. On 14 Jan 42 at 1500 hrs I ordered the accused to go on parade. He refused and did not do so". If a shorthand writer is employed, he should record the evidence verbatim, i.e., by questioning and answer. After completion of Examination-in-Chief, enter the words "Cross examined by the Defending Officer" and thereafter record the evidence in the same manner. If the Prosecutor then re-examines, enter the words "Re-examined by the Prosecutor" and record evidence similarly. If a shorthand writer is not employed, the evidence of each witness must be read over to him after he has given evidence and a note made after the evidence of each witness "R.P.83(B) complied with". If a shorthand writer is employed, it shall not be necessary to read the evidence over unless the witness so desires; if the evidence is not read over, a note should be made after the evidence of each witness "In the opinion of the Court and Judge-Advocate, it is unnecessary to comply with R.P.83(B)".

FORM OF OATHS FOR USE IN COURTS MARTIAL

President and Members

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law".

Judge Advocate

" I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court martial until it is duly confirmed, and that I will not, on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law".

Shorthand Writer

"I swear by Almighty God that I will truly take down to the best of my power, the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same".

Interpreter

"I swear by Almighty God that I will, to the best of my ability, truly interpret and translate, as I shall be required to do, touching the matter before this court-martial".

Witness

"I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth and nothing but the truth".

14. President to accused:

Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C) Ans_____
No cross examination.
(Statement(if any) is recorded on separate sheet, initialled by the President and attached hereto)

15. President to accused:

Q. Do you wish to give evidence yourself or call witnesses as to character? (R.P.37(C) Ans_____

16. Statement of Character and Service(A.F.B.296) and Field Conduct Sheet (M.F.M.6) signed in the manner required by AA 163(i)(h) and purporting to refer to the accused by his number(if any) rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131).

17. President to the accused

Q. Do you wish to address the Court on the Statement of Character Service and Conduct and in mitigation of punishment?(R.P.46(D). Answer_____. No cross examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto).

18. The Court is now closed to consider the sentence.(Record on Page 2 of A.F.A.3).

When the President announces that "The Court is closed for the consideration of the sentence", he will add that "the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in Open Court are accordingly terminated".

.....
(Signature of President)

PAGE "E"

RECORDING AND DISPOSAL OF PROCEEDINGS

1. The original record, only, is required except where the charge(s)is (are) one(s) respecting injuries sustained by the accused, when a true copy thereof will be prepared and forwarded.

2. All alterations, interlineations and erasures shall be initialled by the President or Judge-Advocate (if any).

3. The President or Judge Advocate(if any) will attach all documents at the top left corner thereof to the top of page 3 of this form in the following order.

(i) Charge Sheet initialled by the President.
(ii) Medical Certificates, initialled by the President.
(iii) Record of Evidence, initialled by the President,with the pages numbered consecutively.
(iv) Exhibits, in order of production, marked as such by consecutive letters and initialled by the President.
(v) The Summary of Evidence(if not already an exhibit) and initialled by the President.
(vi) Declaration (if any) under R.P.104 (Form - MML p.741) and initialled by the President.

4. The heading of each of the three pages "A", "B" and "C" indicates the nature thereof. As occasion requires, the appropriate page will be used and the others returned with the Proceedings to the Confirming Officer or to the D.J.A., H.Q., 1st Cdn Army in accordance with the appropriate drill for different formations. The delivery of the documents should be made without delay by the speediest method. When not delivered by hand by the President, they should be accompanied by a covering letter in an envelope marked "Confidential". The release of exhibits will not be granted until after confirmation and review of the proceedings. Application therefore must be made to the J.A.G. Branch, C.M.H.Q. through the normal channels.

Fuss

PLEA FOR MITIGATION OF PUNISHMENT

in the case of H.46525 Tpr (A/L/Cpl) Dempsey, R., "B" Coy
3 Bn 1 C.B.R.D.

If it please the court, the accused has pleaded guilty and I would like to make this statement for your consideration. The accused's character is excellent, he is a hard and conscientious worker and he has never been in trouble and has never been on charge in the army. As the evidence indicates, the accused failed to report for a parade. This was not a premeditated crime as his troop Sgt can verify that his attitude on parade, prior to the incident, had been faultless and certainly not surly. During the noon meal hour events arose that disgusted the accused to such an extent that he momentarily forgot his military discipline and he did not go on parade. No effort was made to find the accused and warn him to get on parade, nor was any effort made to inform him where his troop had moved to. As a result he was absent for three hours at the end of which time another parade was formed up and he was present. In view of these facts I would ask the court the greatest leniency.

Exh.

FIRST CHARACTER WITNESS

in the case of H.46525 Tpr (A/L/Cpl) Dempsey, R., "B" Coy 3 Bn 1 C.B.R.D.

Lieut A. Chubb, "B" Coy 3 Bn 1 C.B.R.B., having been duly sworn states:

I have known Dempsey for a period of four and a half months. He has been a Cpl in my troop at Crookham, Shobham and also in North Africa while we have been here. During that time I have found him to be a conscientious N.C.O. and always of the highest character, an inspiration to the rest of the troop. He carried out all orders effectivly and performed his duties at all times to my satisfaction.

SECOND CHARACTER WITNESS

B.168 Sgt Tibbs, J., "B" Coy 3 Bn 1 C.B.R.D., having been duly sworn states:

I was Sgt in charge of Two troop on 24 Sep 43 and up until that time Dempsey had always been a good and efficient soldier and carried out any duties without question and to the best of his ability. I have only known him for the three weeks that he has been in my troop. The accused is not at all a surly type of man.

Pub.

SUMMARY OF EVIDENCE

In the case of H.46525 L/CPL. Dempsey, R. "B" Coy. 3rd. Bn. 1 C.B.R.D.

By the direction of the Commanding Officer evidence will be taken upon oath.

First Witness: D.71030 R.S.M. Davy, J.H. having been duly sworn States:

I am D.71030 R.S.M. Davy, J.H "B" Coy. 3rd Bn. 1 C.B.R.D. On the 24 Sept. 1943 at or about 1450 all ranks were warend that the parade would be formed up at 1500 hrs, the usual afternoon parade. I called markers in a loud voice on two occasions then gave the command "On Parade". Tp. Sgts. were ordered to call the roll. Approximately 40 Other ranks were reported as being pesent 91 Other ranks were reported as being absent. Amongste the absentees was L/Cpl. Dempsey, whom I recognize.

.....

The accused declines to cross-examine the witness.

Second Witness: ~~Second Six~~ B.168 Sgt. Tibbs, J.R. having been duly sworn States:-

I am, B. 168 Sgt. Tibbs, J.R. B, Coy. 3rd. Bn. 1 C.B.R.D. I am Sergeant in charge of No. 2 Tp. on the 24th Sept 43 at the 1500 hrs. parade the whistle was blown and markers called. R.S.M. Davy ordered us THEN to call the roll. On calling the roll I found L/Cpl. Dempsey to be absent from the parade. L/Cpl. Dempsey was present at the 1930 parade. I do not know if he was on the meal parade at 1815 hrs.

Theaccused declined to cross examine the witne ss.

.....

The officer taking the summary thereupon warned accused as follows.

"Do you wish to make any statement or give any evidence under oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in wirting and may be given in evidence."

The Accused declined to make a statement.

I certify that the foregoing Summary of Evidence was taken by me in the presence and hearing of the accused and the Rules of Procedure 4 (C) (D) (E) & (F) have been complied with.

.....
~~Garfinkle~~, Lieut.
Lieut. J. Garfinkle,
"B" Coy. 3rd. Bn. 1 C.B.R.DD
Officer taking Summary

In the field.
30 Sept. 1943.

FIELD CONDUCT SHEET.

*No. H-46525 Name Dempsey, R. Sq., Batty., or Company HQ. Corps C A.C. Date of Enlistment 19-5-41 Army Form B122 Sheet No.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded and Remarks
				No Entries				

CERTIFIED TRUE COPY

from Regtl. books kept in my custody

Adjutant

*Serial Number in case of enemy prisoner of war.

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H.46525	L/Cpl	DEMPSEY, Robert	3 Bn, 1 C.B.R.D.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For NIL	times	NIL times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~[illegible]~~

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or ~~has~~ Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~[illegible]~~ days in civil custody, and ~~[illegible]~~ days in military custody, making a total of ~~[illegible]~~ days, of which ~~[illegible]~~ days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ in attestation paper ~~Dec 1913~~ 27 years

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper 19 May 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs.178 days

8. The accused is entitled to deferred pay or gratuity in respect of nil service.

9. The accused is entitled to reckon 2 yrs.178 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~[illegible]~~

~~[illegible]~~

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or department*) the rank of dated

(Printed) W14170/187 10,000 20/42 A.G.P.W.(12) Gp.856

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of Oct 43

_____ Adjutant
3 Bn I Cdn Base Reinforcement Depot

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years.

In the rank of _____ years

In the rank of _____ years.

(*Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be omitted from such sentences as are inoperative and the paragraphs concerned amended accordingly.*)

QQQ-66
PTE DE NEAU A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	NOT guilty	
2nd	Guilty	guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if non applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 54 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer FP for 28 days and to forfeit 28 days pay.

(Sgd) W M W Shaw Capt — 4 June 44 — (Sgd) L H C Payne Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 562-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I confirm the finding and sentence of the Court

~~I direct that the accused be not committed for trial on detention charge(s) until further ordered.~~
(See AA 57A. Delete if not used.)

(Sgd) E Snow A/Brig

Date 5 Jun 44 — Commanding 11 C I B — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K 41426 Pte Deneau A	6 Jun 44	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN LAB 160 2 QQQ-66

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 40-P & S-1608 (3864)

Convened by Order of T E Snow Brig Comd 11 Cdn Inf Bde dated 21 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.41426	Pte		Albert	DENEAU	C B Highrs

PROCEEDINGS REVIEWED
8 Jul 44
W.R. Marshall Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 4 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily~~ by the CO.(1)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to W M W S as interpreter ? Ans No Sir
The Interpreter is ~~sworn~~ (1) Do you object to ..... as shorthand writer ? Ans .....
The shorthand writer is ~~sworn~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by any Member of the Court ? Ans No Sir

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p [illegible])

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	L H C Payne	2 I R C
Member	Capt	S E Cameron	2 I R C
Member	Capt	F Lockman	C B H
Judge-Advocate	Capt	W M W Shaw	H Q 5 Cdn Armd Div
Prosecutor	Capt	D R Neal	C B H
Defending Offr	Capt	G M L Leger	C B H

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 68 (8) and fn 2 were not followed. See D1 p 33.)

A8. The accused before arraignment make(s) (no) ~~(1)~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 132, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressee made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A94 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is adjourned~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	NOT guilty	
2nd	Guilty	guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 54 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To suffer FP for 28 days and to forfeit 28 days pay.

(Sgd) W M W Shaw Capt — Judge-Advocate, if any

4 June 44 — Date awarded.

(Sgd) T E Snow Brig — President (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.66(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is I confirm the finding and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (Insert if Con. Comd.)

(Sgd) E Snow A/Brig

Date 5 Jun 44 — Commanding 11 CIB — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused. — Date. — Signature of Offr.

K41426 Pte Deneau C B — 6 Jun 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 2 4 4 9-66

REGD JUL 1944 JAG BR

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA2) 40/P.A.S/1610 (2864)

Convened by Order of T E Snow Brig Comd 11 Cdn Inf Bde dated 21 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prsnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K.41426	Pte		Albert	DENEAU	C B Highrs

PROCEEDINGS REVIEWED 8 Jul 44 W M W Shaw Capt REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 4 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor submits the Court that accused elected to be tried by court-martial instead of being dealt with summarily by this CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans.

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans. No (2)

(1. RP 108. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	LHC Payne	2i RC
Member	Capt	A E Cameron	2i RC
Member	Capt	F Lackman	C B H
Judge-Advocate	Capt	W M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	D R Nicol	C B H
Defending Offr	Capt	G McLegan	C B H

Questions by President : Is the Prosecutor a lawyer ? Ans. No Is the Defending Offr a lawyer ? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment make(s) (no) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 102), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42 ; when severed accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is adjourned) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*H*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir (5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para* E3 *of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part 1 of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D2 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, Sir (1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.(1) As above
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the first charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the first charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence except on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP* 155. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part 1 of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*d*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not appropriate when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes, Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB* 353 *or MFB* 256. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes this day offr (2)
(*1. RP* 37(*C*), 46(*D*). *2. Witness, if any, recorded per Notes. Court should permit accused or his witnesses to adduce evidence on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part 1 of the Schedule, which is dated and signed by him and the J.A. if any.(2) 7s(D)
(*1. When several accused tried separately see RP* 28(*b*). *Give sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its powers. It is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to punishments see AA* 44, 138, 142, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 320, 363-366. *Overseas MO* 309, 1321, *

CHARGE SHEET

The accused A 41426 Pte Deneau, Albert, C Coy., Cape Bretob Highlanders, C.A., C.M.F., is charged with;

FIRST CHARGE:
A.A.Sec 19 WHILE ON ACTIVE SERVICE, DRUNKENNESS

in that he

in Bari on the 22 Mar 44 was drunk.

SECOND CHARGE:
A.A.Sec 15(1) WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

was absent without leave from 2100 hrs 24 Mar 44 and remained absent until apprehended at Matera at 2000 hrs 11 Apr 44.
(absent 16 days 23 hrs)

In The Field, 10 May 1944

J.B. Weir
(J.B. Weir) Lt.Col.
Commanding Officer,
Cape Breton Highlanders

To be tried by Field General Court-Martial

In the Field
21 May 44

E Snow
(T E Snow) Brig
Comd 11 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (in lieu of AFA8)
40/P&S/1697 (2803)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MAL Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K41426	Pte		Albert	DENEAU	C B Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[s] named above as the accused, being subject to military law, has [have] committed the offence(s) set forth in the Charge Sheet[s] attached and on (*date*) 21 May 44 endorsed by me, [illegible]. " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

[illegible]

at [illegible]
(AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). *Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	L C H Payne (*Must be named.* RP 106.)	Ir R C (Unit.)

MEMBERS.

Captain	S E Cameron	Ir R C
Captain (Rank.)	F Lockman (*Named or detailed.* RP 106.)	C B Highrs (Unit.)

WAITING MEMBER.

Lt (Rank.)	F W Hider (*Named or detailed, if any.* RP 106.)	Perth R (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	W M W Shaw (*Must be named, if any.* RP 106.)	HQ 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in Italy (Country.)

(T E Snow)
(*Signed personally.* RP 105 fn 2.)

Brigadier (Rank.)

Date 4 Jun 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

CAPE BRETON HIGHLANDERS 4 June, 1944

I certify that I have examined K41426 Pte Deneau, A this morning and that he is fit to undergo Field General Court Martial.

for H C Checo capt
(R.M. Rogers)
Medical Officer
Cape Breton Highlanders.

In my opinion due to military exegencies it is necessary for this court to sit on Sunday.

L. H. Payne Major
President.

1

Prosecutor states that witnesses are not available & he has ∴ no evidence to produce.

Def. offr moves for dismissal
Court allow.

1st wit Character } G27701 Sgt Thompson. R.J.H. CBH. duly sworn, states:-

Accd in my Pl since 17 Apr. Was on BELMONTE front. 2 had only 9 men & self. 2 put him on OP when he couldn't move since only few yds from enemy. Accd also went on standing patrol & he did splendid job. Came out on 2 May & has done very good job. In last action was on 2" mortar & did very good job in last campaign. I requested his transfer to my Pl. since then & he is there now.

XX m:- nil

Court:- Very good gen. rep. for honesty. Trust knew him well 17 Apr & on.

RP 73(B) complied with.

Def offr in mitigation:- Accds good conduct both in MEMC & in action. Number of days in close arrest has been in line during time but never released to open arrest. 2 knows Belmonte front & his work there was excellent. Very willing & works in last front was excellent again. Have found him very trustworthy. Bn in rest when he went awl.

W.M.W. Shaw
Capt.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of K 41486 Pte.Deneau,A.,C Coy.,Cape Breton Highlanders C.A.,C.M.F.,charged with one offence under A.A.sec 19 and one offence under A.A.Sec 15(1).

FIRST WITNESS: Cpl.D.J.Marriner,Corps of Military Police.
At Bari on the 22-3-44 at about 1925 hrs I was on duty at Company H.Q. in company with L/Cpl.L.Terrell,C.M.Policewhere I saw the above mentioned soldier. I approached him and spoke to him. He was unsteady on his feet, his speech was slurred,and his breath smelt strongly of liquor. He was drunk. I arrested him and conducted him to the town guard room where he was handed over to the N.C.O. i/c guard to be detained.

A written statement of the witness's evidence purporting to be signed by him has been read to the accused and is attached to the summary as Exhibit "A".

The accused does not demand the attendance of the witness for cross-examination.

I certify that due to the exigencies of the service,including the time and expense involved,the presence of the witness mentioned above cannot readily be procured for the taking of the summary.

D.G.Fraser Lieut
Officer taking Summary

SECOND WITNESS: L/Cpl.L.Terrell,Corps of Military Police.
I have read over and corraborate the above statement.

A written statement of the witness's evidence purporting to be signed by him has been read over to the accused and is attached to this summary as Exhibit "A".

The accused does not demand the presence of the witness for cross-examination.

I certify that due to the exigencies of the service including the time and expense involved,the presence of the witness mentioned above cannot readily be procured for the taking of the summary.

D.G.Fraser Lieut
Officer taking Summary

THIRD WITNESS: Capt.D.Murdock ,8th Army Rest Camp.
K41486 Pte.Deneau,A.,Bari,22-3-44,W.O.A.S.,Drunk,leave cancelled,remanded for U.C. unit.

A written statement of the witness's evidence purporting to be signed by him,has been read to the accused and is attached to the summary as Exhibit "A".

The accused does not demand the presence pf the witness for cross-examination.

I certify that due to the exigencies of the service,including the time and expense involved the presence of the witness mentioned above cannot readily be procured for the taking of the summary.

D.G.Fraser Lieut
Officer taking Summary.

"A"

FOURTH WITNESS: 225932 Cpl.Leibawitz,S.S.D.,V.D.F.
On the night of the 11th April 1944 I was in a wine bar with Fus Clapman when a soldier came in according to his paybook is "Albert Deneau". He spoke the an Italian civilian in either Italian or French,He then sat at our table and said that he was from the 8th Army and had been for 10 months in Italy,also mentioned he had been four years in the army. He stated that the M.M. who a soldier was wearing was the three years Italian service medal. His name he said was Alfred and was from Canada and was serving in the 1st Canadian Division,attached to the 8th Army He also informed us that he had never been in North Africa and he had some friends in the "36 Black Cat Regt" After hearing all this , I asked him for his paybook and from the contents Fus Clapman and I decided that he was up to something so took him to the guard room at 167 Brigade at Matera

A written statement of the witness's evidence purporting to be signed by him has been read over to the accused and is attached to the summary as Exhibit "B".

The accused does not demand the presence of the witness for cross-examination.

I certify that due to the exigencies of theservice,including the time and expense involved the presence of the witness mentioned above cannot readily be procured for the taking of the summary.

.....
Officer taking Summary.

FIFTH WITNESS: 647499 Fus Clapman,A.,9th Royal Fusiliers.
I have read over and corrabate the above statement.

A written statement of the witness's evidence purporting to be signed by him has been read to the accused and is attached to the summary as Exhibit "B".

The accused does not demand the presence of the witness for cross-examination.

I certify that due to the exigencies of the service,including the time and expense involved the presence of the witness mentioned above cannot readily be procured for the taking of the summary.

.....
Officer taking Summary.

SIXTH WITNESS: F54692 Sgt MacCormack,D.J.,Cape Breton Highrs having been duly swotn states;

I am F54692 Sgt MacCormack,D.J. on the 24 Mar 44 I was platoon Sgt of 15 Platoon,"C" Coy.,C.B.H. of which the accused was a member at 2100 hrs this date I called Tattoo Roll and K41426 Pte.Deneau,A. was absent

.....

The accused declined to cross examine the witness.

SEVENTH WITNESS: 113920 Capt.D.H.Maltby,9th Royal Fusiliers.
On the evening of the 11th Apr 1944 at about 2000 hrs I interviewed a soldier K41426 Deneau,Albert. He stated that he was A.W.L. so I apprehended him under close arrest and forward him to C.M.P. HQ,Bari, this morning 12-4-44

A

A written statement of the witness's evidence purporting to be signed by him has been read to the accused and is attached to the summary as Exhibit C.

The accused does not demand the presence of the witness for cross-examination.

I certify that due to the exigencies of the service, including the time and expense involved the presence of the witness cannot readily be procured for the taking of the summary.

D.G.L. Fraser Lieut
Officer taking Summary

The accused ~~was~~ was warned as follows:

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidnce you may give will be taken down in writing and may be given in evidence.

The accused : I have nothing to say at this time.

C. Dineen

I certify that R.P.4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 10th day of May 1944.

D.G.L. Fraser Lieut.
Officer taking Summary

"A"
Witness

230/3/692. A

Ex Inlet A D.G.L. Fraser Lieut

CHARGE Army Form B 252
(*See King's Regulations*)

CAPE BRETON HIGHLANDERS — Regiment

'C' COMPANY — Battery / Squadron / Troop or Company

CHARGE against No. K 41426. Rank PTE.

Name YENEAU. A.

Place BARI. Date of Offence 22.3.44.

OFFENCE W.O.A.S. YRUNK.

E.O. Powell. Staff Lieut. for CAPT.
D.A.P.M. 6 BASE SUB. AREA

Names of Witnesses:

CPL P. J. MARRINER. C.M. POLICE.

L/CPL L. TERRELL. C.M. POLICE.

Signature of O.C. Battery, Squadron, Troop or Company — Vessel Committed

Remanded for OC Unit

Punishment Awarded — D Mendelssohn Lieut

By whom Awarded — Commandant, Eighth Army Rest Camp

Adjutant.

P.T.O.

Ex

P.S.S. 181 - 250,000 - 11.43

CHARGE Exhibit A D Gt Fraser Lieut 230/3/692. A

Army Form B 252
(See King's Regulations)

CAPE BRETON HIGHLANDERS. Regiment

'C' COMPANY. Battery / Squadron / Troop or Company

CHARGE against No. K 41426. Rank PTE.

Name PENEAU. A.

Place BARI. Date of Offence 22.3.44.

OFFENCE W.O.A.S. DRUNK.

E. O. Powell. Staff Lieut.
for CAPT.
D.A.P.M. 6 BASE SUB. AREA

Names of Witnesses:

CPL. P. J. MARRINER. C.M. POLICE

L/CPL. L. TERRELL. C.M. POLICE.

Signature of O.C. Battery, Squadron, Troop or Company } Will be Committed

Punishment Awarded } Remanded for OC Units

By whom Awarded } D McCandrew
Lieut
Commandant, Lipoth Army Rest Camp

Adjutant.

P.T.O.

Statement of **EVIDENCE** in the case of:-

No. K. 41426. Pte. Yeneau A.
'C' Company
Cape Breton Highlanders.
8th Army Rest Camp.

Sir,

At Bari on the 22.3.44 at about 19.25 hrs. I was on duty at Company H.Q. in company with L/Cpl. L. Terrell C.M. Police where I saw the a/m soldier.

I approached him and spoke to him. He was unsteady on his feet, his speech was slurred, and his breath smell strongly of liquor.

He was drunk.

I arrested him and conducted him to the Town Guardroom where he was handed over to the N.C.O. i/c. guard to be detained. (Statement attached.)

D.J. Marsiner Cpl.
C.M. Police

Bari.
22.3.44.

REMARKS

Sir, I have read over and corroborate the above statement.

L. Terrell Cpl.
C.M. Police.

Bari.
22.3.44

230/3/692. A

Exhibit A of Gh Fraser Lieut

Army Form B 252
(See King's Regulations)

CHARGE

CAPE BRETON HIGHLANDERS — Regiment

'C' COMPANY — Battery / Squadron / Troop or Company

CHARGE against No. K 41426. Rank PTE.

Name PENEAU. A.

Place BARI. Date of Offence 22.3.44.

OFFENCE W.O.A.S. DRUNK.

E. O. Powell. Staff Lieut. for CAPT.
D.A.P.M. 6 BASE SUB. AREA

Names of Witnesses:

CPL. P. J. MARRINER. C.M. POLICE

L/CPL. L. TERRELL. C.M. POLICE

Signature of O.C. Battery, Squadron, Troop or Company — Will Cancelled

Remanded for OC Units

Punishment Awarded — D. Ex endorsement

By whom Awarded — Commandant, 1 Lyth Army Rest Camp

Adjutant.

P.T.O.

Statement of Cpl Leibowitz and Fus. Clapman:- B

Exhibit B-D9h7 raw sheet

On the night of the 11th April 1944, I was in a wine Bar with Fus. Clapman. When a Soldier, [illegible] according to his Pay book, is "Albert Deneau". He spoke to an Italian civilian in either Italian or French. He then sat at our table and said that he was from the 8th Army and had been 10 months in Italy. Also mentioned he had been "four years" in the Army.

He stated that the M.M. who a Soldier was wearing was the three years Italian service medal.

His name, he said was "Alfred," and was from Canada and was serving in the 1st Canadian Division, attached to the 8th Army. He also informed us that he has never been in North Africa, and he had some friends in the "36" Black Cat Regt. After hearing all this, I asked him for his pay book and from the contents Fus. Clapman and I decided that he was up to something so took him to the Guard Room at 167 Brigade at Matera.

(1) Cpl B Leibowitz 6228932 V.
S.S.B. 4.9F.

(2) Albert Clapman 6474699 9th Bd Royal Fus

C.M.P H.Q.
BARI

Exhibit

"C"

C

CERT 1

Statement by 113920 Capt. D. H. Izaldry.

Exhibit C. D.G.H. Frazer filed

On the evening of the 11th of April 1944 at about 2000 hrs I interviewed a Soldier K. 41426. DENEAU ALBERT. He stated that he was A.W.O.L so I apprehended him under close arrest & forward him to C.M.P HQ 'BARI' this morning 12.4.44.

Signed D. H. Izaldry. Capt.
9 R.F.

M.F.M. 6
(A.F. H.127)
40/F.C./8100 (2065)

No. K41426 Name Dareau, A. Sqn., Battery, or Company Corps R.I.C. Date of enlistment 3-3-42 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheets destroyed after 6 months service 3-9-42					Nil Cases Drunkenness				
Vernon	23-2-43	Pte		A.W.L. from 1200 hrs 22-2-43 to 1115 hrs Absent 23 hrs 15 mins A.A. 15(1)	Documentary Gd Plater A.L. Gd Sing	7 Days C.B.	24-2-43	Maj J.A. MacLean	Forf 1 days pay 2 Rd 149
Vernon	20-3-43	"	1	Drunkeness A.A. 19		7 Days C.B.	22-3-43	Maj W.R. Delvin	

Certified True Copy D. G. Le Fraser Lieut.

(P.T.O.)

Substitute for AFB 296
or MFB 356.

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED.

No. K 41426 Rank Pte Name Demeau, A. Unit Cape Breton Highlanders

Age 23 Married or Single Single No of Dependents Nil

Date of Attestation 3 Mar 42

Number of days in Close Arrest awaiting trial.....

Civil..... Military 29 days Hospital..... Total.....

Dates of appointments, promotions etc(if any).....

.....

.....

.....

Decorations C.V.S.M. & Clasp

In the Field
10 May 44
Date

Officer i/c Regtl Books
Cape Breton Highlanders
Unit

Note: Certified true copy of MFB 6 must accompany this form.

"B"

I desire the convening officer to detail an officer to represent me at my forthcoming trial by court martial

I desire the services of Capt J M. Logan if he is available.

List of witnesses in the case of F41426 Pte Deneau,A.

For the Prosecution:

Capt R.T.Bennell C.B.Higgs

F60079 Cpl Adams,W.L. "

Both the above witnesses are with the unit in the Field

For the Defence:

N I L

List of Exhibits in the case of K41426 Pte Deneau,A

Exhibit "A" Document purporting to be a signed statement of Cpl D.J.Warriner, 1/Cpl L.Terrell and Capt D Murdoch

Exhibit "B" Document purporting to be a signed of 2855[illegible] Cpl Leibowitz,S.S.B and 647[illegible] Fus A Clapman

Exhibit "C" Document purporting to be a signed of Capt. D.M. Malloy

365 B. Pte Denike, A. A.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Sixth day of June, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*[I am unable to appoint:-~~
~~*[Three Officers to form the Court.]~~
~~*[A Field Officer as President.]~~
~~*[Three Officers having more than one year's service.]~~

for the following reasons, namely :—]

President.

Rank.	Name.	Regiment.
Major	G. O. Taschereau	R.C.R.

Members.

Rank.	Name.	Regiment.
Captain	H. Ruttan	Hast & PER
Lieut	D. W. Deeks	48th Highrs
Lieut	D. MacDonald	Waiting member

* Must be signed personally by the Officer actually in command at the time, and all alterations on the composition of the Court to be initialled by him.

*Signed J. H. Roberts (J. H. Roberts) Brigadier
Commanding 1 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C4014, Pte DENIKE, A.A. Hast & PER	(1) WOAS deserting His Majesty's Service in that he in the Field ENGLAND, on 3rd March 1941 absented himself from the Hastings and Prince Edward Regiment, C.A.(A.F) until apprehended by the Civil Power at Picton, Ontario, Canada on 15 April 1941 dressed in Civilian clothes.	Not Guilty	Not guilty of desertion, but guilty of absence without leave.	Confirmed. J.U.L.
	(2) WOAS losing by neglect his equipments, clothing, and Regtl necessaries, in that he In the Field, ENGLAND on 25 March 1941 was deficient of the following articles ----see att charge sheet.	~~Not~~ Guilty	Guilty 6 Months Detention. Stoppages $ 10/11/10	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— Does not want an adjournment.

(Signed) J.U. Roberts Brigadier (C. H. Roberts) Commanding 1 Cdn Inf Bde
(Signed) G.O. Taschereau Major (G. O. Taschereau) Royal Canadian Regiment President.
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 14th day of July 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ SVT
*~~(4. The officers under instruction)~~

were duly sworn.

* Omit if not applicable.

Signed this 14th day of July 1941.

G.O. Taschereau Maj
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ SVT

~~Signed this day of 19~~

* See footnote (b) on page 762 M.M.L. 1929.

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison until further orders.) J.U.L.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 18th day of July 1941

J.U. Roberts Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 22 July, 1941 (Signed) H. Graham LT. COL. COMDG. THE HASTINGS & PRINCE EDWARD REGT. C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

(1)

The Accused C.4014, Pte. Denike, A.A. a soldier of the

Hastings & Prince Edward Regiment, C.A. (A.F.)

is charged with:-

FIRST CHARGE A.A. SEC 12 (1) A.

W.O.A.S. deserting His Majesty's Service

In that he

at, "In the Field", ENGLAND, on 3rd March 1941 absented himself from the Hastings and Prince Edward Regiment, C.A.(A.F.), until apprehended by the Civil Power at Picton, Ontario, Canada on 15 April 1941 dressed in civilian clothes.

SECOND CHARGE A.A. SEC 24 (2)

W.O.A.S. losing by neglect his equipments, clothing, and Regimental necessaries.

In that he

at, "In the Field", ENGLAND, on 25 March 1941 was deficient of the following articles:-

ARTICLES	VALUE OF UNEXPIRED WEAR £	s/9	d/9
1 steel helmet		16	0
1 respirator complete)		2	0
1 respirator haversack)	2	5	0
6 pr. eye shields		3	11
2 pr. boots ankle	1	2	6
1 pr. anklets web	1	0	6
1 battle blouse		2	2
1 battle trouser	1	0	0
1 cap F.S.	2	8	6
2 shirts angola		1	6
1 greatcoat drab		1	2
1 pr. braces		2	0½
1 field dressing		1	1½
1 holdall & shaving kit		1	4
½ tin mess		13	6
1 towel hand			4
1 gas cape			
1 spoon			
	£10-	11-	10 Total

H.D. Graham

(H.D. Graham) Lieut.-Col.,
Commanding,
The Hastings & Prince Edward Regiment, C.A.(A.F.)

In the Field.
5 June 1941.

To be tried by F.G.C.M.

J. M. Robinson Brigadier
Comd 1 Cdn Inf Bde.

S. Trasshuan Maj
President.

(2)

FIELD GENERAL COURT MARTIAL
in the case of
C 4014, Pte. DENIKE, A.A., HAST & PER

The accused objects to Capt. H. RUTTAN, HAST & PER. as member of the Court on the grounds that he would be prejudiced. Convening officer allows Capt. STOCKLOSER, HAST & PER. to act in stead of Capt RUTTAN, since waiting member is away on duty.

1st witness for the prosecution

C 40904, Sjt. KIRKEY, A.J., having been duly sworn, states:-
" I am the Bn. Orderly Room Sjt. My work includes the handling of Regimental documents and correspondence, under Capt. C.S. NICKLE, Adjutant. I produce the following documents in connection with this case.

1. Record of the declaration od a Court of Inquiry on the illegal absence of a soldier, A.F.B. 115.
2. Certificate of arrest, A.A. 163 (I) M.
3. Certificate of delivery to military custody, A.A. 163 (I) M"

Prosecuting officer reads documents before Court, including Medical Certificate.

Case for the prosecution is closed.

(3)

1st Witness for the defence

C. 4014, Pte. DENIKE, A.A., HAST & PER, States:-
He relates his story and his reasons for going to CANADA (see summary of evidence).

2nd Witness for the defence

C 4004, S/Sjt. WENSLEY, W.R., pay sjt., having been duly sworn, States:-
He tells Court about Pte. DENIKE's wife not receiving her full and proper allowances, and of the steps taken by the accused to have the full amount paid to her.

3rd Witness for the defence

C 4313, Pte. BRANT, W.J., HAST & PER, having been duly sworn, states:-
Had been in the same Coy. as the accused and knew him well. They had been good friends. Had seen the letters received by the accused and knew of his troubles at home. The accused had confided in him and had told him all his troubles.

4th Witness for the defence

B. 33309, Pte TAYLOR, A.H.S., HAST & PER, having been duly sworn, states:-
Similar evidence to that of 3rd Witness.

5th Witness for the defence

C 5036, Pte. STOUGHTON, D.K., HAST & PER, having duly sworn, states:-
Similar evidence to that of 3rd and 4th witnesses.

[signature]
Maj.
President

6th Witness for the defence

Mrs WIGHAM, MORDEN, SURREY, having been duly sworn, states:- Had known the accused in MORDEN during the summer of 1940 and had known of his family troubles. The accused had spoken to her of going back to CANADA the but she had persuaded him not to. She had spoken to the accused' commanding officer at the time to see if the family troubles of the accused could be settled

Closing address by the prosecution

Due to the fact that the accused left ENGLAND in civilian clothes and arrived in CANADA in civilian clothes leaves no doubt that he was trying to evade the police. The accused states that he travelled in uniform when in CANADA but that there is no proof of that. Family troubles were no reason to desert his unit, that such things must be done through the proper channels.

Closing address by the defence

Troubles at home had placed a great mental and physical strain on the accused. These troubles had been on the mind of the accused for a long time and he had not been able to have them straightened out through his unit. On arrival in CANADA and after he had not attempted to conceal himself but had remained in his own town where he was known.

Statement as to character of the accused read by the adjutant.

Evidence as to character given by S/t. CORNISH, provost Sjt. Knew the man and never had any trouble with him. Was a good worker.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 25th day of March 1941, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C.4014, Pte. Denike, A.A., "A" Coy., Hastings & Prince Edward Regiment.

DECLARATION.

The Court declare, that No. C.4014, Pte. Denike, A.A. "A" Coy., Hastings & Prince Edward Reg't., C.A.(A.F.) illegally absented himself without leave (or other sufficient known cause) "In the Field" on the 3 Mar. 41 that he is still so absent and that on the 25 Mar. 41 he was deficient of the following articles.

Articles	Value of unexpired wear £	s	d
1 steel helmet		7	9
1 respirator complete / 1 " haversack		16	0
6 pr. eye shields.		2	0
2 pr. boots ankle	2	5	0
1 pr anklets web		3	11
1 battle blouse	1	2	6
1 battle trouser	1	0	6
1 cap F.S.		2	2
8 shirts angola	1	0	0
1 greatcoat Arab	2	8	6
1 pr. braces		1	6
1 field dressing		1	2
1 holdall & shaving kit		2	6½
½ tin mess		1	1½
1 towel hand		1	4
1 gas cape		13	6
1 spoon			4

Names of President and Members

B.A. Sutcliffe ..... Major - President

L.C.B. Sarby ..... Lieut. - Member

D.S. Simpson ..... Lieut. - Member

Signature of Commanding Officer (M.D. Graham) Lt.-Col., Commanding

CERTIFIED TRUE COPY.

The Hastings & Prince Edward Reg't. CA(AF)

L. S. Nickle Capt.

Signature of Officer having custody of the Original Record.

(C.S. Nickle) Capt. & Adjt.

Dated at Bn. H.Q.
Hastings & Prince Edward Regiment, CA(AF)
25th March, 1941.

(12281) Wt.24318/1622 75,000 10/39 A.& E.W.Ltd. Gp.486 Forms/B/115/10

CERTIFICATE OF DELIVERY TO MILITARY CUSTODY

Certificate in accordance with Section 163 (1) (k) of the Army Act.

I certify that the person whose description is given below was delivered by me into the custody of ...A.S.M. Dennison..... at...Picton,Ontario.....at.....P.P.M.....on the.15th... day of...April....., 19.41.....

Regimental particulars of Officer or soldier referred to above.

No....C.4014.....
Rank..Private.....
Name..[illegible]
Unit..1st.Bn..Hastings.&.Prince E.R.
Age...22.Born.29th.April.1918
Height.5.feet.10½.inches...
Complexion...Fair.....
Hair.....Fair.....
Eyes.....Blue.....
Marks..Tattoo.crossed.swords right forearm "A"...

Description.

Signature of Police Officer or Constable..James Lorbase.

CERTIFICATE OF ARREST (OR SURRENDER)

Certificate in accordance with section 163 (1) (m) of the Army Act.

I certify that the peron whose description is given below was arrested (~~or surrendered~~) at..Picton,Ontario....(place) at....4.P.M.....(hour) on the....14th...day of..April..19.41. Sober and dressed in civilian clothing.

Regimental particulars of Officer or Soldier referred to above.

No.....C.4014.....
Rank...Private.....
Name...[illegible]
Unit...1st.Bn..Hastings.&.Prince ...[illegible]
Age....22.Born.29th.April.1918
Height.5.feet.10½.inches....
Complexion....Fair.....
Hair.....Fair.....
Eyes.....Blue.....
Marks...Tattoo.crossed.swords. right forearm "A"

Description.

Signature of Officer or Police in charge of the Station where the above named person was taken or placed in custody, on arrest or surrender.

James Lorbase
(In charge of...[illegible]
Police Station.
County Constable.

ORIGINAL

OPINION OF THE MEDICAL BOARD

15. Does the Board concur with the preceding report? If not, give differing opinions with reasons

Concur

16. It is certified that the invalid,—
(a) Does require treatment (give nature of treatment required and probable duration.)

(b) ~~Does not require treatment~~ Sinus

Categories hereunder are defined for information only.

(1) *NAVY*—
A. General service.
D. Temporarily unfit.
E. Unfit for Category A.

(2) *ARMY*—
A. General service.
B1, B2. Service abroad (not general service).
C1, C2. Home service (Canada only).
D. Temporarily unfit.
E. Unfit for A, B, C.

(3) *R.C.A.F.*—
A1B Fit for full flying and ground duties anywhere and under any conditions.
A1HBH Fit for full flying and ground duties in Canada.
A2B Fit for limited flying duties and all ground duties anywhere and under any conditions.
A2HBH Fit for limited flying duties and all ground duties in Canada.
A3B Air Crew (other than pilots) fit for their full flying duties and full ground duties anywhere and under any conditions.
A3HBH Ditto but Canada only.
A4B Fit for passenger flying and full ground duties anywhere and under any conditions.
A4HBH Ditto but Canada only.
ATB Unfit for flying temporarily but fit for full ground duties anywhere.
ATBH Unfit for flying temporarily but fit for full ground duties in Canada.
ATBT Temporarily unfit for any form of duty.
APB Permanently unfit for flying, fit for ground duties anywhere.
APBH Ditto but only in Canada.
APBT (Permanently unfit for flying, temporarily unfit for any form of duty).
APBP Unfit for any form of duty.

17. Recommendations of the Medical Board as to category, treatment or convalescence.

Category A Home

Place Kingston

Date June 18/41

R. McLaren Major R.C.A.M.C.
J. Lee Elliott Capt.
Colin D. Patterson Lieut. Members.

TO BE COMPLETED WHEN TREATMENT IS REFUSED

I, the undersigned understand the nature of the treatment recommended, and I refuse to accept it, for the following reasons

Witness (Should the refusal appear unreasonable, or should he decline to sign the statement, the Board of Officers should so state.)

Signed

President.

Place

Date

Members.

APPROVED BY

Lt.-Col. Thomas Capt.
Assistant Medical Officer Military District No. P.M.O.
18-6-41

APPROVED BY

Date

D.G.M.S. or D.M.S. (Air)

MEDICAL HISTORY OF AN INVALID

INSTRUCTIONS TO MEDICAL OFFICERS

1. In using this Form, Medical Officers will be guided by instructions issued at N.D.H.Q.
2. This Form will be used *for all ranks*, at home and abroad, when change in Category or discharge from His Majesty's Forces is contemplated.
3. All sections must be answered in full.
4. A definite diagnosis of all diseases or injuries recorded must be made, and the "Standard Morbidity Code for Canada" must be followed.
5. The Medical Officer in charge of the case is responsible for the completion of pages 1, 2 and 3. The President and Members of the Medical Board are responsible for the completion of page 4.

STATION Dist. Depot M.D. 3 DATE June 18/41

1. (a) Unit H. & P.E. Regt (b) Regimental No. C-4014 (c) Rank Pte.

(d) Surname DENIKE (Use block letters) (e) Christian names Anselm Arthur

(f) Home address Picton Ontario

(g) Next of Kin Mrs. A.A. Denike (h) Relationship Wife.

(i) Address of Next of Kin Picton Ontario

2. Age last birthday 21 Date of birth April 29th, 1918

3. Enlistment, or Appointment: (a) Place Picton, Ont. (b) Date Oct. 17th, 1939

(c) Category on enlistment A (d) If lower than A on enlistment, give reason

4. Personal description: (a) Height 5' 9½" (b) Weight 152

(c) Complexion Fair (d) Colour of hair L. Brown (e) Colour of eyes Blue

(f) Identification marks, scars, etc. Crossed swords on right forearm. Ladyis head and mother on chest.

5. Former civilian trade, profession or occupation Musician

6. Service (The information should be secured from personal Military documents if available. If not, a statement from the member of the forces may be taken, and note made to that effect.

(a) Length of service. Years 1 Days 244

(b) Periods of service:

(c) Trade on enlistment	From	To
	0	
Former Wars	Oct. 17th 1939	Dec. 1939
War 1939—Canada	Dec. 1939.	Mar. 1941
Annual	April 2, 1941	To date
Canada on return from abroad		

7. Diseases or injuries with Code Nos. (1) Pes Planus. (2) Sinusitis.
(To be filled in when examination has been completed)

(a) Dates of origin (1) unknown (2) unknown

(b) Places of origin (1) Canada (2) Canada.

(c) Causes (2) Infection (1) Constitutional

M.F.B. 727
DHM—5-41 (H.Q.)
H.Q. 1773-39-411

8. Present Condition—(a) Subjective (In the individual's own words)

My feet ache when I walk any distance. The backs of my knees & legs also ache.

My head aches when I awake in the morning. I can cough up sputum also. My eyes are sometimes blurred.

Complains of pain over thr frontal area.

(b) Objective (Before completing this section, the member of the forces should be stripped and subjected to a thorough physical examination. All defects, no matter how trivial, should be recorded. Specialists' reports will be obtained when necessary to ensure a definite diagnosis. For R.C.A.F. Personnel when the category is higher than A+B, a B2 examination is to be completed and the results entered in this section.)

Eyes: Rt. 20/25

Lt. 20/25

Ears Rt. C.V. 20' Lt. 20'

Drums normal.

Fields of vision & reflexes normal.

Heart and lungs normal.

General surgical negative.

No evidence of organic disease.

Extremities--Moderate degree of flat feet--non-rigid.

(See specialists' reports attached re Mental Fmt

Feet--could not rise more than 1" off the floor when trying to stand on his toes.

9. History (This section should contain a detailed history of the origin of all diseases and injuries described in Section 8. Date and place of treatment should be recorded, and if pre-enlistment in origin, the name and address of the attending Physician or institution, if available, should be included. Special care should be taken as to history in respect of injuries incurred during service. Copies of Medical Case Sheets, D.P. & N.H. Forms 100, and Consultant opinions should be attached.)

This soldier gives a long and indefinite history of sinusitis and complains that previous to his entrance to the army his feet gave out. Since entering the army he cannot wear army boots. Has repeatedly complained to his M.O. about his feet.

10. Were the diseases or injuries caused or aggravated:

(a) By intemperance or improper conduct: or (b) by unreasonable refusal to accept treatment?

(a) (1) (2) no (b) (1) (2) no

11. What is the probable duration of the diseases or injuries?

(1) & (2) Permanent

12. Is further treatment in hospital, convalescent home, etc., likely to be of material benefit? (If the answer is "yes" state nature of treatment required and probable duration)

no

13. Can the former civilian trade, profession or occupation be resumed? (If not, briefly state why)

yes

14. Recommendations (This section should contain only the M.O.'s recommendation as to treatment, convalescence, or reference to Medical Board for consideration)

That this man be brought before a Medical Board.

C. Kelly Capt

Medical Officer by whom the case is brought forward.

C. K. Telfer Capt. RCAMC

STATEMENT OF THE INVALID

(Sections 8 (a) and 9 are to be read to the member of the forces and either "satisfied" or "not satisfied" struck out.)

I, the undersigned A. Arthur Demke having heard the contents of Sections 8 (a) and 9 read, am satisfied (~~or not satisfied~~) with it. (If dissatisfied, statement should follow.)

I complain in addition of nothing R.M.

A. A. Demke Pte Rank

Signature of member of the Forces.

OPINION OF THE MEDICAL BOARD

15. Does the Board concur with the preceding report? If not, give differing opinions with reasons

Concur

16. It is certified that the invalid,—
(*a*) Does require treatment (give nature of treatment required and probable duration.)

Sinus

(*b*) ~~Does not require treatment.~~

Categories hereunder are defined for information only.

(1) *NAVY*—
A. General service.
D. Temporarily unfit.
E. Unfit for Category A.

(2) *ARMY*—
A. General service.
B1, B2 Service abroad (not general service).
C1, C2 Home service (Canada only).
D. Temporarily unfit.
E. Unfit for A, B, C.

(3) *R.C.A.F.*—
A1B Fit for full flying and ground duties anywhere and under any conditions.
A1HBH Fit for full flying and ground duties in Canada.
A2B Fit for limited flying duties and all ground duties anywhere and under any conditions.
A2HBH Fit for limited flying duties and all ground duties in Canada.
A3B Air Crew (other than pilots) fit for their full flying duties and full ground duties anywhere and under any conditions.
A3HBH Ditto but Canada only.
A4B Fit for passenger flying and full ground duties anywhere and under any conditions.
A4HBH Ditto but Canada only.
ATB Unfit for flying temporarily but fit for full ground duties anywhere.
ATBH Unfit for flying temporarily but fit for full ground duties in Canada.
ATBT Temporarily unfit for any form of duty.
APB Permanently unfit for flying, fit for ground duties anywhere.
APBH Ditto but only in Canada.
APBT (Permanently unfit for flying, temporarily unfit for any form of duty)
APBP Unfit for any form of duty.

17. Recommendations of the Medical Board as to category, treatment or convalescence.

Category A Hfit

Place Kingston

Date June 18/41

P. McCaw Major R.C.A.M.C.
J. Gellatly Capt
Chas N Bethune Lieut | Members.

TO BE COMPLETED WHEN TREATMENT IS REFUSED

I, the undersigned understand the nature of the treatment recommended, and I refuse to accept it, for the following reasons

Witness Signed
(Should the refusal appear unreasonable, or should he decline to sign the statement, the Board of Officers should so state.)

President.

Place

Date | Members.

APPROVED BY
Senior Medical Officer Military District or P.M.O.

Date 18-6-41

APPROVED BY
D.G.M.S. or D.M.S. (Air)

Date

MEDICAL HISTORY OF AN INVALID

INSTRUCTIONS TO MEDICAL OFFICERS

1. In using this Form, Medical Officers will be guided by instructions issued at N.D.H.Q.
2. This Form will be used *for all ranks*, at home and abroad, when change in Category or discharge from His Majesty's Forces is contemplated.
3. All sections must be answered in full.
4. A definite diagnosis of all diseases or injuries recorded must be made, and the "Standard Morbidity Code for Canada" must be followed.
5. The Medical Officer in charge of the case is responsible for the completion of pages 1, 2 and 3. The President and Members of the Medical Board are responsible for the completion of page 4.

STATION Dist. Depot M.D. 3 DATE June 18/41

1. (*a*) Unit R. & P.E. Draft (*b*) Regimental No. C-4014 (*c*) Rank Pte.
(*d*) Surname DENIKE (Use block letters) (*e*) Christian names Anslem Arthur
(*f*) Home address Picton Ontario
(*g*) Next of Kin Mrs. A.A. Denike (*h*) Relationship Wife.
(*i*) Address of Next of Kin Picton Ontario

2. Age last birthday 2 Date of birth April 29th, 1918

3. Enlistment, or Appointment: (*a*) Place Picton, Ont. (*b*) Date Oct. 17th, 1939
(*c*) Category on enlistment (*d*) If lower than A on enlistment, give reason

4. Personal description: (*a*) Height 5' 9½" (*b*) Weight 182
(*c*) Complexion Fair (*d*) Colour of hair L. Brown (*e*) Colour of eyes Blue
(*f*) Identification marks, scars, etc. Crossed swords on right forearm. Ladyin head and mother on chest.

5. Former civilian trade, profession or occupation Musician

6. Service (The information should be secured from personal Military documents if available. If not, a statement from the member of the forces may be taken, and note made to that effect.

(*a*) Length of service. Years 1 Days 244

(*b*) Periods of service:

(*c*) Trade on enlistment

	From	To
Former Wars	0	
War 1939—Canada	Oct. 17th 1939	Dec. 1939
Accrad	Dec. 1939.	Mar. 1941
	April 2, 1941	To date
Canada on return from abroad		

7. Diseases or injuries with Code Nos. (1) Pes Planum. (2) Sinusitis.
(To be filled in when examination has been completed)

(*a*) Dates of origin (1) unknown (2) unknown
(*b*) Places of origin (1) Canada (2) Canada.
(*c*) Causes (2) Infection (1) Constitutional

M.F.R. 127
[illegible]
H.Q. 1171-39-117

8. Present Condition—(a) Subjective
(In the individual's own words)

My feet ache when I walk any distance. The backs of my knees & legs also ache.

My head aches when I awake in the morning. I can cough up sputum also. My eyes are sometimes blurred.

Complains of pain over thr frontal area.

(b) Objective (Before completing this section, the member of the forces should be stripped and subjected to a thorough physical examination. All defects, no matter how trivial, should be recorded. Specialists' reports will be obtained when necessary to ensure a definite diagnosis. For R.C.A.F. Personnel when the category is higher than A4B, a B2 examination is to be completed and the results entered in this section.)

Eyes: Rt. 20/25

Lt. 20/25

Ears Rt. C.V. 20' Lt. 20'

Drums normal.

Fields of vision & reflexes normal.

Heart and lungs normal.

General surgical negative.

No evidence of organic disease.

Extremities--Moderate degree of flat feet--non-rigid.

(See specialists' reports attached) Mental Case

Feet--could not rise more than 1" off the floor when trying to stand on his toes.

9. History (This section should contain a detailed history of the origin of all diseases and injuries described in Section 8. Date and place of treatment should be recorded, and if pre-enlistment in origin, the name and address of the attending Physician or institution, if available, should be included. Special care should be taken as to history in respect of injuries incurred during service. Copies of Medical Case Sheets, D.P. & N.H. Forms 100, and Consultant opinions should be attached.)

This soldier gives a long and indefinite history of sinusitis and complains that previous to his entrance to the army his feet gave out. Since entering the army he cannot wear army boots. Has repeatedly complained to his M.O. about his feet.

10. Were the diseases or injuries caused or aggravated:

(a) By intemperance or improper conduct: or (b) by unreasonable refusal to accept treatment?

(a) (1) (2) no (b) (1) (2) no

11. What is the probable duration of the diseases or injuries?

(1) & (2) Permanent

12. Is further treatment in hospital, convalescent home, etc., likely to be of material benefit?
(If the answer is "yes" state nature of treatment required and probable duration)

no

13. Can the former civilian trade, profession or occupation be resumed?
(If not, briefly state why)

yes

14. Recommendations That this man be brought before a Medical Board.
(This section should contain only the M.O.'s recommendation as to treat ment, convalescence, or reference to Medical Board or Consultation)

W. Telfer Capt

Medical Officer by whom the case is brought forward.

G. E. Telfer Capt. RCAMC

STATEMENT OF THE INVALID

(Sections 8 (a) and 9 are to be read to the member of the forces and either "satisfied" or "not satisfied" struck out.)

I, the undersigned A. Arthur Demke having heard the contents of Sections 8 (a) and 9 read, am satisfied (~~or not satisfied~~) with it. (If dissatisfied, statement should follow.)

I complain in addition of nothing R.M.F.

A. A. Demke Pte Rank

Signature of member of the Forces.

COPY

Kingston, Ont., June 10th, 1941.

Major R.E. Latta
Sub-District Administrator,
Dept. of Pension & National Health,
Post Office Bldg.,
Kingston, Ontario.

Re: Anslem Arthur Denike, C-4014
#3 A. Dist. Depot

Dear Major Latta:

The following is a summary of my findings of the above named soldier who was examined at the Kingston General Hospital On June 9th, 1941.

Private Denike, age 23, was able to give a clear and comprehensive history of his life There was no evidence of mental retardation or defect. He denied any previous delinquent behaviour or court record although he admitted that he had been asked to leave the United States by reason of the fact that he had never taken out his American Citizenship papers nor paid his Head Tax on entering that county. He admitted several minor misconduct charges in the Army, maintaining that the majority of them were due to the fact that he was ignorant of army or unwilling to accept Army discipline. His only reason for desertion he maintains was due to the fact that his common law wife was in serious trouble at home and the Army authorities had been unwilling to grant her a sufficient allowance to maintain her, readily admitting however, that there were regulations governing allowances in matters of this kind and clearly recognizing the serious nature of the act which he is now being detained for

I was unable to detect any symptoms which would indicate neurological disorder, his only complaint being that he had one flat foot which gave him considerable trouble and that he had been told he had adenoids for years.

It is my opinion that this man is not suffering any mental disability in the form of defect or disease which would relieve him of responsi ility for his actions.

Yours very truly,

C.H. Mc Cuaig, M.D.

McC/F.

It is my opinion that this man is not

Kingston, Ont., June 18, 1941.

Re : #C4014, HENIKE, Arthur A.

Dear Sir,-

This man was seen at the Military Hospital to-day, and particulars were obtained from him, from his military file, and also by interview with two N.C.Os. who knew him prior to enlistment.

He is 33 years of age, and had a Public School education only. His mother died when he was an infant, and he ran away from home when about 14, and has worked, mainly, with sideshows, radio and vaudeville teams, both in Canada the the United States. I understand he was reasonably good as an entertainer.

His father is said to have been a conscript in the last war, and he and his son have never been friendly. His father has remarried, but there are no other children by either of his two marriages. The accused was married about five years ago, to a Hungarian girl, but they lived together only a short time, and she is now said to be living as common-law wife in Quebec Province. He has known his present common-law wife for quite a long time, and knew that she was pregnant prior to his enlistment in October 1939.

He denies any other court record, but in 1938 left the United States to avoid deportation. His medical history is negative prior to enlistment, except for venereal disease about five years ago.

The only basis he advances for desertion was his desire to get home and make the necessary arrangements for his wife to secure separation allowance, as he claimed that she had never been given the amount to which she was entitled. As to the basis for this statement, I have no information. He denies any mental symptoms prior to enlistment, and I could find no evidence of any at the present time, nor was I able to learn anything which would point to their existence during his time in the Army.

It is my opinion that this man is quite responsible for his actions and, as indicated above, I could find nothing to suggest that he has ever suffered from active mental disease.

Yours very truly,

E.A. Clark, M.D.
Superintendent.

Dr. E.K. Latta,
Dept. of Pensions & N.H.,
Post Office Bldg.,
Kingston, Ont.

MEDICAL INSPECTION CERTIFICATE

M.D. No. 3.

PLACE Kingston, Ont. DATE 1[illegible]-Jun-41

This is to certify that the Officers, N.C.O.'s. and men of Unit Somewhere in England Draft ------
Official designation Serial No.

of which a nominal roll is attached, forming part of this certificate, have bee medically examined and are free from communicable disease, parasitic skin disease and vermin. It is also certified that the names of all personnel placed in a category lower than "A" or "B" by Medical Board have been deleted from the nominall roll of those proceeding with this unit or draft.

Officer Commanding

President of Medical Board
or Medical Officer.

W Kelpe Capt, member.

NOMINAL ROLL OF O.R.'s PROCEEDING TO A PORT OF EMBARKATION

EFFECTIVE DATE 17-Jun-41

NUMBER	RANK	NAME	REGIMENT	REMARKS
C-4014	Pte.	DENIKE, A.A.	1st Bn. Hastings & Prince Edward Regiment	Deserter being returned to his unit.

Kingston, Ontario.
16-Jun-41

(L.M.HUGHES).
Major RCA.
O.C. No.3 "A" District Depot.

NOMINAL ROLL OF O.R.'s PROCEEDING TO A PORT OF EMBARKATION

EFFECTIVE DATE 17-Jun-41

NUMBER	RANK	NAME	REGIMENT	REMARKS
C-4014	Pte.	DENIKE, A.A.	1st Bn. Hastings & Prince Edward Regiment	Deserter being returned to his unit.

Kingston, Ontario.
16-Jun-41

(L.M.HUGHES).
Major RCA.
O.C. No.3 "A" District Depot.

No. C-4014 Name Denike A.A. ~~Sgn. Battery~~ or Company A. Corps Hess. & P.E.R. Date of enlistment 18 Oct 1939 G.C. Badges 5 Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

M.F.M. 6 (A.P.B. 132) [illegible] H.Q. [illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
No entries from Previous Sheet destroyed 19 Apr/40 having completed 6 Mo Service Rec'd (CASE [illegible])									
In the field	4/2/41	pte		AWL from 2335 hrs 4-2-41 until 0800 hrs 5-2-41	Cpl Shannon	3 days CB	5-2-41	D B Whytock Capt.	Forfeits 1 days Pay
				Certified true copy [illegible] capt.				S W Tasselman Maj. President	
Completed 12 Months Service on 20 Oct 1940									

(P.T.O.)

(6)

Summary of Evidence in the case of C.4014, Pte. Denike, A.A., a soldier of the Hastings and Prince Edward Regiment, C.A.(A.F.)

First Charge
1st. Witness
Second Charge
1st Witness

C.40904, Sgt. Kirkey, A.J. Hastings & Prince Edward Regiment, having been duly sworn, states:

I am the Bn. Orderly Room Sgt. of the Hastings and Prince Edward Regiment. My work deals with Regimental Documents and Correspondence under Capt. C.S. Nickle, Adjutant. I produce the following documents in connection with this case:-

1. Record of the Declaration of a Court of Inquiry on the Illegal absence of a soldier. A.F.B. 115 (A.A. 163 (1) H).

2. Certificate of arrest A.A. 163 (1) M.

3. Certificate of Delivery to Military Custody. A.A. 163 (1) K.

The accused declines to question the evidence.

(C.40904, Sgt. Kirkey, A.J.)
Hastings & Prince Edward Regiment.

President

The accused having been duly warned in accordance with rule of procedure 4 (E) elects to give evidence on oath;

The accused No.C.4014 Pte. Denike,A.A. "A" Coy. the Hastings and Prince Edward Regiment, C.A.(A.F.). having been duly sworn states;

My reasons for returning to Canada are;

1. Lack of suficient finance for my wife and child to maintain themselves on.

2. Persistent rumours and correspondent's information to the effect that my wife was resorting to prostitution to secure money on which to maintain herself and the babe.

3. Sickness and ill health on the part of my wife and child and insufficient finances to secure proper medical treatment.

4. Abuse to my wife and child received at the hands of her own brothers, and no steps taken to stop such abuse.

5. Persisting letters from my wife to the effect that she could not manage or carry on under the conditions she was in, and could not get help or assistance from anyone, also that she was so depressed in mind that she was pending a nervous breakdown.

6. Lack of her not receiving full dependants allowance from the Govt. for her and the babe and their refusal to give her such.

7. Worry and mental strain on the part of myself in regards to this matter.

8. Lack of proper co-operation from Govt. in securing proper dependants allowance.

In regard to my leaving England. I had no intention of deserting the army but had to change to civilian clothing to manage a passage for myself home. I did not destroy or hide any of my army equipment. I left it all with the exception of my army boots, checked at the soldiers hostel on West Nile St. Glasgow, Scotland. Upon arriving in Canada I did not hide or conceal my whereabouts from anyone; had my intention been desertion I would have done so, also I made no attempt to move my wife or child from Picton, had I contemplated desertion I should have done this, also hid my whereabouts to anyone knowing me, and evaded or resisted the civigl or army authorities, which I did not do. I gave no trouble or cause for any other punishment than close arrest all the time I have been in custody.

My full intentions upon embarking from this country were upon arriving home immediately taking steps to help my wife in her domestic troubles, also to try and prevent her health from growing worse, by taking the worrying troubles she was having to stand up on onto my own shoulders, and trying to get the dependants allowance board to give her the full and proper allowance. I secured a legal adviser in regard to this, also to help defend me in the case the army held against me, for returning home without leave or permission. I had full intention of returning to the army depot of my unit in Canada and reporting my absence without leave to them. After I had achieved my purpose, mainly as I have explained in the later. Also before leaving my unit I was both physically and mentally in such a state of worry that I just couldn't adjust myself according to what the army required of me, as I can produce witnesses to that effect. Also I still feel that the Govt. should give my wife and child the full dependents allowance sixty-seven dollars and fifty cents a month instead of fourty-dollars a month, as it is impossible with the present conditions in Canada for her to live on her former allowance

A. A. Denike

Date 5/July 1941. No. C.4014 Pte. Denike,A.A. "A" Coy.
The Hastings and Prince Edward Regiment.

Rule of procedure 4 (c) (d) are not applicable.

Certified that rule of procedure 4 (e) (f) and (g) have been complied with.

Taken down by me in the presence of and hearing of the accused this fifth day of July 1941. "In the Field".

(C.S. Nickle) Captain,
The Hastings and Prince Edward Regiment,
C.A.(A.F.).

CANADIAN SPIRIT YMCA

ON ACTIVE SERVICE

(7)

C 4014 Pte Denike A. A.
Hast. & Pr. Ed. Regt.
14-7-41

This is to certify that the m/n soldier is fit to undergo trial by court martial

F. J. Argue Capt
R.C.A.M.C.

W Tarrhueau Maj
President

Army Form B 296

STATEMENT as to CHARACTER and PARTICULARS of

SERVICE OF ACCUSED.

(4)

C.4014, Pte. Denike, A.A. .....of the Hastings & Prince Edward Regiment.....

1. The following is a fair and true summary of the entries in the Regimental ~~and Squadron, Battery or Company~~ Conduct Sheets of the accused, exclusive of convictions by a Court Martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months.	Since Enlistment
For A.W.L.	1 times	1 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

2. ~~The accused has not been previously convicted,~~

~~or~~

Previous convictions of the accused by a Court Martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the Schedule annexed to this Statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges.

for.....NO.....days in Civil Custody.

and.....90.....days in Military Custody. at 16 oc hrs 14 July 3.

Total....90.....days

of which .....NO.....days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation ~~[illegible]~~ 25 years

6. The date of his attestation specified in his ~~[illegible]~~ attestation is 17 Oct. 1939

7. The accused is entitled to ~~deferred~~ pay or gratuity in respect of .....1 year..... ~~[illegible]~~ 9 months service

8. The accused is entitled to reckon.....nil.....years' service for the purpose of determining his pension, etc. not applicable

9. The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, ~~[illegible]~~ ...signed by the president, and annexed to the proceedings.

President

Certified that extracts are anyopeized from the Regimental records in charge.

(C.S. Hickle) Capt.
Officer i/c
Regimental records. Hastings and Prince Edward R

List of documents

1- Charge sheet.
2- Evidence for the prosecution.
3- Evidence for the defence.
4- Statement as to character etc.
5- A.F.B.6.
6- Summary of evidence.
7- Medical officer's certificate.

EE-57 (case #2)

PTE DENIS J.R.

See T 88 for 1st Case

D-3692, Pte. Joseph Roch DENIS
R. de Chaud., 6 C.I.R.U. EE-57

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Seventh day of MAY, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O). , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~[illegible]~~

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Notes.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Lt.-Col.	D.L. REDMAN, V.D.	Calg. Highrs. H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
Major	J. Bibeau (R. de Mais.)	6 C.I.R.U.
Major	L.J. Dugal (R. de Chaud.)	6 C.I.R.U.
Waiting Member Capt.	H.A. St.Amand (R. 22e R.)	6 C.I.R.U.

*Signed (E. Reddy Basher) Colonel,
Commanding "A" Group Cdn Rft Units, C.A.(O).
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-3692, Private Joseph Roch DENIS R. de Chaud., 6 C.I.R.U.	First Charge A.A. Sec. 15 (1) SEE CHARGE SHEET ATTACHED	Guilty	Sentence To undergo detention for a period of Sixty (60) days. 8th May 1943 WMc	Confirmed. Lt Col 8 May 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) —

Signed (C. Henry Basher) Colonel (Signed) _____ *President.*
Commanding "A" Group C.R.U., *Convening Officer* (*c*)
C.A.(O).

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 8th day of May 1943

WMc

President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

* See footnote (*c*) on page 762 C.M.L. 1929.

Signed this _____ day of _____ 19 .

_____

President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what confirmation I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that~~ the soldier named in the ~~margin~~ be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 8th day of May 1943

WMc Col

Confirming Officer. a/Comd "A" Gp C.R.U.

Promulgated and extracts taken in the case of D3692 Pte Joseph Roch Denis R de Chaud - 6 C.I.R.U. 1st Lt Barrette Lieut Hffd 6 C.I.R.U.

(*a*) (Dated) 8 May 43 (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No D-3692, Private Joseph Roch DENIS, of Le Regiment de la Chaudiere, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service, is charged with:

First Charge
Section 15(1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Algonquin Camp, Witley, Surrey, did absent himself without leave from 2200 hours on the 15th day of April, 1943, until he returned at 1400 hours on the 3rd day of May, 1943. (Total absence, 17 days, 16 hours).

W Taschereau
(G.O. TASCHEREAU), Lt-Col
Officer Commanding
"H" Wing, 6 CIRU.

Algonquin Camp,
Witley, Surrey,
6th day of May, 1943.

To be tried by Field General Court Martial.

G Hedley Basher
(G. Hedley Basher) Colonel,
Commanding,
"A" Group Cdn Rft Units,
C.A.(O).

Witley, Surrey
7 May 43.

[illegible] Lt Col

MEDICAL OFFICER'S CERTIFICATE.

I certify that I have this morning examined No. D. 3692

Pte. Denis, J. R. (R. & C. Land) No 6 - C. J. R. V.

and that, in my opinion, he is fit/~~[illegible]~~ to undergo trial by Court-Martial.

May 8th 1913

[illegible] Capt.

[illegible]

here I got no training and was sent down to the field unit to do a scheme, and then I was sent back here where I remained for a week, and I was shipped back to the regiment again and there I did guards and so on and when I came back from there I was told I was not accepted there, and was sent back here. When I got back here I got news from my girl in London that she had two babies so I went to find out for myself. I found out that it was true, sir, and everything was so mixed up that I came back. I am only 21 sir. I civil life I worked at Courtaulds Manufacturing Company in Maldon. I am not married.

Plea in mitigation of punishment by Defending Officer

I ask the court to be indulgent about the sentence, and apart from that I have nothing to add to what the accused has said.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT ALGONQUIN CAMP WITLEY, SURREY
ON THE 8TH DAY OF MAY 1943

The accused, No. 2692 Pte. DENIS, F. R. Unit R.E.M.T.C. 6 C.I.R.U

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.
LIEUT. H.S. AMAND IS SWORN AS INTERPRETER.
The following constitute the Court:-

President Lt.-Col. P.P. REDMAN Unit H.Q. C.I.R.U.

Members MAJ. R. F. B. BEAU Unit R.E. M.T. 6 C.I.R.U

MAJ. P.R. W.F. PRATT Unit R.E.C.M.P. 6 C.I.R.U.

The officers under instruction are duly sworn:-
CAPT. M. BEAUDEAU 6 C.I.R.U
CAPT. G.V. ARSHAMIAN Unit "

LIEUT. F. BRUNET Unit "

Prosecutor Lieut. C. LEVESQUE Unit R.E.M.T. 6 C.I.R.U.

Defending Officer Lieut. P. MAGNAN Unit "

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces [redacted] and MFX 6.
The Court complies with R.P. 46(B). AFB 296

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) ~~Calls witnesses as to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.
G.R.O. R.O. 3262. Complied with
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by the Accused. Sir I want to tell you that about 3 months ago I belonged to the 17th Hussars. I was sentenced to detention, and the Colonel said he would get us at transfer. When we came out of detention we asked for a transfer ourselves, and got it in a months time, and I was sent to 6 C.I.R.U. and

(over)

Exhibit "A"

THIS ORDER NO. 74 28 APR 43

6 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II
issued by
A/COLONEL W.E. MORGAN E.D. COMMANDER

THIS ORDER NO. 75 29 APR 43

SECTION "A" OFFICERS

1. STRENGTH INCREASE.

1-A T.O.S. from 4 CIRU w.e.f. 28 Apr 43.(Auth CRU/A881 d/26 Apr 43)

Lieut. N.J. Leblanc, (Gen.L) Capt R.J.Picard, (Gen.L)

2. COURSES.

2-A Proceeded on Command to A.B.C.A. Course Ser No 4 at Chatham House w.e.f. 29 Apr 43 to 1 May 43.

Capt G.V. Archambeault, (RdeM.) A/Capt R.H. Lahaie, (Gen.L)
Lieut. P.C.A. Asunier (FMR)

SECTION "B" OTHER RANKS

3. STRENGTH INCREASE.

3-A T.O.S. from Fus. M.R. w.e.f. 15 Apr 43 on adm. to #1 CGH and posted to "A" Coy. (Auth DO 20/43 FMR)

D.62241 Pte Bourque, P. (FMR) D.63695 Pte Lapierre, G. (FMR)

3-B T.O.S. from R de Chaud w.e.f. 13 Mar 43 and posted to "A" Coy. (Auth 2 ECH/99/20/R de Chaud/1 (A.2) d/27 Apr 43.)

E.10526 Pte Cote P. (RdeCh)

3-C T.O.S. from Fus. M.R. w.e.f. 25 Mar 43 on adm. to 1 Can Det Blgs, to complete sentence of 120 days detention awarded by FGCM on 16 Mar 43 and posted to "A" Coy (Auth DO20/43 FMR)

D.61297 Pte Galarneau, J.P.(FMR)

4. STRENGTH INCREASE AMENDMENT.

4-A Part II Orders #62 d/22 Apr 43 para 9-B insofar as it refers to the u/m should read effective date of T.O.S."20 Feb 43"

D.109804 Pte Doulan, A.E. (FMR) D.61510 Pte Pelletier, R. (FMR)

5. STRENGTH INCREASE CANCELLATION.

5-A Part II Orders No 1 d/1 Feb 43 para 1(c) insofar as it refers to the u/m is hereby cancelled.

E.57687 Pte Blaquiere, P.(R22eR)

5-B Part II Orders #6 d/6 Feb 43 para 1(b) insofar as it refers to the u/m is hereby cancelled.

D.61639 Pte Auberton, L. (RdeM.) D.57804 Pte Landriault, E.(RdeM.)
D.59096 Pte Levoie, H. (RdeM.) D.56493 Pte Potvin, L. (RdeM.)
D.57192 Pte Vizian, R. (RdeM.)

6. STRENGTH CANCELLATION.

6-A Part II Orders #39 d/17 Mar 43 para 5(d) insofar as it refers to the u/m is hereby cancelled.

E.10526 Pte Cote P. (FMR)

7. ATTACHED AMENDMENT.

7-A Part II Orders #35 d/12 Mar 43 para 9(b) insofar as it refers to the u/m delete:"On being admitted to 15 CGH."

E.4912 Pte Dorion, J.P. (R22eR)

8. HOSPITAL.

8-A Adm. to hosp. shown w.e.f. dates shown.

D.57664 Pte Martin, P. (R22eR) 8 CGH 7 Apr 43.

8-B Disch. from hosp. shown w.e.f. dates shown.

D.59164 Pte Trudeau, R. (RdeM.) 16 CGH 2[illegible] Apr 43.

9. ABSENT WITHOUT LEAVE.

9-A A.W.L. from 1700 hrs 25 Apr 43.

E.4123 Pte Angers, C.H. (R22eR)

9-B A.W.L. from 2200 hrs 20 Apr 43. Still absent 2200 hrs 28 Apr 43. (8th day)

E.5752 Pte Champagne, E.(R22eR)

9-C A.W.L. from 0530 hrs 22 Apr 43. Ret. from AWL at 1930 hrs 27 Apr 43.

E.5548 Pte Cloutier, R. (R22eR) E.4349 Pte Daigle, A. (R22eR)

9-D A.W.L. from 0730 hrs 26 Apr 43.

D.57931 Pte DuPaul, W.J.J(R22eR)

9-E A.W.L. from 2200 hrs 15 Apr 43. Still absent 2200 hrs 23 Apr 43. (8th day)

D.5892 Pte Denis, J.R. (RdeCh)

9-F A.W.L. from 2200 hrs 21 Apr 43. Ret. from AWL at 1530 hrs 27 Apr 43.

D.6148 Pte Filiatreault, R.(R22eR)

9-G A.W.L. from 2200 hrs 21 Apr 43. Ret. from AWL at 1530 hrs 27 Apr 43.

D.62933 Pte Guerin, M. (FMR)

9-H A.W.L. from 2200 hrs 24 Apr 43.

D.32017 Pte Lacasse, B. (FMR)

9-I A.W.L. from 0800 hrs 20 Apr 43. Still absent 0600 hrs 28 Apr 43. (8th day)

[illegible] Pte Laliberte, [illegible] (R22eR)

9-J A.W.L. from 2200 hrs 22 Apr 43. Ret. from AWL at 1145 hrs 23 Apr 43.

[illegible] Pte Primeau, F. (RdeM.)

9-K A.W.L. from 2359 hrs 25 Apr 43.

D.61798 Pte Quintal, O. (FMR) G.32423 Pte Seguin, E. (R22eR)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT ALGONQUIN CAMP WITLEY, SURREY
ON THE 8th DAY OF MAY 1943

The accused. 7 3692 PTE. DENIS J. R. Unit R. DE CHAUD. 6 C.I.R.U

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.
LIEUTHA ST. AMAND IS SWORN AS INTERPRETER.
The following constitute the Court:-

President LT. COL. D. L. REDMAN Unit H.Q.C.R.U.

Members. MAJOR J. B. BEAU Unit R. DE MAIS. 6 C.I.R.U

MAJOR L. J. DUGAL Unit R. DE CHAUD. 6 C.I.R.U.

The officers under instruction are duly sworn:-
CAPT. M. BLUTEAU 6 C.I.R.U
CAPT. G. U. ARCHAMBEAULT Unit "

LIEUT. F. BRUNET Unit "

Prosecutor. LIEUT. C. LEVESQUE Unit R. 222 R. 6 C.I.R.U.

Defending Officer. LIEUT. P. MAGNAN Unit "

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces ~~[illegible]~~ and MFM 6.
The Court complies with R.P. 46(B). AFB 296

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) ~~Calls witnesses as to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.
C.A.O.R.O. 3262. Complied with
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Statement by the Accused. Sir I want to tell you that about 3 months ago I belonged to the 17th Hussars. I was sentenced to detention, and the Colonel said he would get us a transfer. When we came out of detention we asked for a transfer ourselves, and got it in a months time, and I was sent to 6 C.I.R.U. and

(over)

here I got no training and was sent down to the field unit to do a scheme, and then I was sent back here where I remained for a week, and I was shipped back to the regiment again and there I did guards and so on and when I came back from there I was told I was not accepted there, and was sent back here. When I got back here I got news from my girl in London that she had two babies so I went to find out for myself. I found out that it was true, sir, and everything was so mixed up that I came back. I am only 21 sir. In civil life I worked at Courtaulds Manufacturing Company in Maritual. I am not married.

Pleas in mitigation of punishment by Defending Officer

I ask the court to be indulgent about the sentence, and apart from that I have nothing to add to what the accused has said.

10. ABSENT WITHOUT LEAVE AMENDMENT CANCELLATION.

10-A Part II Orders #71 d/24 Apr 43 para 9-A & 9-B insofar as it refers to the u/m is hereby cancelled.

D.62801 Pte Samuel, R. (AWing)

11. ABSENT WITHOUT LEAVE CANCELLATION.

11-A Part II Orders #60 d/12 Apr 43 para 21-E insofar as it refers to the u/m is hereby cancelled.

D.62801 Pte Samuel, R. (AWing)

11-B Part II Orders #49 d/29 Mar 43 para 18-B insofar as it refers to the u/m is hereby cancelled.

D.62801 Pte Samuel, R. (AWing)

12. CIVIL CUSTODY.

12-A Release from Woormwood Civil Prison w.e.f. 24 Apr 43.

D.62801 Pte Samuel, R. (AWing)

13. APPOINTMENT.

13-A Appointed A/Sgt w.e.f. 17 Feb 43.

E.5217 A/L/Sgt Jette, D. (AWing)

14. REVERSIONS.

14-A Ceases to hold the appointment of A/L/Cpl w.e.f. 29 Apr 43, on being S.O.S. and reverted to extra regimental rates of pay of $1.50 a day.

D.57622 Pte (A/L/Cpl) Boudreau, A. (R22eR)
E.57666 Pte (A/L/Cpl) Lemieux, G. (R22eR)
E.6224 Pte (A/L/Cpl) Poitras, G.J.A. (R22eR)

14-B Ceases to hold the appointment of A/Cpl w.e.f. 29 Apr 43 on being S.O.S. and reverted to extra regimental rates of pay of $1.50 a day.

E.42500 Pte (A/Cpl) Caron, J. (R22eR)

14-C Ceases to hold the appointment of A/Cpl w.e.f. 29 Apr 43 on being S.O.S. and reverted to regimental rates of pay of $1.60 a day.

E.5586 L/CPL (A/Cpl) Charest, Z. (R22eR)

15. PAY AND ALLOWANCES.

15-A Granted a daily regimental rate of pay of $1.50 w.e.f. 1 Jan 43, having completed 6 months proficient service. (Auth GO486/42)

E.5025 Pte Dallaire, G. (R22eR)

15-B Granted a daily regimental rate of pay of $1.40 w.e.f. 24 Feb 43, having completed 4 months service with efficient and good conduct. (Auth GO 486/42)

E.4994 Pte Hachey, R. (AWing)

16. POSTINGS.

16-A Reposted from P.E. "I" Wing to Reinf. R22eR w.e.f. 29 Apr 43.

E.5586 L/Cpl Charest, Z.(R22eR)

17. PUNISHMENTS.

17-A On 28 Apr 43 awarded a forf. of 7 days pay under F.R.&I. 149(2) for an offence under Sec. 15(1) A.A. (AWL from 2359 hrs 25 Apr 43 to 1145 hrs 27 Apr 43(absent 1 days, 11 hrs, 46 mns.) Forf. 2 days pay under F.R.&I. 149(1) (a)Total forf. of 9 days pay.

E.5377 Pte Blais, J. (R22eR)

17-B On 28 Apr 43 awarded a forf. of 3 days pay under F.R.&I. 149(2) for an offence under Sec.15 (1) A.A. (AWL from 2200 hrs 23 Apr 43 to 2200 hrs 24 Apr 43. (absent 1 day) Forf. 1 day pay under F.R.&I. 149(1) (a) Total forf. of 4 days pay.

E.5086 Pte Couture, P. (R22eR)

17-C On 28 Apr 43 awarded 14 days F.P. and a forf. of 14 days pay under F.R.&I. 149(1) (b) for an offence under Sec.15(1) A.A. (AWL from 2200 hrs 21 Apr 43 to 1530 hrs 27 Apr 43 (absent 5 days, 17 hrs, 30 mns.) Forf. 6 days pay under F.R.&I. 149(1)(a) (No Close Arrest) Total forf. 20 days pay.

E.5146 Pte Filiatreault, R. (R22eR)

17-D On 28 Apr 43 awarded 14 days F.P. and a forf. of 14 days pay under F.R.&I. 149(1) (b) for an offence under Sec.15(1) A.A. (AWL from 2200 hrs 21 Apr 43 to 1530 hrs 27 Apr 43 (absent 5 days, 17 hrs, 30 mns.) Forf. 6 days pay under F.R.&I. 149(1) (a) (No Close Arrest) Total forf. 20 days pay.

D.62933 Pte Guerin, M. (PMR)

17-E On 25 Mar sentenced to 1 Month Imp. with H.L. for being found on enclosed premises for an unlawful purpose. Held in Civil Custody from 2315 hrs 21 Mar 43 to 1000 hrs 25 Mar 43 - 3 days 10 hrs, 45 mns. Forf. 4 days pay under F.R.&I. 149(1) (c) (i). Forf. 30 days pay under F.R.&I. 149(1) (b) Total forf. 34 days pay.(Sentenced committed to Wormwood Civil Prison)

D.52801 Pte Samuel, A. (Wing)

18. STRENGTH DECREASE.

18-A R.O.S. to R22eR w.e.f. 29 Apr 43.(Auth Draft Demand #8595 d/24 Apr 43)

D.66239	Pte Allain, J.M.	(R22eR)	E.4513	Pte Aube, L.	(R22eR)
E.4485	Pte Beaulieu, P.E	(R22eR)	E.5996	Pte Bedard, R.	(R22eR)
D.81049	Pte Belanger, L.M.J	(R22eR)	Equipment Repairer GR."C"		
E.5189	Pte Belanger, R.	(R22eR)	E.57860	Pte Berube, E.	(R22eR)
E.5377	Pte Blais, J.	(R22eR)	E.41995	Pte Bouchard, L.	(R22eR)
D.167196	Pte Boucher, G.	(R22eR)	E.109004	Pte Bouillon, A.	(R22eR)
E.4590	Pte Boulanger, RE	(R22eR)	C.43504	Pte Boulianne, A.	(R22eR)
E.4665	Pte Brien, G.	(R22eR)	E.6155	Pte Cantin, A.	(R22eR)
P.48791	Cpl Careau, L.M.	(R22eR)	E.42500	Pte Caron, J.	(R22eR)
E.5586	L/Cpl Charest, Z.	(R22eR)	E.4803	Pte Clement, J.P.	(R22eR)
E.4373	Pte Cleroux, N.	(R22eR)	E.6237	Pte Constantineau, E.	(R22eR)
E.4444	Pte Cote, J.	(R22eR)	E.57643	Pte Couillard, A.	(R22eR)
E.4118	Pte Couillard, RJ	(R22eR)	D.106148	Pte Couture, J.	(R22eR)

18. STRENGTH DECREASE (CONTINUED).

18-A	E.6088	Pte Couture, P.	(R22eR)	E.5013	Pte Cyr, L.J.	(R22eR)
	D.168052	Pte Daoust, G.R.	(R22eR)	D.66087	Pte Dauphinais,GH	(R22eR)
	E. 5205	Pte David, B.	(R22eR)	D.66176	Pte Desbiens,JMO	(R22eR)
	D.66361	Pte Desbiens, LJP	(R22eR)	E.6176	Pte Delisle, R.	(R22eR)
	E.4794	Pte Desrocher, WJ	(R22eR)	E.4912	Pte Dorion, J.P.	(R22eR)
	E.5668	Pte Dorion, Ba.	(R22eR)	D.66141	Pte Ducharme, JM	(R22eR)
	E.42071	Pte Element, S.	(R22eR)	E.24310	Pte Fiset, JVPR.	(R22eR)
	E.57748	Pte Farlardeau, J	(R22eR)	E.4958	Pte Fortin, R.	(R22eR)
	E.14798	Pte Fournier, R.	(R22eR)	E.100333	Pte Gagnon, J.	(R22eR)
	E.1084	Pte Gagnon, L.	(R22eR)	E.6256	Pte Gallant, E.	(R22eR)
	G.61261	Pte Gallant, G.J.	(R22eR)	D.41180	Pte Gauthier, L.P	(R22eR)
	E.5317	Pte Giroux, J.H.	(R22eR)	C.20705	Pte Gosselin, E.A	(R22eR)
	D.66261	Pte Gourde, J.O.R	(R22eR)	D.66258	Pte Glazlou, A.	(R22eR)
	D.66118	Pte Gravel, J.L.	(R22eR)	E.5922	Pte Gregoire, E.	(R22eR)
	A.57842	Pte Grenier, R.	(R22eR)	D.136548	Pte Guerin, J.C.U.	(R22eR)
	G.62766	Pte Hunenault, J.L	(R22eR)	E.57663	Pte Lachance, G.	(R22eR)
	D.166755	Pte Langlois, B.	(R22eR)	H.16348	Pte Lanthier,R.J.	(R22eR)
	D.84014	Pte Lariviere, H.	(R22eR)	E.5723	Pte Lavoie, A.	(R22eR)
	E.4687	Pte Leblanc, R.	(R22eR)	E.4808	Pte Lebrasseur, JP	"
	E.57866	Pte Lemieux, G.	(R22eR)	E.4303	Pte Lisowski, S.	(R22eR)
	D.66160	Pte Masson, F.X.I	(R22eR)	G.3859	Pte Melancon, L.	(R22eR)
	E.100180	Pte Michaud, F.E.	(R22eR)	E.5842	Pte Noel, A.	(R22eR)
	E.100478	Pte Noel, J.	(R22eR)	E.5772	Pte Normand, A.	(R22eR)
	E.6046	Pte Ouellet, R.	(R22eR)	L.54594	Pte Ouellette, WJ	(R22eR)
	D.66264	Pte Paquette, JLA	(R22eR)	D.66342	Pte Pelletier, C.	(R22eR)
	E.5788	Pte Pelletier, E.	(R22eR)	E.5550	Pte Pineault, L.	(R22eR)
	E.4361	Pte Plante, P.E.	(R22eR)	E.6224	Pte Poitras, GJA	(R22eR)
	D.166772	Pte Prudence, D.T	(R22eR)	E.42231	Pte Roirion, S.	(R22eR)
	E.4666	Pte Racine, L.	(R22eR)	E.57726	Pte Robillard, M.	(R22eR)
	B.111168	Pte Robin, L.	(R22eR)	E.12157	Pte Rousseau, A.	(R22eR)
	E.4645	Pte Roy, R.	(R22eR)	E.57662	Pte Santerre, J.	(R22eR)
	E.6671	Pte Stuart, E.	(R22eR)	C.77682	Pte Tarte, E.J.	(R22eR)
	E.6153	Pte Theriault, C.	(R22eR)	C.100605	Pte Thibeault, R.	(R22eR)
	C.75115	Pte Tremblay, S.	(R22eR)	E.4542	Pte Turcotte, R.	(R22eR)
	E.4668	Pte Vigneault, P.H	"	E.57622	Pte Boudreau, A.	(R22eR)
	E.4652	Pte Sarah, J.P.	(R22eR)	D.57662	Pte Tremblay, F.	(R22eR)
	E.6845	Pte Tremblay, P.	(R22eR)	D.124816	Pte Ouellette, H.	(R22eR)

18-B S.O.S. to #1 CORU w.e.f. 26 Apr 43. (Auth GHQ 2nd Echelon. P.S.T. 99/6/CRD/2 (A.7) 4/22 Apr 43.)

E.4287 Pte Roiseu, J.M. (R22eR)

18-C S.O.S. to #4 Wing C.T.S. Educ. Coy w.e.f. 26 Apr 43.
(Auth UEB/4-642 6/14 Apr 43)

E.26805 Pte Roy, P.P. (R22eR)

(J.H.Chicoine) Capt.
Adjudant,
6 Cdn. Inf. Reinf. Unit.

SUMMARY OF EVIDENCE

In the case of No D-3692, Private Joseph Roch DENIS, of Le Regiment de La Chaudiere, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas on active service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

First Witness for the Prosecution.

E-4178 Sgt Martineau, F., Royal 22e Regiment, 6 CIRU, having been duly sworn, states:

I am E-4178 Sgt Martineau, F., of the Royal 22e Regiment, 6 CIRU. I am A/CSM of "A" Company, 6 CIRU. I produce as Exhibit "A" a copy of Daily Orders, Part II, No 75, dated 29 Apr 43, which show in para 9E that Pte Denis, J.R. was AWL from 2200 hrs 15 Apr 43 and was still so absent after the 8th day. From 16 Apr 43 until 3 May 43 a roll call was made of the Company daily in my presence. The accused, whom I now recognise, did not answer his name at any such roll call, nor did he appear on any parade during this period. To the best of my knowledge he was AWL.

The accused declines to cross-examine this witness.

F. Martineau Sgt.

Second Witness for the Prosecution.

D-41040 Sgt Benoit, G., Fusiliers Mont-Royal, 6 CIRU, having been duly sworn, states:

I am D-41040 Sgt Benoit, G., of Les Fusiliers Mont-Royal, 6 CIRU. On 1 May 43, when I took over the duties of COS of "A" Company at Algonquin Camp, the accused, whom I now recognise, was shown on the Absentee Reports as being AWL from 2200 hrs 15 Apr 43. From then on until 3 May 43, I called the roll of the Company daily on parade. The accused did not answer his name at any such roll call nor did he appear on any parade during this period. At about 1400 hrs on 3 May 43, the accused reported to me as returning from AWL.

The accused declines to cross-examine this witness.

G. Benoit Sgt.

The accused, having been duly cautioned in French in accordance with RP 4 (E) and Overseas RO 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 6th day of May 1943, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

Charles L. Lissefere Lieut.
(Officer taking Summary).

Algonquin Camp,
Witley, Surrey,
6th day of May, 1943.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an officer to represent me at my trial by Court-Martial. I request the services of

.....Lieut. Paul Magnan, R.22.R. (2-6-C.I.R.V.)

if he is available.

Algonquin Camp,
Witley, Surrey,
6th day of May 1943.

.....

Last Sheet destroyed on 12 Sep 41. Compiled from M.F.M. 4. Original not available.

No. D-3692 Name DENIS, J.R. Sqn., Battery, or Company N/A Corps R. de Chaud. Date of enlistment 12 Mar 41 G.C. Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. Capt. P.W. A. Simard. Character

M.F.M. 5 (A.F.B. 115) 7-41 (2219-30) 1773 50-1002

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field. 8 Avr 42		Pte		A.A. Sec. 15 (1) AWL from 0930 hrs 5 Avr 42 till 0015 hrs on 6 Avr 42 Total - 14 hrs.45 min.		21 days F.P.	9 Avr 42	19 d/14-4-42	Forf. 1 days pay for awl.
Field.25 Sept42		Pte.		A.A. Sec. 15 (1) AWL 2 days.		5 days C.B.	10 Oct 42	52 d/8-10-42	Forf. 2 days pay for awl.
Field 6 Oct 42		Pte.		A.A. Sec. 15 (1) AWL 1 day.		27 days F.P. 27 days pay 90 days Detn.	10 Oct 42	63 d/14-10-42	Forf.1 day pay for awl.
Field 21 Nov 42		Pte.		A.A. Sec. 18 (4) Stealing public property.		Confirmed by GOC - 3CID	25 Nov.42		30 days Rem Forf.68 days pay for time in arrest.

Released from detention barracks 30 Dec. 42 with 20 days remission.

Certified True Copy consisting of one sheet. [signature] Capt. i/c of original.

(PTO)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-3692	Pte.	Denis, J.R.	Regiment de la Chaudiere.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For A.A. Sec. 15 (1)	2	times	3	times.
For A.A. Sec. 18 (4)	1	times	1	times.
~~For~~		~~times~~		~~times.~~
~~For~~		~~times~~		~~times.~~
~~For~~		~~times~~		~~times.~~

Number of instances of gallantry or distinguished conduct, Nil.

or

~~There are no entries in the conduct sheets of the accused.~~

~~2. The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years old.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 Mar 1941.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward)).~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. (*In the case of an officer.*) ~~The accused holds~~ in the army the rank of dated ~~and in his regiment (or corps or department)~~ the rank of dated

[illegible]

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-3692	Pte.	Denis, J.R.	Regiment de la Chaudiere.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTIONS.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15 (1)	2 times	3 times.
For A.A. Sec. 18 (4)	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil.

or

~~There are no entries in the conduct sheets of the accused~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 5 days in military custody, making a total of 5 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years old.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 Mar 1941.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward))~~.

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental~~ rank of

12. (*In the case of an officer.*) ~~The accused~~ holds in the army the rank of dated ~~and in his regiment (or corps or department) the rank of~~ dated

(P 61240) Wt.30247/3402 75,000 12/40 A.S.& S.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-3692 Rank Pte. Name Denis, J.R. of R. de Chaud. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field. 21 Nov.42	A.A. Sec. 18 (4) Stealing public property.	90 days detention. Confirmed by G.O.C. 3rd Can.Div. on 25 Nov.42 with 30 days remission.	20 days.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of May 1943.

[signature] Capt

Officer having custody of original documents.

12. The award has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years.

In the rank of _____ years.

In the rank of _____ years.

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraphs concerned amended accordingly.

88 T.

Tpr. Lewis, J. R.

Mining

GGG-150 (Case #3)

PTE DENIS J.R.

See T-88 for 1st Case
" EE-57 " 2nd "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 3692 Pte Joseph Rock Denis, R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (a)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for 120 days [illegible]
plus cost of apprehension amounting
ceased to be payable on the amount
of £1-13-1 to cover cost of apprehension and return to his unit.

28 Mar 44. (Sgd) L Mottfield Major
(Sgd) ..... Date awarded. President. (RP 43, 50.)
Judge Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6-56(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I withhold confirmation for the following reasons:~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) Brigadier Brig
Edmonton Bde

Date 28 Mar 44 Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 574, 577.)

Accused. Date. Signature of Offr.

D 3692 Pte Joseph Denis 3 April 44 N. Lieut. Bisaillon RCA

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M.: GGG 150

(Page in lieu of AFA3: 40. 9/C. S. 1608 12604)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig W J Megill Comd 5 CDN Inf Bde dated 27 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 3692	Pte	Joseph Rock	DENIS	R de Mais

PROCEEDINGS REVIEWED
Lieut
for DJAG
REVIEWING OFFICER, NO. 1 SCHOOL C.M.H.Q.

PROCEEDINGS REVIEWED
FIRST ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 28 Mar 44 5/11+

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17(A). 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the OC.~~(1)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(C). Delete, if not applicable.)

A5. ~~President to accused: Do you object to the interpreter~~ ~~The interpreter is sworn.~~(1) ~~Do you object to the shorthand writer~~ ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L Mottfield	RHC
Member	Capt	V.E. Tranmer	RHC
Member	Lieut	M.A. Raclose	R de Mais
Judge-Advocate			
Prosecutor	Lieut	L. BINETTE	CIC
Defending Offr	Capt	J. W. Ostiguy	R de Mais

Questions by President: Is the Prosecutor a lawyer? Ans No (1) Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Confirming Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 26 (B) and fn 2 were not followed. See p 3.)

A8. The accused ..... before arraignment make(s) (no) [illegible] plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 28, 28A), 112), or in bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references on fns to RP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is duly arraigned (separately) on all charges in the charge sheet.(1) The accused shows plea not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Reword Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Forms D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see EP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Prox to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on only charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s).~~ Part 1 of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement.* *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(1)

(1. *RP 35(B).* *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial resumes proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and marking on appropriate record thereof of a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 75 parras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.))

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans. ..... Do you intend to call witnesses on your behalf?

Ans. ..... Are they witnesses as to character only? Ans. .....

(1. *RP 114, 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AFB. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP 37(C) fn 4, 46 fn 1.* *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces a Statement of Service and Character and certified true copy extracts of Conduct Sheets (AF), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (ix), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B and C respectively.(1)

(1. *AFB 255 or AFB 256.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1, para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement and Conduct Sheets, and in mitigation of punishment?(1) Ans. Yes (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7/6/45

(1. *Where several accused tried separately see RP 103. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 142, RP 46-50, 69, 118, 120(A), KR Can 308, 326, 563-566, Overseas AO 109, 2325, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), (1C), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D3692 pte Joseph Roch Denis, Le Regiment de Maisonneuve, a soldier of the Canadian Army, is charged with:

FIRST CHARGE Sec 15 (1) Army Act	ABSENTING HIMSELF WITHOUT LEAVE, in that he, in the field absented himself without leave from 1800 hrs on 5 mar 44 until he surrendered himself to the Corps of Military Police at Norwich at 0140 hrs on the 24 mar 44.
	Total absent; 18 days, 7 hours, 40 minutes.
	Cost of return: £1-13-1

Dated in the field 26 mar 44

H. Lefort Bisaillon
(H.L.-Bisaillon) Lt.-Col.,
C.O. Regiment de Maisonneuve CA(AF)

To be tried by F.G.C.M.

27 mai 44

[signature] BRIG.
5 Cdn Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FA3/1007 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D3692	Pte		Joseph Roch	Denis	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[s] named above as the accused, being subject to military law, has (~~have~~) committed the offence[s] set forth in the Charge Sheet[s] attached and on (*date*) 28 Mar 44 endorsed by me, (~~A.A.A. an above mentioned~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[s] should be tried by an ordinary General Court-Martial; [~~and that it is not practicable that such offence should be tried by a General Court-Martial because~~]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[s], and to consist of the Offrs appointed or detailed hereunder.

[~~I hereby appoint (a) [illegible] Offrs for the accused(s) & [illegible] Reserve for the purpose of this Court~~]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

[~~I hereby appoint [illegible] Offr to be Judge-Advocate of this Court.~~]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	E. Motzfeldt *(Must be named. RP 106.)*	RHC (Unit.)

MEMBERS.

Capt.	V.E.Traversy	RHC
Lieut. (Rank.)	M.A. Racine *(Named or detailed. RP 106.)*	R de Mais (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	(To be appointed by O C R de Mais *(Named or detailed, if any. RP 106.)*	R de Mais (Unit.)

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	(Unit.)

On Active Service in the Fd

in U.K. (Country)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 27 Mar 44

Commanding 5 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

2/4

MEDICAL CERTIFICATE (M.R.(Gen) 557)

I certify that I have this morning examined No 66 D3692

pte Denis, J of Le Regiment de Maisonneuve CA(AF) and in my opinion

he is fit to undergo trial by Court Martial.

Station In the field

Date 28-3-44

Paulrobert Capt
Medical Officer

~~Ans~~ ~~Ex.~~ "D" 2/11.

Plea of the Defending Officer.

The accused is a volunteer and has been overseas for almost 3 years. He went A.W.L. under a mental stress caused by the fact that ~~the accused~~ he, and a friend of his, transferred from the 7 Rcce (17 H.) to the R. 22 Regt. Due to a misfortune the accused was withdrawn from the draft to the R 22 Regt. and seeing his friend leave and ~~for~~ having tried many times to be put again on draft for the R. 22nd Regt ~~on many instances~~ he found his efforts unsuccessful. Then he found himself posted to the R de Mais, realised that his chances had gone, went A.W.L. I wish to bring these facts to the court as a plea for mitigation

Lwarteguy Capt
Defending Officer

Statement of **EVIDENCE** in the case of:-

D.3692 Pte. J.R. Denis
"A" Company, Regiment De Maisonneuve,
R.C.A., Brighton.

Sir, At Norwich on the 24th March 1944 at about 0140 hrs, I was on duty in the American Red Cross Club, Bishops Palace, in company with Hc. Sumner C.M. Police, where I saw the A/N soldier. I asked him for his pass, and he stated that he had lost it, also that he should have returned to his unit at 1100 hrs Wednesday the 22nd March 1944. I placed him under arrest, and conveyed him to Military Police H.Q., to await escort

Home Forces
24th March 1944

Brown Sgt.
C. M. Police.

REMARKS

Sir, I have read over and corroborate the above statement.

Home Forces
24th March 1944

E.A. Sumner Hcpl.
C.M. Police.

Army Form B 252
(See King's Regulations)

CHARGE

Royal Canadian Army. Regiment

Regiment de Maisonneuve. "A" ~~Battery~~ ~~Squadron~~ ~~Troop or~~ Company

CHARGE against No. D 3692 Rank Private

Name Denis J.R.

Place Brighton Date of Offence 5-MAR-44.

OFFENCE W.O.A.S. Absent from 1800hrs 5-MAR-44 until apprehended by the Military Police in the American Red Cross Club, Bishops Palace, Norwich, on the 24th March 1944 at about 0140 hrs.

[signature] Capt. RA
O.C. 76 Div. Pro. Coy.

Names of Witnesses :—

Sgt. S. Brown C.M. Police

L/Cpl. E.A. Sumner C.M. Police

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded 120 days detention

By whom Awarded Tried by FGCM 28-MAR-44

Cyril Cuddeby Adjutant.

P.T.O.

Appx A

Certificate in accordance with the Army Act, Section 105 (1) (ii).

I certify that No: D 3691, Rank: PTE Name: DENIS J

A COY REGIMENT DE MAISONNEUVE Unit

A

was arrested at NORWICH at 0140 hrs, on 14 MAR 44

Home Forces

(H.H.W. HUST) Capt. R.A.

24/MAR/44 Officer Commanding, 70 Divisional Provost Company.

Expense Voucher Re Appx "B"

Ref: K.R. & O. (Can) 539

Reg. No. 43692 Rank Pte. Name Denis, J. Unit R de Mais

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From London from Norwich

Date	Particulars (½ portion)	Amount		
15 March	Escorts return fare from LONDON To Norwich		8	11
	Prisoners single fare to LONDON From Norwich		8	11
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		3	4
	Total £	1	1	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. J. Stinson Capt. LIEU

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London

R. J. STINSON
ADMN. OFFICER - D.P.M's BR
C.M.H.Q.

C.M.H.Q. 1000/58
69/P & S/483

Expense Voucher Re—: Appx "B" Ref: K.R. & O. (Can) 539

Reg. No. D 3682 Rank Cte Name Davis J R Unit Regt de Mais 1 Coy

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
25 Mar 44	Escorts return fare from LONDON To Brighton		7	11
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Brighton		4	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R J Stinson CAPT LIEUT

Officer Issuing Railway Warrant and Expense monies R. J. STINSON
No. 6 Provost Company, Canadian Provost Corps, London ADMN. OFFICER - D.P.M's Br. C.M.H.Q.

C.M.H.Q. 1000/55
40/P & S/463

2X A

Summary of evidence in the case of D3692 Pte Joseph Roch, Denis Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas.

Short Summary of Charge: A.W.L. Sec 15(1) Army Act.

The accused is informed of his rights.

The accused does not demand and the C.O. does not direct the evidence be taken on oath.

First witness for the prosecution: E23921 Sgt White, J. R. de Mais.

On the 5th of march 44 I was C.O.S. of "A" Coy.
I noticed that Pte DENIS, J.R. had not reported at the coy office at the end of his pass which was made until 1800 hrs of that day.
I searched the coy billets and lines and could not find him.
I immediately reported him as A.W.L. and he has not reported on any parade since.

J. White Sgt.

The accused does not wish to cross-examine the witness.

Second witness for the prosecution: Capt. C. Cuddihy, R. de Mais., States:
I present certificate of surrender in accordance with Section 163 (1) (j) of the Army Act purporting to be signed by Capt H.H.W. Must C.M.P. which relates to the accused whom I recognize and is included in this summary as Exhibit "A".
I present expense voucher purporting to be signed by Lieut. R.J. Stinson which relates to the accused whom I recognize and is included in this summary as Exhibit "B".

C. Cuddihy Capt

The accused does not wish to cross-examine the witness.

The accused having been duly cautionned in accordance with R.P. 4 (2) declares:

I do not wish to give evidence or make a statement at this time.

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 has been complied with

In the field

26th day of March 1944

L. Binette

L. Binette Lt.
Officer detailed to take the summary.

M.F.M. 6
(A.F. B.122)
40/P & /8138 (2005)

Ire

No. D-3692 Name DENIS, R

Sqn., Battery, or Company

Corps INF.

Date of enlistment 12/3/41

G.C. Badges

Service or Proficiency Pay

Character Good

Date of last entry in Company Conduct Sheet N/A

No. and date of last drunk N/A

Period not reckoning towards freedom from extra fine

Sheet No. 1

Signature O.C. Company, etc. R. Tachereau, Major

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax N.S.	16/9/41	Pte		A.A.40 W.O.A.S. Out without a pass at 0115hrs contrary to routine orders N045 dated 3rd. feb. 1940.	L/C Steele Pte Johnson	3 days pay forfeits 3days pay FR-I 149(1)B	14 Sept 1941	E.S. ALLAN	
FIELD	5/4/42	Pte		A.A. 15(1) W.O.A.S. A.W.L. from 0930 hrs 5th of April 42 until 0015 hrs 6/4/42 (Total absence 14 hrs 45min.)	Cpl. Bardell L/c Fisher	21 days F.F. Forf.21 days pay FR-I 149(1) B	9 April 1942	Lieut. Col. Hugman	Forfeits 1 days pay FR-I 149(1)a Tot.Forf.22 days pay
FIELD	20/9/42	Pte		A.A. 15(1) W.O.A.S. A.W.L. from 2230hrs 20/9/42 until 2359hrs 20/9/42 (Tot. absence 1hrs 29 min)	L/C Bridge	5 days C.B.	29/9/42	Capt. Whittingham	Forfeits 2days pay FR-I 149 (1) B

(P.T.O.)

2 x 8

Substitute for AFB 296 or MFB 355 2a

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

NO..D.3692.. Rank.Pte..... Name.Joseph,Roch,..DEMIS... Unit.R.de.Mais.....

Age..22..... Married or single..SINGLE.....No.of dependents...NIL.....

Date of attestation.....12th.of.March.1941.....

Number of days in close arrest awaiting trial....4.....

Civil..n/a.....Military....4..... Hospital..n/a.....Total..4....

Date of appointments, promotions etc. (if any).....

.....

.....

In the field
the 28th of march
1944

Emil Cuddihy Capt
Officer i/c records

R. de Mais
Unit

2 x C

M.F.M. 6 (A.F. B.122) 40/P.&/S136 (2905)

No. D-3692 Name DENIS, R Sqn., Battery, or Company Corps INF. Date of enlistment 12/3/41 O.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. R. Tachereau, Major Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Halifax N.S.	16/9/41	Pte		A.A. 40 W.O.A.S. Out without a pass at 0115hrs contrary to routine orders N045 dated 3rd. feb. 1940	L/C Steele Pte Johnson	3 days pay forfeits 3days pay FR-I 149(1)B	14 Sept 1941	E.R. ALLAN	
FIELD	5/4/42	Pte		A.A. 15(1) W.O.A.S. A.W.L. from 0930 hrs 5th of April 42 until 0015 hrs 6/4/42 (Total absence 14 hrs 45min.)	Cpl. Bardell L/c Fisher	21 days F.F. Forf. 21 days pay FR-I 149(1) B	9 April 1942	Lieut. Col. Hugman	Forfeits 1 days pay FR-I 149(1)a Tot. Forf. 22 days pay
FIELD	20/9/42	Pte		A.A. 15(1) W.O.A.S. A.W.L. from 2230hrs 20/9/42 until 2359hrs 20/9/42 (Tot. absence 1hrs 29 min)	L/C Bridge	5 days C.B.	29/9/42	Capt. Whittingham	Forfeits 2days pay FR-I 149 (1) B

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	4/10/42	Pte		A.A. 15(1) W.O.A.S. From 2245 hrs 4/10/42 until 0900hrs 5/10/42 (Tot. Absence 10 hrs 15 min.)	Sgt Newbury Cpl. Baker	27 days F.P. Forfeits 27days pay FR-I 149(1)B	6/10/42	Lieut. Col. Hughman	Forfeits 1 days pay FR-I 149(1)A Tot. forf. 28days pay
FIELD	22dec. 43	Pte		A.A. 15(1) 8 hrs 30 min.	Cpl. Charbonneau	7 days C.B.	20 dec.43	Lieut. Col. J.G. Power	Forfeits 1days pay FR-I 149(1)A
FIELD	24dec. 43	Pte		A.A. 15(1) Absent 2 days 11 hrs	Cpl. Charbonneau	14 days pay	27 dec.43	Lieut. Col. J.G. Power	Forfeits 3days pay FR-I 149(1)A Total Forfeiture 17 days pay

Certified true copy from the regimental books in my custody

Cyril Puddiby Capt
O'K Records
Le Regiment de Maisonneuve

[illegible] Major
Pres.

LL-83 - (AFRICA)

PTE DENIS L.

A-77 - D-106068 Pte Brière, H. R 22e R.
A-78 - D-4603 Pte Denis L R 22e R.

For Original AFA 3 See LL-82
Army Form A.3. Pte Brière H.

LL-83

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Fourteenth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

~~*I am unable to appoint:—~~

~~*(1) Three Officers to form the Court.)~~

~~*(2) A Field Officer as President.)~~

~~*(3) Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—~~

Proceedings Reviewed
"D. J. Cuddy" Capt.
for Deputy Judge Advocate
6 Sep 43

President.

Rank.	Name.	Regiment.
Major	W.P.Steen	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	R.L'Esperance	R 22e R
Captain	C.L.Putman	West NSR
Waiting Captain	C.R.Day	West NSR

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed "M.H.S Penhale" Brigadier (M.H.S.Penhale)

Commanding 3 Cdn Inf Bde.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E4603 Pte DENIS, Leo, R 22e R	First Charge AA Sec 12(1)	Not Guilty	Not guilty	
	Second Charge (Alternative) AA Sec 15(1)	Not Guilty	Guilty	
			12 months imprisonment ~~with loss of pay~~ "WPS" Aug 17/43	Confirmed "M.H.S.P" 21 Aug 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) "M.H.S.Penhale" Brigadier (*Signed*) "W.P.Steen" Major

Commanding 3 Cdn Inf Bde *Convening Officer (e)* Carleton York Regt. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16 day of August, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~3. The interpreter~~
~~4. The officers under instruction~~

were duly sworn.

* Omit if not applicable.

Signed this 16 day of August 1943.

"W.P. Steen" Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

N.A.

Signed this "W.P.Steen" Major day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

"M.H.S.P" *(I ~~[illegible]~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this twenty-first day of August 1943.

"M.H.S.Penhale" Brigadier
Confirming Officer. Comd 3 Cdn Inf Bde.

Promulgated and extracts taken in the case of E-4603 Pte Denis, Leo R 22e R

(a) (Dated) 23 Aug 43 (Signed) "George Albert Coderre" Lieut. R 22e R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

The accused, E-4603 Private Leo DENIS, a soldier of the Canadian Army Overseas, on the strength of the Royal 22e Regiment, on active service, is charged with:-

1st Charge.
A.A. Sec. 12 (1)

DESERTING HIS MAJESTY'S SERVICE,

in that he,

in the field, on 6th Aug. 1943, when under orders for a move towards the enemy, did absent himself from 0800 hours until he returned at about 1915 hrs., 9th August 1943, with the intent to avoid battle with the enemy.

2nd Charge.
A.A. Sec. 15 (1)
ALTERNATIVE.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in thefield, on the 6th day of August 1943, did absent hismelf without leave from 0800 hours, until he returned at about 1915 hours on 9th day of August 1943.

Total absence:- 3 days, 11 hours and 15 minutes.

Lt-Col.
J.P.E. BERNATCHEZ.
Commanding Officer,
Royal 22e Regiment.

In theField,
August 13th, 1943.

MEDICAL OFFICER'S CERTIFICATE.

22-83

I certify that: No. E-4603 Pte Denis Leo R.22 R.

Has been examined by me this morning, and that I found him FIT/~~UNFIT~~

to undergo trial by a Field General Court-Martial.

[signature] -RCAMC.

M.O. R.22e R.

In the Field,
16th August 1943.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ in the field, on the 16 day of August 1943 by order of ~~Brig[illegible]~~ Brigadier M.H.S. Penhale

Commanding 3rd C.I.B.

dated the 14 day of August 1943

President,
Major W.P. Steen

Members.
Capt. R.L. Esperance
Capt. C.L. Putman

Trial of* ~~S~~ E 4603 Pte Denis Leo R 22*R. ~~, Judge Advocate.~~

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~N~~ The Court satisfy themselves that [signature] is not available ~~to~~ serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. C.E. Levesque R 22*R.

~~Counsel~~‡ or defending officer† ~~W~~ Capt. V.P.E. Aubut R 22*R

At 09.10 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q[illegible] [illegible] 10,000 sets. 1/42. R. & H. Ltd. [illegible] Forms A 9/33.

B

The President, members and ~~judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

N.A.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Question to the accused.

Answer. Not Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

Answer. Not Guilty

Are you guilty or not guilty of the third charge against you, which you have heard read?

Question. N A

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Question. N A

Answer.

The accused having pleaded Guilty to ~~the second~~ charge, the provisions of Rule of Procedure 35 (B) are here complied with. N A

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.] N A

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

First witness for the Prosecution.

Lieutenant Jean Louis Linguet, having been duly sworn, states:

I am Lieutenant Jean Louis Linguet X 270 R. attached to C Coy. I identify the accused as Pte Denis, of the 14 Pl. C Coy.

On Aug 6, 1943, our company was the leading company of the Adrano bridgehead. My platoon was the ~~leading platoon~~. At 0900 hrs, I sent a section to clear out a house. The corporal ~~[illegible]~~ Falonde reported to me afterwards that while trying to dispose his section, he found out Pte Denis wasn't there.

~~Q - Had you in your platoon a corporal by the name of Falonde.~~

Q - Was the enemy supposed to be in this house.

A - Yes the enemy was there. We were the leading company.

- (over)

Q - Do you believe that the accused was aware of the importance of his duty?

A - Yes.

Q - On the 9th of August, 1943, could you tell the court what happened?

A - On Aug 9, 1943 I was coming back in a 15 cwt truck from a rear party. At 1915 hrs. On the way I found Pte Denis who was walking towards us. I asked him where he was going and he told me he was trying to find the regiment. I told him to get in the truck & took him back to his section, and told him to stay there until further orders.

Q - When was he put under close arrest.

A - The next morning.

Q - At what time was Denis reported as having left the section.

A - The corporal reported to me ~~that~~ at 0930 hrs that ~~Denis~~ when clearing the house, he couldn't find Denis.

Cross examination by the defense.

Q - At 0700 hrs were your men told that they were supposed to do a house clearing job at 0900 hrs? Did they know before 0900 hrs?

A - They were told at 0900 hrs to clear the house.

Q - How can PFC Denis be aware that he was supposed to be in the house clearing party since he was missing ~~from~~ 0800 hrs?

A - He should have been there.

Q - Before the attack, in the preceding days were you aware that any of your men, or men in your company were sick?

A - None of my men or NCO's reported sick.

Q - Did you know yourself before 0900 hrs that you were going to attack?

A - Yes, I knew we were to advance.

Q - When you started in the morning, did your men know they were going to attack or going to take up a defensive position?

A - It depended on the situation. If there were enemy there, we would attack; if not, we were to take up a defensive position.

Q - ~~Did you when [illegible] that time, were to attack, or to take up a defensive position.~~

A -

Q - Did you give permission to any of your men to go to the latrine that morning?

A - Yes you asked me for such permission that morning.

Q - Did you ~~had~~ usually give permission to the men to go to the latrines

A - Yes, it was usually given by the platoon commander.

Question by the court

Q - At what time did you receive your order to advance?

A - At about 0700 hrs

Q - Did you pass this order on to the platoon Commander at this time?

A - The whole of the platoon knew from the night before that we were to advance against the enemy positions, and to deal with them as the situation demanded.

Q - When you found Pte Dein, how far was he from the place he has gone absent?

(5)

A - About seven miles.

Q - Was he in rear of what the regiment was?

A - Yes, to a flank. He was behind the line, and walking away from the regiment.

2nd Witness for the Prosecution.

E 4585 Cpl Lalonde B R22eR, having been duly sworn, states:

I am E 4585 Cpl Lalonde, B. I am in 15 Pl. now, but I was in 14 Pl [redacted] up until about the 17th of August. I commanded No 4 Section. I recognize the accused as Pte Denis L. He was in my section. In the morning of Aug 6th, 1945 we received the order from our office to go forward. We were the second section in the forward platoon. The OC of the Company gave orders to the first section to go some hours clearing. There was another house, and [redacted] my section was detailed to clear this second house. When we reached the house, I found that Pte

(6)

Denis was absent. That was about 0800 hrs

6-8-43. ~~[illegible]~~

Q - When your section was detailed to do the house clearing, was Pte Denis present at that particular moment?

A - I couldn't say.

~~Q - Before 0800 hrs,~~

Q - Before 0800 hrs, was your section likely to meet the enemy?

A - Yes.

Q - Did Denis ask permission to leave your section?

A - No.

Q - Do you know if he was sick?

A - No. He did not report to me that he was sick.

Cross examination by the defence.

Q - At 0800 hrs, did all the men of your section know that they were supposed to ~~[illegible]~~ ~~[illegible]~~ hrs. advance

A - At 0800 hrs we were advancing.

Q - In the days before this attack, were any of your men sick.

A - Yes, there were a few sick.

Q - What time did you start advancing?
A - I didn't have a watch, but I think it was about 0530 or 0600 hrs.
Q - Any other times when you moved, was permission given to men to go to latrines, during the move.
A - Yes, sometimes
Q - Since the landing was Denis always in your section?
A - No sir.
Q - Was it the first attack he was making with you?
A - Yes.

Third Witness for the Prosecution.

E 4452 Pte Reginbald J., R 22 e R. having been duly sworn, states,

I am Pte Reginbald J. On 6th Aug. 1943 I was in No 5 section 14 Pl. R 22 e R. I recognize the accused as Pte Leo Denis. On Aug 6th he was with me in the section

Q During that day did you receive any particular order to attack a house?

A - The section did.

Q - When the section was ordered to attack the house was Pte Denis there?

A - No sir.

Q - When did he leave the section?

A - When No 4 section got order to clear a house, before No 5 section was to clear their house

Q - What was the time?

A - Around eight o'clock.

Q - Could you have been attacked by the enemy before that time?

A - Yes

Q - Had the company been advised before eight o'clock that you had to advance?

A - Yes we were told to advance.

Q - Were you advancing towards the enemy?

A - Yes.

(a)

Cross examination by the defense.

Q - On that morning you were told you were to advance only, not to attack?

A - In advance only, yes sir.

Q - Do you know if any in the section were sick before hand?

A - I could not tell you.

Q - That morning Pte Denis told you he was going to the latrine?

A - Yes sir, a few minutes after the section was detailed to advance.

Q - Did you tell that to the corporal?

A - afterwards, before our section went forward to do the house clearing.

Re-examination by prosecution.

Q - When you received orders to attack, and to do the house clearing, you told me that Pte Denis was not. When did Pte Denis leave the section

A - A few minutes after the section had orders to clear the first house

(10)

Crossexamination by defense.

Q - It was before your section received orders to do the house clearing that Pte Denis left?

A - Yes

Question by court

Q - When did you next see Pte Denis?

A - The day he came back; when the regiment was at rest. It was two or three days later.

Second witness for prosecution is recalled.

Question by the court.

Q - When did you next see Pte Denis?

A - It was the 9th of August 1943.

Q - Did Pte Reginbald tell you at any time that Pte Denis had absented himself to go to the latrine that morning.

A - He told me when we were going to do the attack on the house.

The prosecution is closed.

Defence.

RPR 40 footnote 2 has been complied with. WPB

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* No

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

WPB
mac

First witness for the defence (11)

D66160 Pte Rasson, I, R 22eR having been duly sworn states (in French)

I am Pte Rasson I, D66160. I am in the 3rd section of Pte Denis

Question by the defence counsel.

Q - What are the orders you received the morning that Denis left his section, that you were going to attack, to take up a defensive position, or to advance.

A - The only order we received was to pack up and follow on

Question by the Court:

Q - Did you know that you were going to advance against the enemy?

A - We could expect that the enemy was there, but did not know particularly that we were going to meet some.

Q - Did you notice that another section was detailed before to do advance clearing post?

A - Yes, No 4 section had been detailed to do home clearing before.

The prosecution declines to cross examine.

Second Witness for the Defence. (12)

E 5676 Pte Ruel. R, R22e8
having been duly sworn, states:

I am E 5676 Pte Ruel R., R22e8.

Question by the Defence council.

Q - At the time of the last battle what was your position in your unit?
A - I was in a party in charge of mules.
Q - You duty was to take the rations to C Coy
A - Yes.
Q - Did Pte Denis report to you where you were with the mules.
A - Yes.
Q - Could Pte Denis have gone back with you to C Coy.
A - Yes.
Q - During the time of this attack, how long were you kept behind the lines?
A - Two days.

Cross examination (13) by the prosecution

Q - Was the only way Pte Denis could have gone back to his company by following you?

A - Yes.

Q - How far was C Company from the point where you were?

A - About 3 mile and a half.

Q - Did you suggest to him to join his company by himself?

A - No.

Q - Would it have been possible for him to join his company if he had wanted to?

A - No.

Q - For what reason?

A - We were kept in our holes and couldn't get out of them because of the shelling, which was very heavy. Darkness was the only time we could move.

Q - The first night, would it have been possible for him to join his company?

A - I don't know.

Q - Did you he report to any N.C.O. of your party?

A - Yes, he reported to the sergeant in charge of the mules.

Q - Did you see or hear him reporting to the sergeant in charge of the mules

A - No. I didn't see him, but he told me he had done so.

Q - While he was with you, did he tell you why he had left his company?

A - No.

Q - Were you far from Bn HQ?

A - No, we were about 100 yards from them

Q - Do you know if he reported to Bn HQ

A - No.

Reexamination by defense

Q - Did you see Pte Denis speaking to the sergeant?

A - No.

Q - Did Pte Denis tell you that he was sick?

A - Yes.

Question by the court:

Q - Was Pte Denis with you the whole time, until he reported to his Coy.

A - Yes.

Q - What sort of sickness had Pte Denis told you he had?

A - He said his nerves were in very bad shape.

Q - Did you see Pte Denis report to anyone in his company?

A - No.

Third Witness for the Defense.

E-4603 Pte Les Denis, R22 R (~~[illegible]~~) ~~having been duly Sworn states.~~ The accused makes this statement.

On the morning of the sixth of August, when we going altogether, No 4 section was detailed to clear up a house. I was sick, suffering with Diarrhoea, and I had to stop. When I stopped, I told Pte Reginbald as I was myself too much in a hurry, to tell my section commander that I had to stop. When I was ready to move forward, the company had moved,

also No 4 section, and a barrage of artillery had started, giving me no chance to advance. Seeing that, I stayed there till night. After that, I saw a battle in front of me, but I couldn't see if it was my company. Then I started to go backward, where there was no fire, to try to find Battalion H.Q. Then on the morning, I found the mule party. I went to report to the sergeant, but he was sleeping, & I did not want to wake him up. I stayed with the mule party. When ~~we~~ took the way the mule party started to go forward, I met on the way, a truck in which Lieut Pinguet was ~~[illegible]~~ me to get in. I got in, and so joined my company. The next morning I learned I was on charge.

A B Steen
Major

Summing up by prosecutor

Summing up Case of Pte Denis Leo R 22 R

Attention of the Court drawn to Page 19 Para 17
five (5) first lines
Again Para 20 page 19. 5 lines
Intention proved by facts

Importance of the duty

At about 0520 or 0600 hr they were advancing.
advancing against enemy.
Defensive "
always susceptible to be attack by enemy
They were on a battle field.

Knowledge of the importance of the witness

Denis is sane. His section was on the move
He knew his sect.
could meet enemy at any time
He knew he was on a battlefield.
He knew, being on a battlefield he
could not leave his section without permission

Admission by enough to permit him to avoid that duty

Left at 0800 hr when Coy. left at 0600.
It is on the move towards the enemy
Left without permission until 1915 hrs.
9th Aug 43.
Smiles & duly way to go back? Alibi
His duty was to be with his section all the time
Sickness is of no importance PTO

Mules. After he had been sick, why didn't he follow?
If he did he came back instead of going forward?
A Coy going forward does not advance quickly, especially if they are shelled. He could easily have reached them.
When in the back, he did not report to Bn H.Q.
He was not seen reporting to NCO f/c Mules
He is not reported as having reported himself to his C.O. Coy. when going up with the mules. He was found on the road by his V.I. Cleaner, who did not meet the mule party. Denis told him he had been with the 3 River Tank

His duty was to be in his section.

Charles S. Lees pte

x 3
W.P. Steer
Major

No.E-4603 Pte, Denis L. Corpl [illegible]

Date of Last entry:	No. & date of last drunk:	Period not reckoning towards freedom from extra fine	Sheet
N/A	N/A	N/A	

Field	27 Jul 43.	L/Cpl.	A.A. Sec. 15 (1) W.O.A.S. Absenting himself without leave from 1300 hours 27 July 43 till 1700 hours 2 Aug. 43. Total absence: 5 days, 28 hours.	6 days [illegible] Reduc[illegible] the [illegible]

Certified to be true Copy of Temporary Sheet.

W. C. Wells

Adjutant,
Royal 22e Regiment.

MFM 6

No.E-4603 Pté. Dénis L. Corps: 22e R. Date of Enlistment 13 Jan 39

Date of Last entry:	No. & date of last drunk:	Period not reckoning towards freedom from extra fine	Sheet No.	Signature Of C.C.	Charact
n/a	n/a	n/a	1		

Field	27 Jul 43.	L/Cpl.	A.A. Sec. 15 (1) W.O.A.S. Absenting himself without leave from 1800 hours 27 July 43 till 1700 hours 2 Aug. 43. Total absence: 5 days, 23 hours.	6 days pay Reduced to the rank.	3 Aug. 43	Lt-Col. Bernatchez

Certified to be true Copy of Temporary Sheet.

W. Gwells Capt.

Adjutant,
Royal 22e Regiment.

X 1 Cy A Steer Major

Gentlemen of the Court

DEFENCE SUMMING UP

We may talk and talk of different things as the prosecutor did but the offence is much to serious for that.

It is clearly stated by all the witnesses that P.C. Henry didn't know before hand that they were suppose to attack the enemy's lines or it cleared a house

Nobody did:
So Pte Slevin took
sick as it is permitted
to be and lost himself
we cannot accuse
Pte Slevin of being a
deserter because there
no intention of his
part to do such a
thing: Pte Slevin
took parts in all
battle and I don't
see why at the
last battle he would
had done such a
thing

and safest way
to go back to his
coy

I am morally
convinced that Hans
is not guilty to
any of the charges
but got simply
lost as the many
case happened so
many times to others

I am sure gentlemen
that you will take his
service in consideration and
that evidence of the witnesses
will give him justice Back you

I

He was lost - and
even an officer
with instrument
has difficulty sometimes
to find his way.
Pte Dennis I think
made when he decided
to join the mules
that were suppose
to bring the ration
to his company
took the normal and
logical decision.
He is was the

XI
W. B. Slew
Major

I just wanted
to point out to the
Court that in giving
their sentences to
~~to~~ take in consider-
ation the fact that
it seems taught
age the battles and
also that he is well
considered by his platoon
Commander and his
camarades in Arms

and I am sure
that he had no
intention of being
A.W.L. and if a chance
being given to him
he would be there
for the next show
thank you

[illegible]

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

Finding.*

The Court is closed for the consideration of the finding.

The Court find that the accused

Not guilty of first charge
Guilty of the second charge.

Finding of not guilty of first charge announced in open court. WPS

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Lt. C.E. Lewesque is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* WPS Yes MFM.6 and A.F.B. 296.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 'C' & 'D', signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Cross-examined by the accused. N.A. WPS

[Instructions.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment by addition to that to be awarded by the Court the prosecutor must ask the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* Yes See X 1

The Court is closed for the consideration of the sentence.

W.P. Steen Major

F

Sentence.

The Court sentence the accused

Sentence.

4 days loss of pay for being absent.
12 Months imprisonment with loss of pay.

W P Steen Major

A.F.B. 294

PARTICULARS AS TO CHARACTER AND PARTICULAR OF SERVICE OF THE ACCUSED.

No. E-4603 Rank PTE. Name DENIS, Leo R.22e R.

1- The following is a fair and true summary of the entries in the regimental and squadron, battery, or company conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court of Summary awards under Section 47 of the Army Act and of cases of which trial has been dispensed with:

	Within last 12 months		Since Enlistment.	
For	N/A	times	N/A	times
For		times		times

Number of instances of gallantry or distinguished conduct: NIL

or

There are no entries on the conduct sheets of the accused. G.W.

2- The accused has not been previously convicted Not available

or

Previous convictions of the accused by a court-martial or a civil court summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the schedule annexed to this statement

3- The accused is not under sentence at the present time.

or

The accused at the present time is under sentence for G.W. NIL beginning on the NIL day of

4- The accused has been in confinement awaiting trial on the present charges for NIL days in civil custody, and 7 days in military custody, making a total of 7 days in custody, of which NIL days were spent in hospital.

5- The present age of the accused according to his record of service ~~attestation papers~~ is 24

6- The date of his ~~commission~~ attestation specified in this records of service ~~attestation papers~~ is 13 Nov 39.

7- The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Not available

8- The accused is entitled to deferred pay or gratuity in respect of Not available service. G.W.

9- The accused is entitled to reckon Not available service for the purpose of determining his pension.

PTO

Exhibit "D"

10- The accused is in possession of or entitled to no military decoration or military reward ~~(or is in possession of or entitled to (state any military decoration or reward)~~

11- (If ~~the accused is a warrant officer~~) ~~The accused~~before ~~he~~ was made a warrantofficer last held the regimentalrank of:

12- (If the accused is an officer) The accused holds in the army the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated _____.

13- The accused has served as a non-commissioned officer continuously ,without reduction, to the present date:

		Date of Promotion.
In the rank of	"	years
In the rank of	"	years
In the ~~rank~~ of	"	~~years~~

SCHEDULE.

of Convictions by a court-martial or civil court of summary awards under section A.A. 47 and of cases in which trail has been dispensed with of accused,

No. E-4603 Rank: PTE. Name DENIS, L.E. R.22E R.

(a verbatim extract from the regimental books stating these contctions and sispensations with trial must be inserted).

NOT AVAILABLE.
W Gw

I hereby certify that theforegoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of August 1943.

W. G Wells Capt.
Adjutant,
Royal 22e Regiment.

I hereby declare that I have been served with a true copy of the summary of Evidence taken prior to my trial by Court-Martial. I have also been served with a true copy of the Charge Sheet on which I am being brought into Court-Martial.

I hereby require the services of an officer to represent me at my trial. I desire the services of Capt. B. Gunnant R.22R if he is available.

In the Field,
August 11th, 1943.

Geo Davis

SUMMARY OF EVIDENCE.

In the case of E-4603 Private Leo DENIS, on the strength of the Royal 22e Regiment, a soldier of the Canadian Army Overseas, on Active Service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

1st Witness for the Prosecution.

Lieutenant Jean-Louis RINGUET, Royal 22e Regiment, having been duly sworn, states:-

I am Lieutenant Jean-Louis Ringuet, Royal 22e Regiment, ~~detailed~~ to "C" Coy. On the 6th August 1943, at about 0915 hours, Cpl. Lalonde B. of my platoon, reported to me that one of his men, E-4603 Pte. Denis L. was missing since 0800 o'clock that morning. He added that this absence dated since his section had been divided up in preparation to a house-clearing job.
On the 9th Aug. 1943, returning from a recce party, I met at about 1915 hrs JHR on the road Pte. Denis L. I asked him where he was going. He answered he was trying to locate his own section. I ordered him to get on the truck and I took him back to our Coy. lines. I noticed he had no equipment on him.

The accused declines to cross-examine this witness.

J.L. Ringuet. Lieut.

2nd Witness for the Prosecution.

E-4585 Cpl. Lalonde, B. Royal 22e Regiment, having been duly sworn, states:-

I am E-4585 Cpl. Lalonde, B. Royal 22e Regiment, ~~detailed~~ to "C" Coy. On the 6th August 1943, in the morning, my section had been detailed to make house clearing. Pte. Denis L. was then in my section. When I arrived at the house which was to be cleared, I found that Pte. Denis had left. I saw him again, only three days later after he had reported back to the Coy.

The accused declines to cross-examine this witness.

B. Lalonde Cpl.

3rd Witness for the Prosecution.

E-4452 Pte. Reginbald, Royal 22e Regiment, having been duly sworn, states:-

I am E-4452 Pte. Reginbald, Royal 22e Regiment, ~~detailed~~ to "C" Coy. At a certain day at the beginning of August 43, my section was on the attack and was getting ready to clear a house. Pte. Denis L. just before climbing a hill which led to the house, left the section. I ~~asked~~ asked him in a friendly way where he was going. He answered he was going to the latrines. During the house-clearing, he was still

SUMMARY OF EVIDENCE.

In the case of H-4603 Private Leo DENIS, on the strength of the Royal 22e Regiment, a soldier of the Canadian Army Overseas, on Active Service.

3rd Witness for the Prosecution.

missing. I then saw him again, only a few days later when our Battalion was at rest.

The accused declines to cross-examine this witness.

Fte.

The accused having been duly cautioned in French in accordance with R.O. 1424, reserves his defence.

I certify that the above summary of evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that all Rules of Procedure were duly complied with.

Lieut.
Officer taking Summary.

In the Field,
August, 12th, 1943.

Certified True Copy
Spare copy
LL-83

MEDICAL OFFICER'S CERTIFICATE

I certify that: No. "E-4603 Pte Denis Leo, R.22e R.
Has been examined by me this morning, and that I found him FIT/~~UNFIT~~
to undergo trial by a Field General Court-Martial.

"(Signed)" Capt. RCAMC

M.O. R.22e R.

In the Field,
16th August 1943.

CHARGE SHEET

The accused, E-4603 Private Lee DENIS, a soldier of the Canadian Army Overseas, on the strength of the Royal 22e Regiment, on active service, is charged with:-

1st Charge
A.A. Sec. 12 (1)

DESERTING HIS MAJESTY'S SERVICE,

in that he,
in the field, on 6th Aug. 1943, when under orders for a move towards the enemy, did absent himself from 0800 hours until he returned at about 1915 hrs., 9th August 1943, with the intent to avoid battle with the enemy.

2nd Charge,
A.A. Sec. 15 (1)
ALTERNATIVE.

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, on the 6th day of August 1943, did absent himself without leave from 0800 hours, until he returned at about 1915 hours on 9th day of August 1943.

Total absence:- 3 days, 11 hours and 15 minutes.

"J.P.E. Bernatchez" Lt.-Col.
J.P.E. Bernatchez.
Commanding Officer,
Royal 22e Regiment.

In the Field,
August 13th, 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"H.H.S.PENHALE" Brigadier,
(H.H.S.Penhale), Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
14 Aug 43

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a **Field General** Court-Martial held **xx in the field** on the **16** day of **August** 19**43** by order of **Brigadier M.H.S. Penhale**

Commanding **3rd C.I.B.**

dated the **14** day of **August** 19**43**

President.

Major W.P. Steen

Members.

Capt. R.L.Esperance
Capt. C.L.Putman

Trial of* **E-4603 Pte Denis Lee R 22e R** , ~~Judgment given~~

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that **NA** is not available to serve owing to **NA"W.P.Steen"**

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor, **Lt. C.E. Levesque R 22e R**
"WPS"
~~Counsel~~‡; or defending officer **Capt. V.P.E. Aubut R 22e R**

At **0910** o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* **NO**

[N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.]

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

"W.P.S." Major

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A).)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.] N.A.

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

"W.P.Steen"

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held xxx in the field on the 16 day of August 1943 by order of Brigadier M.N.S. Penhale

Commanding 3rd C.I.B.

dated the 14 day of August 1943

President.

Major W.P. Steen

Members.

Capt. R.L.Esperance
Capt. C.L.Putman

Trial of* E-4603 Pte Denis Lee R 22e R , ~~Judge Advocate~~

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that NA "W.P.Steen" is not available to serve owing to NA, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor, Lt. C.E. Levesque R 88e R "WPS" ~~[illegible]~~‡ or defending officer Capt. V.P.E. Aubut R 22e R

At 0910 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

"W.P.S." Major

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

N.A. "W.P.S."

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer. Not Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer. Not Guilty

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.* N.A.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.* N.A.

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with. N.A.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

"W.P.S." Major

First Witness for the Prosecution.

Lieutenant Jean Louis Pimquet, having been duly sworn states:-

"I am Lieutenant Jean Louis Pimquet, R 22e R, attached to "C" Coy. I identify the accused as Pte Denis, of No 14 Pl "C" Coy. On Aug 6, 1943, our company was the leading company of the Adverie bridgehead. At 0900 hrs, I sent a section to clear out a house. The corporal Lalonde reported to me afterwards that while tryingto dispose his section, he found out Pte Denis wasn't there.

Q Was the enemy supposed to be in this house?

A Yes, the enemy was there. We were the leading company.

Q Do you believe that the accused was aware of the importance of his duty?

A Yes.

Q On the 9th of August, 1943, could you tell the Court what happened?

A On Aug 9, 1943, I was coming back in a 15cwt truck from a rear party. At 1915 hrs, on the way I found Pte Denis who was walking towards us. I asked him where he was going and he told me he was trying to find the regiment. I told him to get in the truck and I took him back to his section and told him to stay there until further orders.

Q When was he put under close arrest?

A The next morning.

Q At what time was Denis reported as ~~missing~~ having left the section?

A The Corporal reported to me at 0930 hrs that when clearing the house he couldn't find Denis.

Cross Examination by the Defence.

Q At 0700 hrs were your men told that they were supposed to do a house clearing job at 0900 hrs? Did they know before 0900 hrs?

A They were told at 0900 hrs to clear the house.

Q How can Pte Denis be aware that he was supposed to be in the house clearing party since he was missing from 0800 hrs?

A He should have been there.

Q Before the attack, in the preceding day, were you aware that any of your men, or men in your company were sick?

A None of my men or NCO's reported sick.

Q Did you know yourself before 0900 hrs that you were going to attack?

A Yes, I knew we were to advance.

Q When you started in the morning, did your men know they were going to attack or going to take up a defensive position?

A It depended on two situations. If there were enemy there, we would attack; if not, we were to take up a defensive position.

Q Did you give permission to any of your men to go to the laterine that morning?

A No one asked me for such permission that morning.

Q Did you usually give permission to the men to go to the laterines?

A No, it was usually given by the section commanders.

Question by the Court.

Q At what time did you receive your orders to advance?

A At about 0700 hrs.

Q Did you pass these orders on to the section commanders at this time?

A The whole of the platoon knew from the night before that we were to advance against the enemy position, and to deal with them as the situation demanded.

Q When you found Pte Denis, how far was he from the place he had gone absent?

A About seven miles.

Q Was he in near of where the regiment was?

A Yes, to a flank. He was behind the lines, and walking away from the regiment.

2nd Witness for the Prosecution.

E-4585 Cpl LalondeB. R 22e R, having been duly sorn, states:-

I am E-4585 Cpl Lalonde B. I am in 15 Pl now, but I was in 14 Pl up until about the 12th of August. I commanded No 5 Section. I recognize the accused as Pte Denis L. He was in my section. In the morning of Aug 6th, 1943, we received the order from our office to go forward. We were the second section in the forward platoon. The O.C. of the Company gave orders to the first section to do some house clearing. There was another house and my section was detailed to clear this second house. When we reached the house, I found that Pte Denis was absent. That was about 0820 hrs 6-8-43.

Q When your section was detailed to do the house clearing, was Pte Denis present at that particular moment?

A I couldn't say.

Q Before 0800 hrs, was your section likely to meet the enemy?

A Yes.

Q Did Denis ask permission to leave your section?

A No.

Q Do you know if he was sick?

A No. He did not report to me that he was sick.

Cross-examination by the Defence.

Q At 0800 hrs, did all the men of your section know that they were supposed to advance?

A At 0800 hrs we were advancing.

Q In the days before this attack, were any of your men sick?

A Yes, there were a few sick.

Q What time did you start advancing?

A I didn't have a watch, but I think it was about 0530 or 0600 hrs.

Q Any other times when you would, was permission given to men to go to latrines, during the move?

A Yes, sometimes.

Q Since the landing, was Denis always in your section?

A No sir.

Q Was it the first attack he was making with you?

A Yes.

Third Witness for the Prosecution.

E-4452 Pte Regimbald, J., R 22e R, having been duly sworn, states:-

I am Pte Regimbald J. On the 6th of Aug 1943 I was in No 5 section 14 Pl., R 22e R, I recognize the accused as Pte Leo Denis. On Aug 6th he was with me in the section.

Q During that day did you receive any particular order to attack a house?

A The section did.

Q When the section ordered to attack the house was Pte Denis there?

A No sir.

Q When did he leave the section?

A When No 4 section got orders to clear a house, before No 5 section was to clear their house.

Q What was the time?

A Around eight o'clock.

Q Could you have been attacked by the enemy before that time?

A Yes.

Q Had the company been advised before eight o'clock that you were to advance

A Yes, we were told to advance.

Q Were you advancing towards the enemy?

A Yes.

Cross-examination by the Defence.

Q On that morning you were told you were to advance only, not to attack?

A In advance only, yes sir.

Q Do you know if any in the section were sick before hand?

A I could not tell you.

Q That morning Pte Denis told you he was going to the latrine?

A Yes sir, a few minutes after No 4 section was detailed to advance.

Q Did you tell that to the corporal?

A Afterwards, before our section went forward to do the house clearing.

Re-examination by Prosecution.

Q When you received orders to attack and to do the house clearing, you told me that then Pte Denis was not. When did Pte Denis leave the section.

A A few minutes after No 4 Section had orders to clear the first house.

Cross-examination by Defense.

Q It was before your section received orders to do the house clearing that Pte Denis left?

A Yes.

Question by Court

Q When did you next see Pte Denis?

A The day he came back; when the regiment was at rest. It was two or three days later.

Second witness for Prosecution is recalled.

Question by the Court

Q When did you next see Pte Denis?

A It was the 9th of August 1943.

Q Did Pte Regimbald tell you at any time that Pte Denis had absented himself to go to the latrine that morning?

A He told me when we were going to do the attack on the house.

D

The prosecution is closed.

Defence.

R.P.40 footnote 2 has been complied with. "W.P.S."

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* No

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked
signed by the President and attached to the proceedings.]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional addresses which he is entitled to make, *see* Instructions to the Court above.)

"W.P.Steen" Majr

First Witness for the Defence.

D-66160 Pte Masson, I., R 22e R, having been duly sworn, states (in French):-

I am Pte Masson I, D-66160. I am in the same section as Pte Denis.

Question by the Defense Counsel.

Q What were the orders you received the morning that Denis left his section, that you were going to attack, to take up a defensive position or to advance.

A The only order we received was to pack up and follow on.

Question by the Court.

Q Did you know that your were going to advance against the enemy?

A We could expect that the enemy was there, but did not know particularly that we were going to meet some.

Q Did you notice that another section was detailed before to doahouse clearing job?

A Yes, No 4 section had been detailed to do house clearing before.

The Prosecution declined to cross examine.

Second Witness for the Defence.

E-5676 Pte Ruel, R., R 22e R, having been duly sworn, states:-

I am E-5676 Pte Ruel R., R 22e R.

Question by the Defence Council.

Q At the time of the last battle, what was your position in your unit?

A I was in a party in charge of mules.

Q Your duty was to take the rations to "C" Coy.

A Yes.

Q Did Pte Denis report to you where you were with the mules.

A Yes.

Q Could Pte Denis have gone back with you to "C" Coy.

A Yes.

Q During the time of this attack, how long were you kept behind the lines?

A Two days.

Cross-examination by the Prosecution.

Q Was the only way Pte Denis could have gone back to his company by following you?

A Yes.

Q How far was "CW Company from the point where you were?

A About 3 miles and a half.

Q Did you suggest to him to join his company by himself?

A No.

Q Would it have been possible for him to join his company if he had wanted to?

A No.

Q For what reason?

A We were kept in our holes and couldn't get out of them because of the shelling, which was very heavy. Darkness was the only time we could move.

Q The first night, would it have been possible for him to join his company?

A I don't know.

Q Did he report to any C.O. of your party?

A Yes, he reported to the sergeant in charge of the mules.

Q Did you see or hear him reporting to the sergeant in charge of the mules?

A No. I didn't see him, but he told me he had done so.

Q While he was with you, did he tell you why had left his company?

A No.

Q Were you far from Bn H.Q.?

A No, we were about 100 yards from them.

Q Do you know if he reported to Bn HQ?

A No.

Re-examination by Defense.

Q Did you see Pt Denis speaking to the sergeant?

A No.

Q Did Pte Denis tell you that he was sick?

A Yes.

Question by the Court.

Q Was Pte Denis with you the whole time, until he reported to his Coy?

A. Yes.

Q What sort of sickness had Pte Denis told you he had?

A He said his nerves were in very bad shape.

Q Did you see Pte Denis report to anyone in his company?

A No.

Third Witness for the Defense.

B-4603 Pte Leo Denis, R 22e R. The accused makes this statement:-

On the morning of the sixth of August, when we were going altogether, No 4 section was detailed to clear up a house. I was sick, suffering with diarrhoea and I had to stop. When I stopped, I told Pte Reginbald as I was myself too much in a hurry to tell my section commander that I had to stop. When I was ready to move forward, the

company had moved, also No 4 section and a barrage of artillery had started, giving me no chance to advance. Seeing that, I stayed there till night. After that, I saw a battle in front of me, but I couldn't see if it was my company. Then I started to go backward, where there was no fire, to try to find Battalion H.Q. Then on the morning, I found the mule party. I went to report to the sergeant, but he was sleeping and I did not want to wake him up. I stayed with the mule party. When the mule party started to go forward, I met on the way, a truck, in which Lieut Ringuet was. I got in and joined my company. The next morning I learned I was on charge.

"W.P.Steen" Major

SUMMING UP BY PROSECUTOR

Summing up - Case of Pte Denis, Leo - R 22e R

Attention of the Court drawn to Page 19 Para 1F five (j) first lines.
Again Para 20, page 19. 5 lines.
Intention proved by facts.

Importance of the Duty
At about 0530 or 0600 hrs they were advancing.
Advancing against enemy.
Defensive against enemy.
Always susceptable to be attack by enemy.
They were on a battle field.

Knowledge of the importance of this witness.
Denis is sane. His section was on the move. He knew his section could meet enemy at any time.
He knew he was on a battle field.
He knew, being on a battlefield, he could not leave his section without permission.

Absence long enough to permit him to avoid that duty.
Left at 0800 hrs when Coy left at 0600.
It was on the move towards the enemy.
Left without permission until 1915 hrs 9th Aug 43.
Mules - only way to go back? Alibi.
His duty was to be with his section all the time.
Sickness is of no importance.

Mules
After he had been sick, why didn't he follow?
Why did he come back instead of going forward?
A Coy going forward does not advance fuitily, especially if they are shelled. He could easily have reached them.
When in the back, he did not report to Bn H.Q.
He was not seen reporting to NCO i/c mules.
He is not reported as having reported himself to his C.O. Coy when going up with the mules. He was found on the road by his Vl Comdr, who did not meet the mule party. Denis told him he had been with the 3 River Tank.
His duty was to be in his section.

"Charles E Levesque"

x3
"W.P.Steen" Major

X1 "W.P.Steen"
Major

DEFENCE SUMMING UP

Gentlemen of the Court. We may talk and talk of different things as the prosecutor did, but the offence is much to serious for that.

It is clearly stated by all the witnesses that Pte Denis didn't know before hand that they were suppose to attack the enemy's lines or to clear a house. Nobody Did.

So Pte Denis took sick as it is permitted to be and lost himself. We cannot accuse Pte Denis of being a deserter, because there is no intention of his part to do such a thing. Pte Denis took part and did battle and I don't see why at the last battle he would had done such a thing. He got lost; and even an officer with instruments has difficulty sometimes to find his way. Pte Denis I think, when he decided to join the mules that were suppose to bring the rations to his company, took the normal and logical decision. This was the and safest way to go back to his Coy.

I am morally convinced that Denis is not guilty to any of the charges but got simply lost as the case happened so many times to others.

I am sure ~~xxxxx~~ gentlement that you will take his service in consideration and that evidence of the witnesses will give him justice, thank you.

X1 "W.P.Steen"
Major
I just want to point out to the Court that in giving these sentences to take into consideration the fact that Pte Denis fought all the battles and also that he is well considered by his platton Commander and his comraded in arms and I am sure that he had no intention of being AWL and if a chance being given to him he would be there for the next show, thank you

"W.P.E.Aubut" Capt

M.F.M. 6

Date of Enlistment 13 Nov 39

No. E-4603 Pte. Denis L Corps: R.22e R.

Date of Last Entry:	No. & date of last drunk:	Period not reckoning towards freedom from extra fine	Sheet No.	Signature of O.C.	Character
n/a	n/a	n/a			

Field	27 Jul 43.	L-Cpl.	A.A. Sec. 15 (1) W.O.A.S. Absenting himself without leave from 1800 hours 27 July 43 till 1700 hours 2 Aug. 43. Total absence: 5 days, 23 hours.	6 days pay Reduced to the rank.	3 Aug 43	Lt-Col Bernatchez

Certified to be true Copy of Temporary Sheet

"W. G. Wells" Capt.
Adjutant
Royal 22e Regiment.

"C"
W. P. Steen" Major

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Not guilty of First Charge
Guilty of the Second Charge.

Finding of not guilty of first charge announced in open court. "W.P.E."

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lt. C.E. Levesque is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes MFM 6 and AFB 296

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "C" & "D" signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused. N.A. "W.P.S."

Question to the accused.

Do you wish to address the Court? *Answer.* Yes See X1

The Court is closed for the consideration of the sentence.

(5)

"W.P.Steen" Major

F

Sentence.

The Court sentence the accused

Sentence.

4 days loss of pay for being absent.
12 Months imprisonment with loss of pay.

"W.P.Steen" Major

A.F.B. 296

PARTICULARS AS TO CHARACTER AND PARTICULAR OF SERVICE OF THE ACCUSED

No. E-4603 Rank Pte. Name Denis, Leo R 22e R

1- The following is a fair and true summary of the entries in the regimental and squadron, battery, or company conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court of Summary awards under Section 47 of the Army Act and of cases of which trial has been dispensed with:

		Within last 12 months	Since Enlistment.	"W.G.W."
For	N/A	times	N/A	times
For		times		times

Number of instances of gallantry or distinguished conduct: Nil

or

There are no entries on the conduct sheets of the accused."W.G.W.".

2- The accused has not been previously convicted not available

or

Previous convictions of the accused by a court-martial or a civil court summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the schedule annexed to this statemen

3- The accused is not under sentence at the present time.

Or

The accused at the present time is under sentence for "W.G.W." NIL beginning on the Nil day of

4- The accused has been in confinment awaiting trial on the present charges for nil days in civil custody, and _____days in military custody, making a total of _____days in custody, of which Nil days were spend in hospital.

5- The present age of the accused according to his record of service is 26 "W.G.W." ~~attestation papers~~

6- The date of his ~~commission~~ attestation specified in his records of service att estation papers is 13 Nov 39.

7- The service which the accused is allowed to reckon towards discharge or transfer to the reserveis not available "W.G.W."

8- The accused is entitled to deferred pay or gratuity in respect of not available service.

9- The accused is entitled to reckon not available service for the purpose of determining his pension.

PTO "W.P.Steen" Major

Exhibit Pro "D"

10- The accused is in possession of or entitled to no military decoration or military reward~~(or is in possession of or entitled to (state any military decoration or reward)~~

11- (If the accused is a warrant officer) The accused before he was made a warrant officer last held the regimental rank of:

12- ~~(If the accused is an officer, the accused holds in the Army the~~ rank of dated and in his regiment (or corps or department) the rank of dated .

"W.C.W."

13- The accused has served as a non-commissioned officer continuously without reduction, to the present date:

		Date of promotion.
In the rank of	"	years
In the rank of	"	years
~~In the rank of~~	"	years

SCHEDULE

of Convictions by a court-martial or civil court of summary awards under section A.A. 47 and of cases in which trail has been dispensed with of accused,

No. E 4603 Rank: Pte Name Denis, Leo R 22e R

(a verbatim extract from the regimental books stating these convictions and suspensations with trial must be inserted).

Not Available "W.C.W."

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of August 1943.

"W.C. Wells" Capt.
Adjutant
Royal 22e Regiment.

I hereby declare that I have been served with a true copy of the summary of Evidence taken prior to my trial by Court-Martial. I have also been served with a true copy of the Charge Sheet on which I am being brought into Court-Martial.

I hereby require the services of an officer to represent me at my trial. I desire the services of Capt S Guimint R 22e R if he is available.

"Leo Denis"

In the Field.
August 11th, 1943.

SUMMARY OF EVIDENCE.

In the case of E-4603 Private Leo DENIS, on the strength of the Royal 22e Regiment, a soldier of the Canadian Army Overseas, on Active Service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

1st Witness for the Prosecution.

Lieutenant Jean-Louis RINGUET, Royal 22e Regiment, having been duly sworn, states:-

I am Lieutenant Jean-Louis Ringuet, Royal 22e Regiment, posted to "C" Coy. On the 6th August 1943, at about 0915 hours, Cpl. Lalonde B. of my platoon, reported to me that one of his men, E-4603 Pte. Denis L. was missing since 0800 o'clock that morning. He added that this absence dated since his section had been divided up in preparation to a house-clearing job.
On the 9th Aug 1943, returning from a recce party at about 1915 hrs i met on the road Pte. Denis L. I asked him where he was going. He ansered he was trying to locate his own section. I ordered him to get on the truck and I took him back to our Coy lines. I noticed he had no equipment on him.
The accused declines to cross-examine this witness.

"J.L. Ringuet" Lieut.

d Witness
r the pro-
cution.

E-4585 Cpl Lalond, B. R 22e R, having been duly sworn, states:-

I am E-4585 Cpl Lalonde, B R 22e R, posted to "C" Coy. On the 6th xxx August 1943, in the morning, my section had been detailed to make house clearing. Pte Denis L. was then in my section. When I arrived at the house which was to be cleared, I found that Pte. Denis had left. I saw him again, only three days later after he had reported back to the Coy.

he accused declines to cross-examine this witness.

"B Lalonde" Cpl

itness
e pro-
ion.

-4452 Pte. Regimbald, R 22e R, having been duly sworn, states:-

I am E-4452 Pte Regimbald, R 22e R, posted to "C" Coy. At a certain day at the beginning of August 43, my section was on the attack and was getting ready to clear a house. Pte. Denis L. just before climbing a hill which led to the house, left the section. I asked him in a

In the case of E-4603 Private Leo DENIS, on the strength of the Royal 22e Regiment, a soldier of the Canadian Army Overseas, on Active Service.

3rd Witness for the prosecution.

friendly way where he was going. He answered he was going to the latrines. During the house-clearing, he was still missing. I then saw him again, only a few days later when our Battalion was at rest.

The accused declines to cross-examine this witness.

"J. Régimbald" Pte

The accused having been duly cautioned in French in accordance with R.O. 1424, reserves his defence.

I certify that the above summary of evidence, consisting of two pages was taken down by me in the presence and hearing of the accused, and that all Rules of Proceedure ~~s~~/were duly ~~x~~complied with. c,d,e,f,and ~~g~~ all

"Charles E Levesque" Lieut.
Officer taking Summary.

LIST OF WITNESSES FOR THE PROSECUTION AND DEFENCE

In the case of E-4603 Pte Leo DENIS, R.22eR.

Lieut. J. Louis Ringuet, "C" Coy R.22e R.

E-4585 Cpl. Lalonde, B . "C" Coy. R.22e R.

E-4452 Pte. Regimbald, "C" Coy. R.22e R.

Defence.

NIL

O. H. M. S.

Denison, C. H.
B-118486

M. F. B. 270
[illegible]
[illegible]

NOTICE

1. File should be retained no longer than absolutely necessary. If a file is frequently needed at short intervals, it is better to B.F. it for two or three days than keep it out of Central Registry indefinitely. This ensures its being completed and kept in order, and also gives other offices an opportunity of using it.

2. Central Registry should be notified whenever a file is passed direct to another branch.

3. All outgoing letters should bear the official file number.

H.Q. 99/37 ~~610~~/DENNISON C.H./1

M.F.D. 307
50000—8-44 (3350) (Overseas)
H.Q. 1772-39-440

DEPARTMENT OF NATIONAL DEFENCE—(ARMY)

REPAT

B.118~~6~~4 86 Pte Dennison C.H.

Sentence under Review

CROSS REFERENCE

Duplicate created to replace original which was charged to AG 8 on 4 Jan 45 and has been mislaid.

Central Registry	Date	P.A. or B.F.	Initials	Referred to	For Remarks	Initials	Date
					(If purpose for which referred cannot be expressed in one line, and release to [illegible] and enter here "With Minute")		
MAY 23 1945				AG 12	Paper	CR	5 May
MAY 23 1945				AOC	[illegible]	AG 10	22 May
MAY 25 1945		C		[illegible]		[illegible]	23 May
JUN 2 1945	[illegible]	[illegible]	[illegible]	AG 10	Paper	CR	2/6
[illegible]	[illegible]	[illegible]	[illegible]	AG 10	Paper	CR	6/6
JUN 30 1945	[illegible]	[illegible]	[illegible]	AG 12	[illegible]	[illegible]	28/6
JUL 31 1945	10 Aug	BF	[illegible]	AG 12	PER B.F.	C.R.	JUL 30 1945
AUG 5 1945	4 [illegible]	[illegible]	[illegible]	AG 12	[illegible]	[illegible]	4/8
AUG 3[illegible] 1945	25 [illegible]	[illegible]	[illegible]	AG 12	[illegible]	[illegible]	30/8
				AG 12	BF	CR	25/[illegible]
15 OCT 1945	[illegible]	BF	[illegible]	A8	Reg	CR	15/10
	[illegible]	[illegible]	[illegible]				
30 OCT 1945	[illegible]	BF	[illegible]	A8	Papers	CR	5 7/10
[illegible]	[illegible]	A	[illegible]	A8	Reg.	CR	10/11
16 NOV 1945	[illegible]	BF	[illegible]	A8	Papers	CR	15/11
23 NOV 1945	[illegible]	PA	[illegible]	A8	Papers	CR	[illegible]
30 NOV 1945	[illegible]	PA	[illegible]	A8	BF	CR	[illegible]
DEC 12 1945	[illegible]	PA	[illegible]	A8	Papers	CR	[illegible]
DEC 17 1945	[illegible]	BF	[illegible]	A8	Per BF	[illegible]	[illegible]
				A8	WITH PAPERS	CR	DEC 20 194[illegible]

H.Q. 37 ~~610~~/DENNISON C.H./1

DO NOT WRITE BELOW THIS LINE

99/37/ DENISON CH /1 (A.8)

CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE 22 Dec 45

Canadian Military Headquarters
2 Cockspur Street
London, S. W. 1

Attn: AAG 'D1s'

B118486 Pte Denison C.H.
11 Cdn Pro Coy

1. Herewith AF A3104 in respect of the sentence set forth below for custody:

Sentence	Date	Suspended	Remitted by
1 yr detn	20 Nov 44	23 May 45	CofS/DAAGMG - CFN on 6 Dec 45

2. [illegible]

(J. A. V. Cade) Major
for Officer IC
Cdn Sec 2 Ech HQ Brit Army of the Rhine

A.S.

Please ensure that correct casualty return has been rendered and documentation of remission is completed.

XI.

Space for further Review (continued from page 2).

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, date of release. No. of marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks

XII.—Remarks and recommendations of C.O. on Second Trial.

Date		Signature

XIII.—Remarks and recommendations of Confirming Officer on Second Trial.

Date		Signature

Certified true copy.

Army Form A 3104.

15

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. B-118486 Pte Denison CH Unit R Regt C

Sentenced to undergo detention for one (1) year on 20 Nov 44

Age on, and date of, enlistment ..... Term of service .....

FIRST TRIAL.

For details of officers, see paragraph VII. For C.O.'s remarks, see paragraph IX.

II.—To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(For notice to accuse, see paragraph VII.)

SECOND TRIAL.

For details of officers, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to .....

and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on ..... (3).

Place .....

Date ..... Superior Military Authority (4).

(1) Erase words not required, and initial erasure.

(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the case is considered a brief one, adjoin form, using only paragraphs IV and V, will be made and attached to this form, and all further matters will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

[illegible] W4.26/10/2402 60,000 10.44 A.A.P.W.Ltd. Gp.482 Forms A.3104-14.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	BF 15 May 45.	(E.L.M. Burns) Major-General, GOi/c Cdn Sec 1 Ech HQ 21 Army Gp 1 Apr 1945	
	Suspend wef 23 May 45.	(E.L.M. Burns) Major-General, GO i/c Cdn Sec 1 Ech HQ 21 Army Gp 23 May 1945.	Susp sentence 23-5-45 172 days in susp 1520 marks earned. CO Rochon Lt col Commandant (APM) 1 Cdn Detn & P Bks Cdn Pro Corps
23 Aug 45	Sentence to remain in suspension. BF 15 Oct 45	(E. Matthews) Brig-Gen Comd 2 Cdn Inf Div	
6 Dec 45	remit balance of sentence	JPA Lister, Brig CofS/DAAG(M) - CFN	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA 12(1)(a) WOAS Deserting His Majesty's Service in field, at 2200 hrs 1 Oct 44 after being briefed by his Pl Comd that his Pl was to take part in an action across the Albert Canal, left his Pl intending to avoid taking part in the action and remained absent until apprehended at 2000 hrs 3 Oct 44 by Pte Belanger in the city of Antwerp. (Absent 1 day 22 hrs). AA Sec 15 (1) WOAS, AWL while undergoing arrest from 1100 hrs 6 Oct 44 and remained absent until surrendering himself at 1230 hrs 14 Oct 44 to the CMP in the city of Antwerp. (Absent 7 dys, 15 hrs, 30 mins). Signature of Officer making entry.	1 Oct 44 6 Oct 44	15 Nov 44 15 Nov 44

VIII.—Second Trial.

Signature of Officer making entry.

IX.—C.O.'s remarks and recommendations on First Trial.

Date	Signature

X.—Confirming Officer's remarks and recommendations on First Trial.

Date	Signature

If further space required, an additional slip should be pasted here.

PFX

20-7-1/Cdn Review/A

HQ A Tps Area, First Cdn Army
10 Dec 45

Cdn Sec 2 Ech

11 Cdn Pro Coy

Review of Suspended Sentence
B-118486 Pte Denison C H

37/Denison CH/1
48

1. AF A3104 concerning the m/n soldier is enclosed herewith, review having been completed.

2. It will be observed that the balance of the sentence in this case has been remitted by C of S/DA & QMG Cdn Forces in the Netherlands. Steps should be taken that such decision is promulgated to the soldier by you and the necessary extracts taken for publication in Part II Orders.

3. After completion of all necessary action the AF A3104 should be forwarded direct to Cdn Sec 2 Ech HQ Brit Army of the Rhine for their retention.

Complete
O'Hara

(G F Levenston) Lt-col
AA & QMG
A Tps Area, First Cdn Army

CWT/ca
Encl

Extn 10
Time of Signature. 1100 A hrs
RSDS

120/CM REVIEW CDN/1/12 (A Pers)

HQ Cdn Forces in the Netherlands
7 Dec 45

HQ A Tps Area
First Cdn Army

REVIEW OF SUSPENDED SENTENCE
B-118486 Pte DENISON CH
11 Cdn Pro Coy

Ref your 20-7-1/Cdn Review/A dated 30 Nov 45.

1. AF A3104 concerning the m/n soldier is enclosed herewith, review having been completed.

2. It will be observed that the balance of the sentence in this case has been remitted by C of S/DA & QMG Cdn Forces in the Netherlands. Steps should be taken that such decision is promulgated to the soldier by his unit and the necessary extracts taken for publication in Part II Orders.

3. After completion of all necessary action the unit concerned should fwd AF A3104 direct to Cdn Sec 2 Pch HQ Brit Army of the Rhine for their retention.

Extension 523
/IE
Encl: 1

(J/C Beatty) Capt
SCA Pers 1
for C of S/DA & QMG

COPY TO: Cdn Sec 2 Pch HQ Brit Army of the Rhine.

120/CM REVIEW CDN/1/11 (A Pers)

HQ Cdn Forces in the Netherlands
19 Nov 45

HQ ~~A Tps Area~~
~~First~~ Cdn Army

REVIEW OF SUSPENDED SENTENCE
B-118486 Pte DENISON CH
11 Cdn Pro Coy

1. Enclosed herewith AF A3104 in connection with the m/n soldier for action in accordance with Overseas RO 4732 para 11(b)(iv).

2. When such action has been taken, may the AF A3104 be returned to this HQ for direction on review by C of S/DA & QMG CFN.

Extension 523
Encl: 1
/IE

RSDS/SDS

for (J C Beatty) Capt
SCA Pers 1
for C of S/DA&QMG

COPY TO: Cdn Sec 2 Ech HQ Brit Army of the Rhine.
(Ref your 99/37/DENISON CH/1 (A8) dated 16 Nov 45.)

08/87/ DENISON CH /1 (A8)

CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE

Date 16 Nov 45

HQ
CFH (Attn: A Pers)

REVIEW OF SUSPENDED SENTENCE

B118486 Pte Denison C.H.
11 Cdn Pro Coy

1. AF A5104 is enclosed herewith for action in accordance with Overseas RO 4732, para 4 (b).

2. On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ.

(J A G Code) Major
for Officer i/c
Cdn Sec 2 Ech HQ Brit Army of the Rhine

COURIER/

ENCL(1)

220/SUS/Div Tps/1

HQ 3 Cdn Inf Div CAOF
12 Nov 45

Cdn Sec 2 Ech, HQ BAOR

REVIEW OF SUSPENDED SENTENCE
B-115486 Pte DENISON, C. H.
11 Cdn Pro Coy CAOF

Ref your 99/37/DENISON C H/1 (AS) dated 29 Oct 45.

1. Attached is AF A3104 in respect of the m/n soldier for forwarding to HQ CFN.

Is 11 Cdn Pro Coy in CFN. —

[signature] Lt Col
(A. G. CHUBB) Lt Col
AA & QMG - 3 Cdn Inf Div CAOF

ERKH/VEL

DENISON CH

29 Oct 45

HQ
3 Cdn Inf Div CAOF

B116486 Pte Denison C.H.
11 Cdn Pro Coy CAOF

6.

220/SUS/7 Bde/1

HQ 3 Cdn Inf Div (CAOF)
23 Oct 45

Cdn Sec 2 Ech
HQ BAOR

REVIEW OF SUSPENDED SENTENCE
B118466 Pte DENISON C H

1. Ref your letter 99/37/Dennison CH/1 (A8) re-turned herewith is AF A3104.

2. HQ 2/7 Cdn Inf Bde (CAOF) advises that this soldier is not on str 4/QOR of C (CAOF)

WCB/cwts

Encl

(T G Gibson) Brig
GOC 3 Cdn Inf Div (CAOF)

99/37/ Tennison C H

CDN SEC 2 MCH HQ BRIT ARMY OF THE RHINE

Date 9 Oct 45

HQ 3 Cdn Inf Div (CAOV)

REVIEW OF SUSPENDED SENTENCE

P.218466 Pte Tenison, C.H.
4/QOR of C (CAOV)

1. AF AJ104 is enclosed herewith for action in accordance with Overseas HQ 4728, para 6 (b).

2. On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ.

(W.A. Wade) Major
for Officer i/c
Cdn Sec 2 Mch HQ Brit Army of the Rhine

Encl: 1

A.61480	PTE	BEAUDOIN	G - 11 Cdn Fd Hyg Sec
G.17400	SIGMN	BERUBE	E - Sigs 1 Cdn Inf Div
E.57610	PTE	BROWN	C R - NNS Highrs
D.82635	PTE	CASEY	A E - 1 Cdn Army Catering Pool 'A'
A.103151	PTE	GRIMM	V A - HLI of C
B.142093	PTE	LAING	J S - S D & G Highrs
D.140347	PTE	MAILLARD	A J - R de Maiz
B.32640	SIGMN	McKEEVER	D C - Sigs 2 Cdn Inf Div
B.70547	PTE	SAWYE	P G - HLI of C

25 Sep 45

4/Q 6 R of C (CAN-A)

PFF

PFL

R Regt C/S-4.

1 BN THE ROYAL REGIMENT OF CANADA
Canadian Army

27 Aug 45.

Offr i/c Records,
C Sec 2 Echn,
HQ 21 A Gp.

AG 12

SOLDIER UNDER SUSPENDED SENTENCE
H 116886 Pte Denisch C H

1. The m/n has 172 days of a sentence of one years' detention placed in suspension.

2. The latest review was made 19 Aug 45 and sentence remains in suspension.

3. May the m/n be posted to a suitable unit in view of present policy to retain such individuals on the continent until their sentence has been served or remitted.

(R M Landreth) Lt.-Col.,
Comd, 1 Bn R Regt C.

GHJ/1

4 Cdn Inf Bde

2D/ 5-4-6
HQ 2 Cdn Inf Div
24 Aug 45

5-4-1
(583)

I

REVIEW OF SENTENCE
B118486 Pte DENISON CH
R Regt C

507
1st Bn. THE ROYAL REGIMENT OF CANADA (C.A.
awh

1 Form AF A3104 referring to the m/n soldier is returned herewith, bearing direction of GOC 2 Cdn Inf Div that the sentence is to remain in suspension.

2 It is requested that promulgation be made in accordance with Appx to Overseas RO 4732, para 9(b), and document [illegible] direct to Cdn Sec 1 Ech HQ 21 A Gp.

II

→ R Regt C

For action please

W. T. Hunter
Capt
for (D J Loquesne) Maj
D A A G
for AA & QMG - 2 Cdn Inf Div

drls/hand
/ ere

Chas Gowan Maj
DAA&QMG.
27 Aug 45

encl

610/Pers Files/1 (.0.12)

CDN SEC I ECH HQ 21 A GP

4 Aug 45

HQ Cdn Forces in the Netherlands

Review of Suspended Sentences

Att'n: 'A' Pers

1. AFs A3104 are enclosed herewith for the u/m personnel for action in accordance with Overseas RO 4732, para 4 (b).

B.9604	Pte.	Bouchard, P. L.	8 Cdn Med Regt RCA
E.9381	Pte.	Chevarie, E.	R de Chaud
B.118486	Pte.	Denison, C. H.	Royal Regt of Canada
L.106397	Pte.	Erickson, W. A.	HQ 6 CIB
B.55684	Pte.	Gerow, E. E.	Royal Regt of Canada
F.53006	Pte.	Graham, T. E.	Seaforth Highrs
A.22435	Pte.	Haggerty, H. F.	Essex Scottish Regt
C.79084	Pte.	Hamilton, L. G.	SDSG Highrs.
B.29660	Spr.	Lortie, J. L.	11 Cdn Fd Coy RCE
E.101182	Pte.	Martin, A.	R de Chaud
K.11288	Pte.	McClure, J.	4/1 Cdn Scot R (C.A.O.F)
D.157616	Pte.	Ouellette, N.	R de Chaud
D.131606	Tpr.	Pascal, N.	7 Cdn Recce Regt.
B.114978	Spr.	Petrosky, C. R.	18 Cdn Fd Coy RCE
H.105137	Pte.	Rudyk, M.	Calgary Highrs.
H.70132	Tpr.	White, C.	10 Cdn Armd Regt.

2. On completion of Part VI, may the forms be returned direct to this HQ by the reviewing authority. Three copies of this letter are enclosed for each soldier shown above.

(E. L. M. Burns) Maj-Gen
GO i/c
Cdn Sec 1 Ech HQ 21 Army Gp

510/Pers Files/1 (AG L2)

PFF

CDN SEC 1 ECH HQ 21 A GP

30 Jul 45.

Cdn Sec 2 Ech HQ 21 A Gp
Attention: Card Index
" : A-5

LOCATION OF PERSONNEL

1. May the present disposition of the u/m personnel be received at this HQ earliest:-

No.	Rank	Name	Last Known Unit or Centre
H.205064	Pte	Aymont, R.	1 Cdn Dis Centre
D.157612	Pte	Bissonnette, R.	R de Chaud att 20 CSEC
K.604672	Pte	Carrat, E.F.	X-4 List CIC
L.532492	Pte	Chartrand, H.A.	X-4 List CIC
L.610198	Pte	Chartrand, M.	X-4 List CIC
E.9381	Pte	Chevarie, E.	10 CBR Bn
~~B.118486~~ B.118686	Pte	DENISON Dennison, C.H.	11 CBR Bn R R C 4 JUN 45
C.33557	Pte	Elliott, W.A.	10 Cdn Salvage Unit
K.605259	Pte	Enns, A.	X-4 List CIC
L.106397	Pte	Erickson, W.A.	2 CBR Bn
L.606704	Pte	Golech, M.	X-4 List CIC
K.53006	Pte	Graham, T.E.	X-4 Seaforth of C (2 Bn)
B.55684	Pte	Gerow, E.E.	11 CBR Bn
A.22435	Pte	Haggerty, H.	4 CBR Bn
C.79084	Pte	Hamilton, L.G.	10 CBR Bn
M.608860	Pte	Hird, R.H.	X-4 List CIC
L.608912	Pte	Huber, R.	X-4 List CIC
H.606555	Pte	Lahti, L.L.	X-4 List CIC
M.562991	Pte	L'Heureux, E.	X-4 List CIC
B.29660	Spr	Lortie, J.L.	9 CBR Bn
K.11288	Pte	McClure, J.	X-4 List S Sask R (2 Bn)
B.126909	Cpl	O'Brien, A.	Linc & Welld R
D.157616	Pte	Ouellette, H.	10 CBR Bn
L.466031	Pte	Balnychuk, P.	X-4 List CIC
D.131606	Tpr	Pascal, N.	4 CBR Bn
B.114978	Spr	Petrosky, C.R.	9 CBR Bn

2

M.609589	Pte	Pohl, H.A.	X-4 List CIC
B.627183	Pte	Putman, O.E.	1 Cdn Corps Def Coy
L.608539	Pte	Reichart, M.	X-4 List CIC
M.106137	Pte	Rudyk, M.	2 CBR Bn
L.606576	Pte	Sarrazin, W.	X-4 List CIC
B.52307	Pte	Stanfield, D.E.	4 Cdn Grn Bn
A.11956	Pte	Vertulia, A.J.(MM)	Perth R
M.607116	Pte	Vossler, E.	X-4 List CIC
M.508410	Pte	Weisgerber, M.F.	X-4 List CIC
M.600675	Pte	Whitney, E.R.	X-4 List CIC
H.70132	Tpr	White, C.	1 Cdn Armd C Regt (RCD)
L.534676	Pte	Yausie, L.M.	X-4 List CIC

2. Sufficient copies of this letter are enclosed in order that when a reply is received at this HQ, there will be sufficient copies for each soldier's personal file. Also enclosed is an extra copy for your HQ file.

for D.H. Loggerton Capt
(E. C. Brown) Lt-Col.,
AAG,
Cdn Sec 1 Bch HQ 21 A Gp.

SDG/APO/HAND
Encls/

1 CD/FP BKS D/357

1 Cdn Detn & FP Bks
Cdn Provost Corps

30 May 45

19

Cdn Sec 1 Ech
HQ 21 A GP

Attn AG. 11

AG10

SUSPENSION OF SENTENCE
B-118486 Pte Denison C H

1. Under Auth. Cdn Sec 1 Ech HQ 21 A GP 510/ Denison CH/1 (AG10) d/23 May 45 the mfn soldiers sentence has been placed in suspension wef 23 May 45 and was despatched to 11 CBR BK. Attached find AFA 3104 with Pt VI complete.

2. For your infn, please.

Co Rochon Jr LT. COL
Commandant (APM)
1 Cdn Detn & FP Bks
Cdn Provost Corps

COR/lsh

C.R.
CDN SEC CHQ 1 ECH
21 ARMY GROUP

510/Pers Pfiles/1 (AG M2)

CDN SEC 1 SCH HQ 21 A GP

30 Jul 45

Cdn Sec 2 Sch HQ 21 A Gp
Attention: Card Index
" L.A-Z

LOCATION OF PERSONNEL

1. May the present disposition of the undermentioned personnel be received at this HQ earliest.

No.	Rank	Name	Last Known Unit
[illegible]	Pte	Aymont, R.	1 Cdn Pls Ogtre
[illegible]	Pte	Dissonnette, H.	R de Chaudière, 20 CIBC
[illegible]	Pte	Carrat, E.F.	X-t Mtor Cdn
L.604672	Pte	Chaptrand, H.G.	X-t Mtor Cdn
L.533492	Pte	Chartrand, H.	X-t Mtor Cdn
L.630198	Pte	Cheverie, L.	10 CHR Bn
[illegible]	Pte	Dennison, C.H.	12 CHR Bn
[illegible]	Pte	Elliott, W.A.	10 Cdn Sqdrons Unit
[illegible]	Pte	Enns, A.	X-t Mtor Cdn
[illegible]	Pte	Erickson, E.A.	2 CLR Bn
[illegible]	Pte	Galeck, M.	X-t Mtor Cdn
[illegible]	Pte	Graham, T.E.	X-t Seaforth of C (7 Bde)
K.93006	Pte	Gerow, E.E.	12 CHR Bn
B.55684	Pte	Hagerty, H.	4 CLR Bn
A.22435	Pte	Hamilton, L.G.	10 CHR Bn
C.79084	Pte	Hird, E.H.	X-t Mtor Cdn
M.608860	Pte	Huber, E.	X-t Mtor Cdn
L.509912	Pte	Lahti, L.L.	X-t Mtor Cdn
M.606555	Pte	L'Heureux, E.	X-t Mtor Cdn
M.602971	Spr	Lortie, J.L.	9 CHR Bn
B.89660	Pte	McClure, J.	X-t Mtor & Trans R (27 Bn)
K.11288	Cpl	O'Brien, A.	Line & Welld R
B.126609	Pte	Ouellette, H.	10 CHR Bn
[illegible]	Pte	Palychuk, P.	X-t Mtor Cdn
L.466031	Tpr	Pascal, M.	4 CLR Bn
B.131606	Spr	Petrosky, C.R.	9 CHR Bn
B.11/978			

2

M.609589	Pte	Pohl, M.A.	Y-4 List CIC
M.627183	Pte	Putman, O.E.	1 Cdn Corps Def Coy
L.608539	Pte	Reichart, M.	X-4 List CIC
M.106137	Pte	Rudyk, M.	2 CBR Bn
L.606776	Pte	Sarrazin, W.	X-4 List CIC
M.52307	Pte	Stanfield, D.E.	4 Cdn Grn Bn
A.11950	Pte	Vertullo, A.J.(DCM)	Perth R
M.607116	Pte	Vossler, E.	X-4 List CIC
M.508432	Pte	Weisgerber, H.F.	X-4 List CIC
M.606675	Pte	Whitney, E.R.	X-4 List CIC
R.70132	Spr	White, C.	1 Cdn Armd C Regt (RCD)
L.534676	Pte	Yausie, L.M.	X-4 List CIC

2. Sufficient copies of this letter are enclosed in order that when a reply is received at this HQ, there will be sufficient copies for each soldier's personal file. Also enclosed is an extra copy for your HQ file.

for (E. C. Brown) Lt-Col.,
AAG,
Cdn Sec 1 Echn HQ 21 A Gp.

SDS/APO/WAND
Encls/

24

510/DENISON C H/1
(AG 12)

PFL

30 Jun 45

MEMORANDUM

AJAG

B.118686 Pte DENISON C H
R Regt C

Ref your 529/Denison CH/1 (AJAG) d/27 Jun 45.

1.

2. As the personal file on the m/n soldier, together with the original proceedings was mislaid in Jan of this year and has not yet been located, it would seem that there is little likelihood of these proceedings being found. However, if they do turn up they will be at once fwd to your Branch.

for (E. C. Brown) Lt/Col
AAG
Cdn Sec 1 Ech HQ 21 A Gp

23

MEMORANDUM

529/DENISON CH/1 (AJAG)

27 Jun 45

DAAG (Dis)

FGCM - 15 Nov 44
B/118636 Pte Denison, C H
R Regt C

1. Reference your memorandum 510/DENISON CH/1 (A G 12) dated 8 Jun 45.

2. Have the original proceedings in this case been located? If so, may they be returned to this branch.

Laval Fortier

(Laval Fortier) Lt-Col
AJAG
Cdn Sec 1 Ech - HQ 21 Army Gp

HAND

22

510/DENISON C H/1
(A G 12)

8 JUN 45

MEMORANDUM

TO: DJAG

Attn: Lt-Col Fortier

FGCsM PROCEEDINGS
B.118686 Pte DENISON CH

1. Ref our letter of even ref hereto d/8 Jun 45.

2. The information supplied therein in connection with the m/n soldier is incorrect.

3. The original proceedings in this case were mislaid and have not yet been found. The search is being continued and, if they are found, they will be at once forwarded to you.

for (E. C. Brown) Lt-Col
AAG
Cdn Sec 1 Ech HQ 21 A Gp

DEC/dnh

MEMORANDUM

510/COTE L V/1 (AG 12
510/DENISON C H/1
510/LAMBERT J A/1
510/LAROCK H W/1
510/LEFEBVRE E/1
510/LOVE W H/1
510/MAC DONALD AJM/1
510/MC ALISTER D L/1
510/RANK W J/1
510/SWEENEY J F de S/1
510/THOMPSON C W/1

8 JUN 45

TO: DJAG Attn: Lt-Col Fortier

FGCsM PROCEEDINGS

1. Ref your 529/FGCM/1 (AJAG) d/5 Jun 45.

2. Hereunder is the information requested by you as to the disposal of the various proceedings listed in your letter.

E.101350 Pte COTE L V -- R de Chaud att 1 Cdn Dis Centre

The original proceedings are enclosed herewith. This sentence is again due for review on 20 Jun 45 and it is requested that a certified copy of the proceedings be passed to this Branch by that date.

B.118686 Pte DENISON C H -- R Regt C

The original proceedings are returned herewith. This sentence is again due for review on 23 Aug 45 and it is requested that a certified copy thereof be passed to this Branch prior to that date.

E.22602 Pte LAMBERT J A -- X9 List RCASC, 12 CBR Bn

This sentence is presently being reviewed. The original proceedings of the trial on 1 Dec 44 have not yet been located.

A.3486 Rfmn LAROCK H W -- R Reg Rif, 8 Cdn Gen Hosp

The original proceedings are returned herewith. This sentence is again due for review on 20 Jul 45 and it is requested that a certified copy of the proceedings be passed to this Branch prior to that date.

D.157675 Pte LEFEBVRE E -- R de Chaud, 10 CBR Bn

The search for the original proceedings in this case is continuing but, to date, have not been located.

L.74208 Sgt LOVE W H -- 1 Cdn Rd Constr Coy RCE

The original proceedings are enclosed herewith. A copy of the proceedings will not be required by this Branch.

(over)

D.105118 Pte MAC DONALD A J M -- 12 Cdn Base Dental Coy

The original proceedings are returned herewith. Copy of the proceedings will not be required by this Branch.

M.34951 Gnr McALISTER D L -- 95 Bty 15 Cdn Fd Regt RCA

R.148369 Gnr RANK W J -- -- 95 Bty 15 Cdn Fd Regt RCA

The original proceedings in these cases have been mislaid and the search for them is continuing. To date they have not been located.

D.138669 Rfn SWEENEY J F de S -- OOR of C

The original proceedings are returned herewith. It is requested that a certified copy thereof be passed to this Branch in due course.

C.27800 Spr THOMPSON C W -- 8 Cdn Fd Pk Coy RCE

The original proceedings in this case have not yet been located and the search will be continued.

for (E. C. Brown) Lt-Col
AAG
Cdn Sec 1 Ech HQ 21 A Gp

DSC/dnh
Encl/1

M E M O R A N D U M

510/Erickson WA/1
510/Hudak M/1
510/Guellette E/1
510/Chevarin E/1
510/Denison CH/1
510/Sweeney JF/1
510/Petrosky CR/1
510/Pascal E/1

PA

20

To: File

2 Sch instr EA7/6396 6/28 May 45 on
510/McClure J/1.

510/ DENISON CH /1 (AG 10)

18

CDN SEC 1 ECH HQ 21 ARMY GP

24 May 45.

Cond;
1 Cdn Detn & FP Bks

Sentence Placed in Suspension

B.118486 Pte Denison, C.H.
R Regt C

1. The m/n soldier was sentenced by FGCM on 20 Nov 44 to undergo detention for one year for offences under AA Secs 18(1) and 15 (1).

2. This sentence was reviewed by GO i/c this HQ on 23 May 45 and the following direction was made:-

"Suspend wef 23 May 45."

3. Herewith AF A3104 bearing this direction. May Part VI be completed and the form returned to this HQ.

4. Cdn Sec 2 Ech HQ 21 A Gp will issue the necessary instrs to post and despatch this soldier to his appropriate rft bn where he will be made available as a rft for the fd. A copy of the instrs will be forwarded to this HQ.

W

(J.T. Harvey) Major
DAAG 'Dis'
Cdn Sec 1 Ech HQ 21 Army Gp

SDS/APO/HAND

Copies to:

Cdn Sec 2 Ech HQ 21 A Gp - Att'n Records
Cdn Sec 2 Ech HQ 21 A Gp - Att'n P. & T.
CPM, Cdn Army Overseas
Govt Bldg, Bromyard Ave.,
Acton, W.3 (Att'n-Pay 2c)
DJA (Rev) - with FGCM proceedings.

MESSAGE FORM

17

FROM: CANFOR (EXFOR REAR)	Date - Time of Origin 241030 B
TO: FOR ACTION: CDN SEC 2 ECH HQ 21 A GP	
FOR INFORMATION:	

ORIGINATOR'S NO.

A.2037 (.) RESTRICTED (.)
Sentence suspended wef 23 May 45 (.)

M.93681 CHEVARIE E
B.114978 PETROSKY CR
B.29660 LORTIE JL
L.106397 ERICKSON WA
D.151606 PASCAL N
D.138660 SWEENEY JF
K.11288 McCLURE J
B.118686 DENNISON CH (.)

Sentence suspended wef 24 May 45 (.)

M.30686 MACKENZIE TI (.)

Sentence suspended wef 25 May 45 (.)

C 79084 HAMILTON LG (.)

Gen 510/Chevarie E/1 (AG 10) 510/Petrosky CR/1 (AG 10) 510/Lortie JL/1 (AG 10) 510/Erickson WA/1 (AG 10) 510/Pascal N/1 (AG 10) 510/Sweeney JF/1 (AG 10) 510/McClure J/1 (AG 10) 510/Dennison CH/1 (AG 10) 510/MacKenzie TI/1 (AG 10) 510/Hamilton LG/1 (AG 10) all 4/26 May refer (.)

Capt		IMPORTANT

510/ Denison CH

SECOND REVIEW OF SENTENCE

Date 22 May 45

I. ADC to GO i/c

II. No B.118486 Rank Pte. Name Denison CH Age 20

Unit R Regt C Date of Enlistment 28 Oct 43

Offence: AA Sec 12 (1) Deserting his pl after being warned to take part in an action across the Albert Canal. Absent 1 day 22 hrs.

AA Sec 15 (1) AWL whilst under arrest for 7 days 15 hrs 30 mins

Sentence: Detn for one yr

Date of Last review 1 Apr 45

WEF 20 Nov 44

Direction on Last review:

"BF 15 May 45"

See previous review sheet at folio 9 (flagged).

III. Report by Comd 1 Cdn Detn & FP Bks:-

A -- yes

B -- satisfactory

C -- yes

IV. Recommendation:

1944 Oct (C) Nov (S) Dec

1945 Jan Feb Mar Apr May Jun Jul (R) Aug Sep Oct Nov (F)

(J. T. Weir) Capt.,
for AG 10.

2nd Week Sheet

No 1 Cdn Detn/ 357
No 1 Cdn Detn & FP Bks Cdn Pro C

14

7 May 45

Cdn Sec GHQ
1 Ech 21 A GP

SENTENCE UNDER REVIEW
B 118486 Pte Denison CH

1. Reference 510/Denison CH/1(AC11)d/3 Apr 45. relative to sentence under review for the m/n soldier.

2. The u/m infm is appended.

(a)	Date sentenced by FGCM	15 Nov 44
(b)	Date admitted to detn bks	25 Nov 44
(c)	Number of days remission already lost	Nil
(d)	Number of marks already earned	1396
(e)	Date of release with full remaining remission	12 July 45

3. Attentiveness to drill and parade square work - Attentive
Reaction to strict military discipline - Favourable
Appearance and bearing - Smart and Soldierly
Cleanliness in person and clothing - Clean and Tidy

4. Application to work and ingenuity - Good Worker

5. Military employment upon release from detn - Former Unit

6.
(a) Desires to return to former unit and redeem himself.
(b) Conduct and deportment has been satisfactory.
(c) It is considered this soldier will render useful military service should his sentence be suspended.

Lt Col
COMMANDANT (APM)
1 CDN DETN & FP BKS
CDN PRO CORPS

COR/er

C.R.
CDN SEC GHQ 1 ECH
21 ARMY GROUP

B 280 22.3.45

Wood 5
Vol 12

S29/FOCSM/1 (DJA-Rev)

13

Cdn Sec 1 Ech HQ 21 Army Gp
4 May 45

DAAG 'Dis'

FOCsM Proceedings

1. Listed hereunder are a number of FOCsM proceedings originals of which have been forwarded to your office for review of sentence.

K-37479	SSM(WOII)	Allen F.E.
L-54709	Pte	Ask J.L.
A-118125	Pte	Baillargeon H.
G-122327	Pte	Bamberry G.E.
D-166909	Pte(A/Cpl)	Beaulieu R.
D-143343	Pte	Bechard G.
D-137381	Pte	Belanger J.Y.
E-109067	Pte	Bujold L.
K-73593	Pte	Clapperton A.A.
E-101350	Pte	Cote L.V.
F-77860	Gnr	Deegan E.E.
B-118686	Pte	Denison C.H.
F-56917	Pte	Elliott A.C.
K-40109	Pte	Fletcher G.F.
B-17328	Gnr	[illegible] A.J.
D-26226	Pte	Harland A.E.
F-87072	Pte	Jackson A.P.
E-22062	Pte L	Lambert J.A.
A-3486	Mfmn	Larock H.W.
D-46311	Pte	Leboeuf P.
D-157675	Pte	Lefebvre E.
G-23066	Pte	Lorrette A.A.
L-74208	Spr	Love W.H.
D-105118	Pte	MacDonald A.J.M.
M-34951	Gnr	McAlister D.L.
K-50691	Pte	McArthur R.R.
H-102560	Pte	McLachlan G.A.
B-21477	Gnr	Parish H.W.
B-135907	Rfn	Payne H.G.
E-14263	Pte	Pealey A.
B-148369	Gnr	Rank W.J.
B-86126	Pte	Russell E.J.
D-138569	Rfn	Sweeney J.P.de S.
C-27600	Spr	Thompson C.W.
L-93711	Pte	Wills G.J.
B-82275	Pte	Wood W.L.



2. This list may not be complete in as much as there are also proceedings which were passed to your office with petitions on them. Such cases are not listed here.

3. May these proceedings be returned when they have served their purpose.

HAND

(W.P.Taylor) Major
DJA (Rev)
Cdn Sec 1 Ech
HQ21 Army Gp

Time of Signature.....hrs.

MEMORANDUM

4 Apr 45.

TO: DJA (Rev)

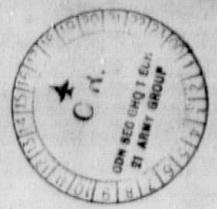
SOLDIER UNDER SENTENCE
B.118486 Pte Denison, C.M.
R Regt C

Reference your 529/Denison CM/1 (DJA) d/1 Apr 45.

1. With regard to paras 2 and 3 of your a/m correspondence, this matter has again been referred to the Superintending Clerk in CR to have a further investigation made to see if the missing file on Pte Denison can be located.

2. Further advice will be forwarded.

(T. Ferris) Capt.,
AG 11.



529/DENISON CH/1 (DJA)

Cdn Sec 1 Ech HQ 21 A Gp
1 Apr 45

DAAG 'Dis'

FGCM - 15 Nov 45.(14/36)
H.113486 Pte Denison, C.H.
R Regt C.

1. Reference our Cdn Sec 2 Ech 99/37/DENISON CH/1 (DJA) of 3 Jan 45 forwarding original proceedings for review of sentence and your 510/DENISON CH/1 (AG 8) of 12 Mar 45.

2. It is understood that at the time of the letter the personal file of this soldier at your HQ had been temporarily mislaid.

3. If the proceedings have now come to light may they be returned. If they have not been found may a further search be instituted.

for (W H Waugh) Major
DJA (Rcv)
Cdn Sec 1 Ech
HQ 21 Army Gp

510/Denison CH/1 (AG.11)

10

CDN SEC 1 ECH HQ 21 A GP

3 Apr 45

DJA (Reviews)
Cdn Sec 1 Ech HQ 21 A Gp

REVIEW OF SENTENCE
B.118685 Pte. Denison CH
R Regt C

1. Ref 99/37/Denison CH/1 d/20 Feb 45.

2. The sentence awarded by FGCM to the M/n soldier on 20 Nov 44 was reviewed by the GO i/c this HQ on 1 Apr 45 and the following direction was made.

"B.F. 15 May 45"

3. ~~proceedings of FGCM for your perusal.~~

(J.T. Harvey) Major
DAAG 'Dis'
Cdn Sec 1 Ech HQ 21 A Gp

DRLS/POST/HAND
Encl/

Copy to: Comd, 1 Cdn Detn & FP Bks.

510/ Denison CH /1 (AG11) 9

WORK SHEET

REVIEW OF SENTENCES AWARDED BY COURT-MARTIAL

I ADC to GO i/c DATE 29 Mar 45

II No B118686 Rank Pte Name Denison CH

Unit R Regt C Age 20

Date Enlistment 28 Oct 43

Offence AA Sec 12(1) Deserting his bl after being warned to take part in an action across the Albert Canal. Absent 1 day 22 hrs.

AA Sec 15(1) AWL whilst under arrest for 7 days 15 hrs 30 mins.

Sentence to undergo detn for one yr

WEF 20 Nov 44 Last Reviewed First review

III Extenuating Circumstances: Nil

Rec by Court: Nil

Character (previous convictions)

AA Sec 15(1) - One offence - 2 days AWL

IV Rec by CO: Original AFA3104 has been lost and it has been necessary to raise a certified copy from AB160.

V Rec by ~~next senior officer~~ Comd, 1 Cdn Detn & FP Bks: A good soldier on the parade square reacting favorably to strict military discipline. Smart and soldierly in appearance and clean in person and clothing. Kit is always neat and tidy. Desires to return to his former unit upon release from detn. This soldier was under the influence of liquor and was AWL for 7 days and then surrendered himself, as he had no intention of going AWL in the first instance according to his statement. Seems a good all round man who should prove himself useful in a theatre of ops. It is recommended that the balance of this sentence be placed under suspension.

VI Rec re review by AG 7:

Commandant 1 Cdn Detn & F P Bks

A - Yes
B - Yes
C - Yes

1944 OCT (C) NOV (S) DEC

1945 JAN FEB MAR APR MAY JUN JUL (R) AUG SEP OCT NOV (E) DEC

(T. Ferris) Captain
(AG 11)

8

1 Cdn Detn/357

1 Cdn Detn & FP Bks Cdn Pro C
19 Mar 45

Cdn Sec GHQ
1 Ech 21 A Gp

Sentence under review
B 118486 Pte DENISON C H AG 11
RRC

1. Reference A 1455 of 162125A Mar relative to the m/n soldier.

2. The u/m infm is appended:
(a) Date sentenced by FGCM - 15 Nov 44
(b) Date admitted to detn bks - 25 Nov 44
(c) Number of days remission already lost - NIL
(d) Number of marks already earned - 984 out of 1920
(e) Date of release with full remaining remission - 12 Jul 45

3. A good soldier on the parade square reacting favorably to strict military discipline. Smart and soldierly in appearance, clean in person and clothing. Kit is always neat and tidy. Desires to return to his former unit upon release from detn.

4. This soldier was under the influence of liquor and was AWL for 7 days and then surrendered himself, as he had no intention of going AWL in the first instance according to his statement. Seems a good all round man who should prove himself useful in a theatre of ops.

5. It is recommended that the balance of this sentence be placed under suspension.

W D Cain Capt
A/Commandant
No 1 Cdn Detn & FP Bks
Cdn Pro C
DRLS

COR/BJ.

C.R.
24 MAR 1945

AG 8

529/DENISON CH/1 (DJA-Rev)
Cdn Sec 1 Ech HQ 21 A Gp
15 Mar 45

7

FGCM - 15 Nov 44 (14/36)
B-118686 Pte Denison CH
R Regt C

(MEMORANDUM)

1. Reference your 510/Denison CH/1 (~~AG-8~~ AG 12) d/12 Mar 45.

2. Herewith copy of AFA 3104 together with certified copy of our AB 160 entry as requested.

C.R.
17 MAR 1945
CDN SEC CHQ 1 ECH
21 ARMY GROUP

W H Waugh

(W H Waugh) Major
DJA (Rev)
Cdn Sec 1 Ech
HQ 21 Army Gp

6

COPY FROM A.B. 160

OFFENCES 1 Oct 44 and 6 Oct 44.

Apprehended 3 Oct 44 and 14 Oct 44.

B-118486 Pte Denison C.H. R Regt C.

fgmc

COPY FROM A.B. 160

OFFENCES	1 Oct 44 6 Oct 44	APPREHENDED	3 Oct 44 14 Oct 44

B-118486 Pte Denison C.H. R Regt C.

FGCM HOLLAND 15 Nov 44.

CHARGES AA 12 (1) (a) WOAS, Deserting His Majesty's Service - in the Field, at 2200 hrs 1 Oct 44 after being briefed by his Pl Comd that his Pl was to take part in an action across the Albert Canal, left his Pl intending to avoid taking part in the action and remained absent until apprehended at 2000 hrs 3 Oct 44 by Pte Belanger in the city of Antwerp, (Absent 1 day, 22 hrs).

AA 15 (1) WOAS, AWL, in the Field, while undergoing arrest from 2100 hrs 6 Oct 44 and remained absent until surrendering himself at 1230 hrs 14 Oct 44 to Cdn Military Police in the city of Antwerp (Absent: 7 days, 15 hrs, 30 mins).

PLEA	NOT GUILTY GUILTY	FINDING	GUILTY GUILTY

PRESIDENT AND MEMBERS OF COURT

	Major R.J Carroll	R H L I of C.
	Capt D.S. Noble	11 Cdn Fd Amb.
	Lt R.W. Meanwell	Essex Scot Regt.
(J.A.)	Capt E.K. McDougall	HQ 2 Cdn Inf Div.
	Lieut R.D. McNally	R Regt of C.
	Capt R. Newman	R Regt C.

Former convictions - 1 Charge AWL under AA Sec 15 (1).

SENTENCE AND MINUTE OF CONFIRMATION

To undergo detention for one (1) year.

Confirm - Brig F.N. Cabeldu, Comd 4 Cdn Inf Bde 20 Nov 44.

PROMULGATED - 24 Nov 44.

certified true copy of A B 160 No 14 folio 36 which is in my custody
15 Mar 45 H H Haugh Major

D. J. A.,
Cdn. Sec. 21 Ech. HQ. 21 Army Gp.

ARMY FORM C2136 (Small)

MESSAGE FORM

Call | Sri. No. | Priority | Transmission (AGS) | Number No.

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: Cdn Sec 1 Ech HQ 21 A Gp

Date Time of Origin: 1621[illegible]A

For Action: 1 Cdn Detn & FP Bks

TO

(W) For Information (INFO)

Office Date Stamp

Message Instructions — GR

Originator's No.

A 1455 Restricted(.) Please fwd report to assist in review of sentence on B 118686 Pte Dennison CH

This Message may be sent AS WRITTEN by any means except wireless

Signed

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Signed

Originator's Instructions Degree of Priority: IMPORTANT

Time	Systems	Op.
THI or TOR		
Time cleared		

ARMY FORM C 2136 (Large Modified)
CPU 46
40/P&S/2031(6504)

MESSAGE FORM

Register No. 126

Call	Srl No.	Priority	Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A)	Originator	Date—Time of Origin	Office Date Stamp
	CDN 02E 21 A GP	14 1020 A	99/15/CAS CABLES/3

For Action

CANFOR (EXFOR REAR)

TO (W) For Information (INFO)

MAR 14 1945

Mage Instrns | GR

Originator's No. EA6L/710

YOUR A 1386 DATED 121030A B118486 PTE DENISON CH
ON STRENGTH X2 RR OF C ON ADMITTANCE TO 1 CDN
DETN AND FP AS AT 15 NOV 44 (.)

AG8

C.R.
15 MAR 1945
CDN DEC CHQ 1 CDN
BY ARMY RECORD

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS EXCEPT	IF LIABLE TO BE INTERCEPTED OR TO FALL INTO ENEMY HANDS THIS MESSAGE MUST BE SENT IN CIPHER	ORIGINATOR'S INSTRUCTIONS DEGREE OF PRIORITY	Time	Spot	Op
} WIRELESS	L.D. Harris CAPT	ROUTINE	TMI or TOR		
SIGNED	SIGNED		Time Clrd		
TMI	TOR (Cipher)	TOR (Signals)			

ARMY FORM C2136 (Small)

MESSAGE FORM

Register No.

Call	Srl. No.	Priority	Transmission Instructions
			510/Dennison CH/1 (AG.8)

3

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A)	Originator	Date-Time of Origin	Office Date Stamp
	CAMPOR (ESP R BEAR)	121030 A	

For Action

TO Gen Sec 2 Ect Hq 21 A Gp (W) For Information (INFO)

Message Instructions | GR

Originator's No.

A1386 (.) RESTRICTED (.) Understand B118686 Pte Dennison C
sentenced by FGCM (.) Advise present disposition (.)

This Message may be sent by any means	AS WRITTEN (except)	If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER	Originator's Instructions Degree of Priority	Time	System	Op.
			IMPORTANT	THI or TOR		
Signed	Captain	Signed		Time cleared		

510/Dennison, CH/1 (AG.8)

M E M O R A N D U M

12 Mar 45.

To: DAG (Review)
2 Ech HQ 21 A Gp

FGCM
B.118686 Pte Dennison, C.H.
Royal Regt of Canada

1. Ref your 99/37/Dennison CH/1, d/20 Feb 45.

2. With regard to paras two and three of your aforementioned correspondence may a certified copy of AFA 3104, together with AB 160 be forwarded, as personal file of this soldier has been temporarily mislaid and it is desired to complete review.

(T. Ferris) Capt.
(AG.8)

II. Remarks DAG (Review)

99/37/Dennison, C H/1
Cdn Sec 2 Ech, HQ 21 Army Gp
20 Feb 45

COIC
Cdn Sec 1 Ech
HQ 21 Army Gp

(Attn A G 5)

M
18686 Pte Dennison, C H
al Regt of Canada

1 Ref this HQ letter numbered as above and dated 3 Jan 45, with which the original proceedings herein were fwded for review of sentence.

2 If the same have now served their purpose may they be returned as soon as possible.

(W H Waugh) Major
DJA
Cdn Sec 2 Ech
HQ 21 Army Gp

COURIER

TIME 1500

5-P-45

Pte. Denison, C.H.

Lost — See letter enclosed.

COPY

529/DENISON CH/1 (DJA-Rev)

Cdn Sec 1 Ech HQ 21 Army Gp
9 Jul 45

VJAG
1 Det (A) Cdn JAG Overseas
CMHQ (Attn: JAG-Rev 1)

FGCM - 15 Nov 44 (14/36)
B-118486 Pte Denison CH
Royal Regt of Canada

1. Herewith in duplicate is certified copy of page 42 of 2 Cdn Inf Div AB 160 Vol II, and a copy of review sheet made by Capt W M Thompson.

2. The original proceedings were forwarded to the "A" Branch of this HQ for review of sentence. They became mislaid and repeated searches were made for them but with no result. It is now presumed that the proceedings have become lost.

(Sgd) R.H. WAUGH Major
DJA (Rev)
Cdn Sec 1 Ech
HQ 21 Army Gp

Encl
SDS

RECORDED AT CMHQ IN AB 160 5 P-45

REC'D
18 JUL 1945
JAG Br.
C.M.H.Q.

HQ 2 Cdn Inf Div — A B 160 Vol II, p 42

Accused: B/118486 Pte Denison, C H, Royal Regt of Canada

Trial: FGCM **Place:** Holland **Date:** 15 Nov 44

Court: Major R J Carroll)
Capt D S Noble) Units not recorded
Lieut R W Meanwell)

J A: Capt E K MacDougall

Charges:

Army Act Sec 12(1)(a) — When on active service deserting H M Service, in that he in the field at 2200 hrs 1 Oct 44, after being briefed by his Pl Comd that his Pl was to take part in an action across the Albert Canal, left his Pl with intent to avoid taking part in the action and remained absent until apprehended at 2000 hrs 3 Oct 44 by Pte Belman, P, in Antwerp.

Army Act Sec 15(1) — When on active service absenting himself without leave, in that he in the field when under arrest absented himself without leave from 2100 hrs 6 Oct 44 until 1230 hrs 14 Oct 44.

Pleas: Not Guilty / Guilty **Findings:** Guilty / Guilty

Sentence: To undergo detention for one year.

Confirmation: Confirmed 20 Nov 44 (Sgd) F N Cabeldu, Brig
Comd 4 Cdn Inf Bde

Promulgated: 24 Nov 44

Certified a true copy of the entries appearing on 2 Cdn Inf Div, A B 160, Vol II, page 42.

(W A D Gunn) Major
DJA 2 Cdn Inf Div

7 Jul 45

Entry of PROCEEDINGS in AB160 REVIEWED 12 July 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

0055
PTE DENNIE JJ.

805/1 CORU/3
C16528 Pte John James DENNIE
1 C.O.R.U.

00-55

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-FOURTH day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "P" GROUP, CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~[illegible]~~

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.Col.	D.L. Redman, V.D.	H.Q.,C.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	from	1 C.O.R.U.
A Lieutenant	from	5 C.C.C.,R.C.E.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Signed (LOUIS KEENE) Colonel
Commanding "P" Group, C.R.U.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C16528 Pte John James DENNIE 1 C.O.R.U.	FIRST CHARGE Sect. 15(1) Army Act. except that he was not apprehended but surrendered SECOND CHARGE Sect.24(2) Army Act	Guilty Guilty	Guilty Guilty	

Sentence

To undergo detention for a period of One year and Six months and to be put under stoppages of pay until he has made good (1) Z1-18-6 the expenses of his arrest and return and (2) Z6-10-5 the value of his "Kit" lost by neglect

26th May 1943

[signature]

(See attached charge sheet)

confirmed [signature]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] (Signed) [signature]

(LOUIS KEENE) Colonel
Commanding "P" Group, C.R.U.
Convening Officer (e)

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of Aug 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
MM ~~2. The witnesses~~
*~~(3. The Interpreter)~~
MM *(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 26th day of Aug 1943

[signature]

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 7[illegible] M.M.L. 1929.

MM ~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

MM ~~Signed this day of 19.~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to consent to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 26 day of August 1943

[signature]

Confirming Officer.

Promulgated and extracts taken in the case of C-16528 Pte. DENNIE, J.J.

(a) (Dated) 27 Aug 43 (Signed) [signature] Officer Commanding, Inc. 1 Can. Ordnance Reinf. Unit R.C.O.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. C.16528 Private John James DENNIE, Royal Canadian Ordnance Corps on strength of No. 1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with while on Active Service:-

1st Charge Sec. 15(1) A.A.

"Absenting himself without leave"

in that he at Bordon, absented himself without leave from 2200 hours 24 May 43 until apprehended by the Military Police at Glasgow at 2330 hours 15 Aug. 43, thereby incurring Cost of Apprehension of £1-18-6.

2nd Charge Sec. 24(2) A.A.

"Losing by neglect his equipment and regimental necessaries"

in that he at Bordon was deficient of equipment and regimental necessaries of the value of £6-10-5 as follows:

Blouses Battle Dress	1	£	1 - 0	- 4½
Boots Ankle Pairs	2		1 12	3
Drawers Woollen Pairs	1		4	4
Shirts Angola Drab	1		6	10½
Trousers Battledress pairs	1		1 0	6½
Cap Badge	1			4½
Socks, pairs	2		2	10½
Brass Cleaning	1			2
Brushes Shaving	1		1	
Comb Hair	1			2
Dressing Field	1		1	1
Knife Clasp	1		4	
Razor Safety	1		1	5
Towels Hand	2		1	6
Braces W.E.	1		2	2½
Carrier Waterbottle	1		2	
Haversack	1		9	7
Capes Anti-Gas	1		19	10
		£6	10	5

Bordon, Hants,
20 Aug. 43.

(HAROLD M. BAILEY) COLONEL
O.C. NO. 1 CDN. ORD. REINF. UNIT.

To be tried by Field General Court Martial

Bordon, Hants
25th Aug. 1943

(LOUIS KEENE) Colonel
Commander
"p" Group, C.R.U.

Medical Officers' Certificate
F.R. (Can) para 557

I certify that I have this morning examined No. C16528 (Rank) Pte (Name) DENNIE J.
of NO.1 C.O.R.U. and in my opinion he is fit to undergo
trial by Court Martial.

Station FIELD

Date 26-8-41

Sgd. [signature] Capt.
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT New Montmagny B.C.S. Gordon Hant
ON THE 26th DAY OF August 1943

The accused: C165-28 Pte Dennie J.J. Unit 1 C.O.R.W.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President: Lt Col D. L. Redman ..... Unit H Q C R W
Members: Capt T. J. Marrion ..... Unit 1 C O R W
Lt C. D. Campbell ..... Unit 5 C C C R C E

The officers under instruction are duly sworn:-

Lt J K Cameron ..... Unit 1 C O R W
..... Unit .....
Prosecutor: Capt E H Wallace ..... Unit 1 C O R W
Defending Officer: Major T J Warner ..... Unit 1 C O R W

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with. insert XX below
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
NM The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

NM (a) Makes a statement in mitigation of punishment. attached
NM ~~(b) Calls witnesses as to character.~~
NM ~~(c) Calls witnesses in mitigation of punishment.~~
NM (d) Addresses the Court by his Defending Officer. attached

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

XX The accused pled guilty with a variation. The Prosecutor signified the concurrence of the Convening Officer and the Court being satisfied of the justice of the course; accepted and recorded a plea of Guilty to the first charge with the variation recorded in the schedule
[illegible]

Dear Sir — 3/6/43

I am very sorry to say that I have let you down so badly by going A.W.L. At least I left my work to Sergeant Adams by returning on the time my pass expired. I had no intention of ever going absent again but circumstances arose which the Army would not understand, and could not help me in. For my own future life and those of my three children, as well as the happiness and peace of mind for the girl I once had I just had to go. How I went or why I myself can not understand and there has been much happened and different phases

I have been, where I can not find reason, or excuse for being. I just find myself there without understanding how I arrived. You of course shall disbelieve me, or at least think it very strange. But I am searching for a party, wherein I must and shall find. I can't help it because I neither can study, be content, or happy until I do. I am getting much closer to that person now.

Next week I shall return to Barracks, give myself up, and hope that I am not returned to Hendley for I am sure I could never find myself able to stand it again. So far I am still unable to

get any trace of wife or
family. I had even thought of
staying away and going home
as I did on my last U.W.L.
term. But I know it is not
worth it. However upon
my return to Barracks I
know I shall be doing so
with a free mind and no
further depressed feelings.
I will never dream save
have any reason to go
again, but of course can
expect no leniency now or
trust upon anyones part. But
perhaps upon returning I
could speak privately with
you, or Colonel Baker, [illegible]

4

I hope I shall not have their allowance stopped again. And I would like to know that you at least, who played squares, and more decent to me than any other person I have met in the Army, would not think badly of the way I let you down.

Incidently where this letter is mailed I shall not be within miles of. So I cant be be traced.

Remaining yours. Faithfully
Sgt. Dennie J. J.

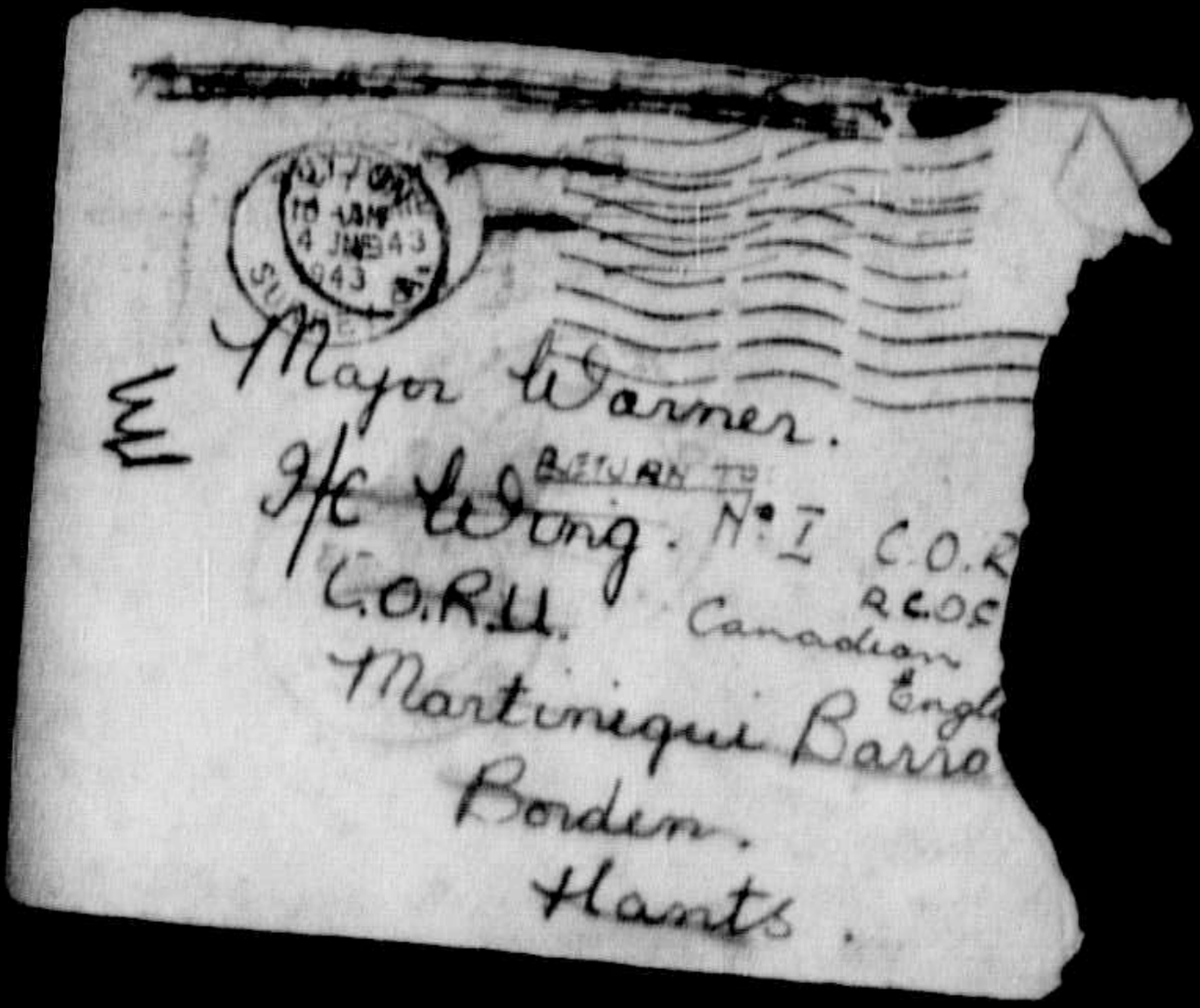
get any trace of wife or family. I had even thought of staying away and going home as I did on my last A.W.L. terms. But I know it is not worth it. However upon my return to Barracks I know I shall be doing so with a free mind and no further depressed feelings. I will never I am sure have any reason to go again, but of course can expect no leniency now or trust upon any one part. But perhaps upon returning I could speak privately with you, or Colonel Bailey, & could explain things very well to the safe of my children at home

I hope I shall not have their allowance stopped again and I would like to know that you at least, who played squarer, and more decent to me than any other person I have met in the Army, would not think badly of the way I let you down

Incidently where this letter is mailed I shall not be within miles of so I can't be be traced

Remaining yours faithfully
pte Dennie J. J.
L 16028

I shall return next week
~~[illegible]~~ I [illegible] ~~[illegible]~~
now but managed [illegible]
thanks to Weavers unfa[illegible]



[redacted]

10 JAN
4 JUN 43
1943

Major Warner.

RETURN TO:

I/C Wing. No. I C.O.R

C.O.R.U. R.C.O.C

Canadian

Engl

Martiniqui Barro

Borden.

Hants.

CANADIAN Y.M.C.A.

ON ACTIVE SERVICE

Sir—

I would like permission to submit this written statement in aid of my defence.

I was taken care of by a Lady named Dennis in Kingston Ontario from the age of two weeks being of illegetimate parents and left under her care. My life there was of a very rough nature for mrs Dennis only livelihood was earned by keeping a boarding house for Italian Tannery workers. They were all heavy drinkers and often quarelling effect many times used to get me to drink for the fun they would get out of it. Mrs. Dennis died when I was eleven. My mother who lived at Belleville 6 mts and was married with a family took me to live with her but there had always been a feeling about me that I was not wanted there and I was not very well treated. I ran away after staying about one year I went to Kingston and obtained employment by stating that I was fourteen. When that contract was finished I went sailing and stayed until I was seventeen when I married Nellie Furman

PLEASE WRITE ON BOTH SIDES

of Kingston whom I had met the previous winter. We were not happy after the first few months of our marriage. There were four children from our marriage, one of them being drowned in 1938. I had been employed as a transport driver for a long time, and when war broke out I was running a compressor for the city of Kingston. I joined the Army on Sept. 4/39 & our wife and I then began having frequent quarrels over diffent fellows whom she was going with. I began drinking heavily & hare and started to become very depressed. On November 4/39 I was discharged from the Army and re-joined it on Jan. 10/40. Everything seemed to go well until one evening I came home unexpectedly from guard duty and found my children alone in the house. I went to search for my wife and found her drinking with a soldier in a hotel. We quarrelled often after that and in June of 1940 I was sent to Petawawa Camp. I was only in camp a short time until I received a letter from a neighbour

CANADIAN SOCIETY YMCA

ON ACTIVE SERVICE

saying that she had not saw my wife in two days and my children were alone at home. I left camp and found my wife at a summer Cottage I owned a few miles from Kingston. She was again in Company with a soldier. This time the Childrens Aid wished me to let them look after my children for me But I couldnt bring myself to separate them from their Mother I had the Childrens Aid Societys promise to keep watch on them for me. Shortly after that in Petawawa I became very depressed and left camp for a considerable length of time. I finally had a long talk with my wife in which she promised to behave and we could both start over again for the Childrens sake. I then went to camp and asked to be put on draft. As soon as I arrived in England I began getting very confused letters from my wife. One

of the first ones stating that she was in love with a man whom I had put out of my home before. She stated that being in England I could do nothing to stop her and she hoped I would get that I asked Ottawa and the Children first to investigate it for me I received no word from and went absent from here. I joined the Merchant Navy and later was caught. I received no word from home upon my return to camp. While I was in Hadley Detention Camp I began to get very worried and depressed as to the whereabouts of my children and a young lady in England who knew of my past and was willing to marry me if I obtained a Divorce But her parents separated us as soon as I went to Detention I received a letter from my Mother stating that she had the oldest boy with her and that my wife and other two children had gone away. I made some requests to Major Dick about investigating my case But could get no

CANADIAN YMCA

ON ACTIVE SERVICE

help from him as he said he had no time for me. I began getting into a great amount of trouble in Headley through worry and bad nerves, I was placed into solitary confinement on a lot of occasions. But it only made things worse for me, as being locked up made me more nervous and upset. I could hardly stand being locked up alone and often felt that I must have someone to talk to or I would go crazy. But I seemed unable to make any one understand what was wrong and this is the first time I have yet been able to express my feelings. Upon one occasion I was given twenty one days P.D. and at that time I was feeling very bad and used to imagine that all sort of things were happening at home even to waking up at night sweating all over. I was taken to solitary confinement for observation and the next day while on Orderly room parade I remember falling down and the Sergeant Major ordered three men to take me to

solotary confinement. They dragged me a number of yds. to the confinment block and upon reaching there I was held by two of them while the other punched and picked me several times also banging my head against the wall. I am of the impression that this was kept from the O.C— as I myself made no complaint knowing that it could not be proven. Often examined by the M.O. I was ordered to be released and given a course of some kind. But I was unable to concentrate upon anything and had severe headaches often, which I still have and believe may be caused from a head injury received in Scotland. Upon my release from Headley ~~from Headley~~ there was no mail waiting for me. My wifes people lived in England and I applied for a pass to visit them in order to find out if they might have word of my family. I received a pass

CANADIAN YMCA
ON ACTIVE SERVICE

eventually through the kindness of Major Warner. The first day I arrived at their home I found no one there. I returned to the home of the girl I had known. I had a long talk with them and next day I returned to my wifes parents. Mrs Turner was at home but was very angry and believed that I had escaped Detention. She refused to give me any information. Something then seemed to snap inside of me and I seemed to go all to pieces. I can remember getting in a field for a long time crying very hard. I can remember very little else except wandering around England for a long time trying to concentrate myself upon some definate reason. Some time in June I was picked up on the road near Eastland late at night by a lorry Driver who said I was lying in the road. I was badly injured about the face and can remember being in a fight a few days before. I was very sick. At first the Driver was going to take me to a hospital or the Police

PLEASE WRITE ON BOTH SIDES

But after ~~dictating~~ hearing my story he took me to his home in Glasgow where I stayed for a week later I got a job on a coal lorry but was unable to work steadily. I gave myself up on Sunday 15/7/43 to the Glasgow C.I.D. I was under the impression that I had not returned to camp off pass, but have been told here that I did return and left the next day. But to me everything is very vague and I can only remember some parts of it all, others being what I was told. I still get severe headaches my nerves seem to me to be very bad and I am unable to concentrate for any length of time on anything. I can't seem to get interested in anything. I would like to get some trace of my children and I ask the Court to send me to any other Military or Civil Prison except Leadhy as I feel I could be unable for long to stand any more confinement than. I swear this statement to be an entire truth.

P/te Dennis J.J.
C/165276

No. 6

DEPARTMENT OF Neuropsychiatry

No. C 11528 Rank Pte Name Dennie J J Unit 1 C.O.R.U.

REPORT:— Age 28 DATE 24 Aug 43

Referred for opinion prior to court martial, re old head injury. Complaints of depression, weak spells & intermittent nervousness & headaches

Pers. History —

Illegitimate child & very unhappy childhood with no parental discipline or social responsibility. Frequent fighting & truancy in childhood. Ran away at age 12 & worked irregularly at labouring jobs. No civilian crimes. Frequent heavy drinking since about age 14. Married at age 17 — an unhappy & stormy union — 3 children.

Enlisted Sept '39 — Couldn't adjust to army life & discipline — crimes of AWL & drunkenness from first & discharged Nov 1939 (after beating up a sergeant as well). Re enlisted Jan 1940. Overseas 2½ yrs — with long record of crime. Went AWL for 11 mos & served in merchant navy. Sentenced 21 mos to Hedley finishing May 1943. Was always in trouble at Hedley because of intolerance of discipline & violence. Went AWL again 3 mos ago. Has been working in Glasgow & living c̄ a girl there.

Has had constant worry about his children since being overseas — through wife's neglect & bad behaviour.

Pres Cond'n —

Has been impulsive & violent tempered since childhood. His illegitimacy & poor upbringing fostered rebellousness & embitterment against society. Army discipline has been intolerable to him. During last AWL was in hysterical confused state through worry about a girl & his home. Now recently depressed — & fearful about his health.

J. Richardson
Specialist, R.C.A.M.C.

A.M.D.—10
60/F & S/1314

Arlen

MB

A35b
CMHA

Age 1 yr 9 mos

He suffered cuts of face and head with transient unconsciousness in fights with provost & civilian police July 1941 and in July 43. Has had some difficulty in concentration & confusion at times

Ex'n – Healthy looking. Talks in the plausible irresponsible way typical of psychopaths but seems genuinely eager to reform & get some help. Mildly depressed. No evidence of deterioration. No psychosis.
– Scars of scalp Rt occip. & L Frontal
neurolog ex'n neg ne
gen'l phys ex'n neg BP 130/80

Diagnosis – Psychopathic Personality – Anti social type

Rec'n – 1. Re-board. He is useless as a soldier and would not do well at No 10 Training Coy

2. He is fit to stand 76 CM.

3. He is fit to serve detention but strongly advise sending him elsewhere than Hedley if possible.

4. He will not improve with punishment in my opinion

5. With supervision & advice might carry on satisfactorily in civilian job

24-Aug-43
T P Kel

J Richardson Lt Col

Ex. E.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. C16528 Rank Pte Name Henry, J. J. Unit 1C Bod - M.T. Section

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Edinburgh

Date	Particulars (½ portion)	Amount		
18 Aug 43	Escorts return fare from LONDON To Edinburgh	1	10	4
	Prisoners single fare to LONDON From Edinburgh	Oron ticket		
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares (½ portion		8	2
	Total £	1	18	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/480(3287)

No. 6

DEPARTMENT OF Neuropsychiatry

No. C 11528 Rank Pte Name Dennie J J Unit 1 C.O.R.U.

REPORT:— Age 28 DATE 24 Aug 43

Referred for opinion prior to court martial, re old head injury complaints of depression, weak spells & intermittent nervousness & headaches

Pers. History — Illegitimate child & very unhappy childhood with no parental discipline or social responsibility. Frequent fighting & truancy in childhood. Ran away at age 12 & worked irregularly at labouring jobs. No civilian crimes. Frequent heavy drinking since about age 14. Married at age 17 — an unhappy & stormy union — 3 children.

Enlisted Sept '39 — couldn't adjust to army life & discipline — crimes of AWL & drunkenness from first & discharged Nov '39 (after beating up a sergeant as well). Re enlisted Jan '40. Overseas 2½ yrs — with long record of crime. Went AWL for 11 mos & served in merchant navy. Sentenced 21 mos to Hedley finishing May '43. Was always in trouble at Hedley because of intolerance of discipline & violence. Went AWL again 3 mos ago. Has been working in Glasgow & living c̄ a girl there.

Has had constant worry about his children since being overseas — through wife's neglect & bad behaviour.

Pres Cond'n —

Has been impulsive & violent tempered since childhood. His illegitimacy & poor upbringing fostered rebelliousness & embitterment against society. Army discipline has been intolerable to him. During last AWL was in hysterical confused state through worry about a girl & his home. Now recently depressed — & fearful about his health.

J. Richardson
Specialist, R.C.A.M.C.

A.M.D.—10
60/P & S/1314

Ans

MB

Aug 1 yr 9 mos

AGS 6
CM HQ

He suffered cuts of face and head with transient unconsciousness in fights with provost & civilian police July 1941 and in July 43. He had some difficulty in concentration & confusion at times

Ex'n – Healthy looking. Talks in the plausible irresponsible way typical of psychopaths but seems genuinely eager to reform & get some help. Mildly depressed. No evidence of deterioration. No psychosis

– Scars of scalp Rt occip & L frontal
neurolog ex'n neg ne
gen'l phys ex'n neg BP 130/80

Diagnosis – Psychopathic Personality – Antisocial type

Recc'n – 1 Re-board. He is useless as a soldier and would not do well at No 10 Training Coy

2 He is fit to stand 76 CM

3 He is fit to serve detention but strongly advise sending him elsewhere than Hadley if possible

4 He will not improve with punishment in my opinion

5 With supervision & advice might carry on satisfactorily in civilian job

24-Aug-43
T P Kel

J C Richardson Lt Col

Army Form B 115. EX. A.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bordon, Hants on the 16th day of June 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-16528 Pte Dennis, J.J.

DECLARATION.

The Court declare, that No. C-16528 Pte Dennis, J.J. R.W.A.C. No. 1. C.O.R.U. C.A. (Over seas) illegally absented himself without leave or other sufficient cause from New Martinique Barracks, Bordon, Hants at 2200hrs. on the 24 May 1943, that he is still so absent and at the time was deficient and still deficient of clothing and equipment to the value of £ 6-10-5

Signed at New Louisburg Barracks Borden Hants this 16th day of June 45.

Names of President and Members

President ..... Capt.

..... Capt.

..... Lieut.

Members ..... Lieut.

..... Lieut.

Signature of Commanding Officer

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(16958) Wt.38982/1360 120,000 1/45 A.& E.W.Ltd. Form/DT16/56
(17956) Wt.11504/173 200,000 5/45

NO. 1 CDN. ORD. REINF. UNIT
NO. 2 COY.

16 June '43

RE/ KIT DEFICIENCIES

1. Herewith list of kit deficiencies of C.16528 Pte. Dennie J.J.

ARTICLES	QUANTITY	FULLPRICE £	S	D	PRICE TO BE CHARGED £	S	D
CLOTHING							
Blouses Battle Dress	1	1	7	8	1	0	4½
Boots Ankle Pairs	2	2	3	0	1	12	3
Drawers Woolen Pairs	1	2	5	3		4	4
Shirts Angola Darb	1		9	2		6	10½
Trousers Battledress Pairs	1	1	7	11	1	0	6½
Cap Badge	1		1	4½			4½
Socks Pairs	2		3	10		2	10½
Brass Cleaning	1			2			2
Brushes Shaving	1		1	4		1	0
Comb Hair	1			2			2
Dressing Field	1		1	1		1	1
Knife Clasp	1		5	2½		4	0
Razor Saftey	1		1	10½		1	5
Towels Hand	2		1	11		1	6
Braces W.E.	1		2	2½		2	2½
Carrier Waterbottle	1		2	0		2	0
Haversack	1		9	7		9	7
Capes Anti-Gas	1		19	10		19	10
		FULL PRICE £ 8-2-7			TO BE CHARGED £ 6-10-5		

2. Total Deficiencies of kit to be charged £ 6-10-5 .

3. Re- the u/m hereby certified to have checked kit of C.16528 Pte. Dennie J.J. and found the above mentioned deficiencies.

S/Sgt. Haggart W.M.
L.98516 S/Sgt. Haggart W.M.
A/C.S.M.S. No. 2 COY.

Certified true copy of original in 7 Pennsylvania
17 June
R. Emmanuel Capt.
Adjutant,
No. 1 Ordnance Reinf. Unit.

S.Sgt. H.D. Craig
C.94135 S-Sgt. Craig H.D.

BM

NO 1 CDN. OR. REINF. UNIT
NO. 2 COY.

16 June '43

Re-DEFICIENCIES

1. Herewith list of the deficiencies belonging to

I, C. 16528 Private John James DENNIE on the strength of No. 1 Canadian Ordnance Reinforcement Unit, desire to have an officer assigned to represent me at my trial by Court Martial.

I desire the services of Major T.J. WARNER, No. 1 C.O.R.U., if he is available.

I ACKNOWLEDGE RECEIPT OF A COPY OF THE CHARGE SHEET AND SUMMARY OF EVIDENCE DATED 20 AUG. 43.
I DO XXX DESIRE XXX/WITNESSES CALLED ON MY BEHALF, a specialist from the Neurological Hospital after I have been examined.

Bordon, Hants,
20 Aug. 43.

Pte. Dennie J.J.

(J.J. DENNIE) Pte.

Summary of Evidence in the case of No. C.16528 Pte.,
John James DENNIS on the strength of No. 1 C.O.R.U.

LIST OF WITNESSES

For the Prosecution:- (1) F.89794 Cpl. MacKenzie, C.
Regimental Police,
No. 1 C.O.R.U.

For the Defence:- A specialist from the Neurological
Hospital after accused has been examined.

LIST OF EXHIBITS

Exhibit "A" Declaration of Court of Inquiry d/16 June 43.

Exhibit "B" Certificate of Apprehension. d/15 Aug. 43.

Exhibit "C" Certificate of Expenses d/18 Aug. 43.

Bordon, Hants,
20 Aug. 43.

(HAROLD M. BAILEY) COLONEL
O.C. NO. 1 CDN. ORD. REINF. UNIT.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No.C.16528. Rank .Pte. . Name .Denny,J.J. . . . .

Unit 4.1.Cdn. Base Ord Depot. was arrested at .Glasgow. . .(place)
M.T.Section

at .2330 hrs(hour) on 15.Aug.43 .(date) and that at the time of his arrest he was wearing ~~[illegible]~~ (Civilian clothes) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London

. . . . . Capt.
(W. Fern) D. A. P. M.,
London Area

SUMMARY OF EVIDENCE in the case of No. C.16528 Private John James DENNIE, on the strength of No. 1 Canadian Ordnance Reinforcement Unit.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

1st Witness for the Prosecution. F.89794 Cpl. MacKenzie, C. No. 1 C.O.R.U., was sworn.

"I am corporal i/c of Regimental Police No. 1 C.O.R.U. On 19 Aug. 43 I was N.C.O. i/c of the Guard Room when Pte. Dennie was handed over to me by the Canadian Provost Corps and I produce

A Record of the Declaration of Court of Inquiry ~~concerning~~ CONCERNING the absence of the accused, d/16 June 43. ~~and difference~~

B Certificate of Apprehension of the accused d/15 Aug. 43.

C Certificate of Expenses incurred in the return of the accused, d/18 Aug. 43

Encl'd.

as exhibits "A" "B" and "C" for the prosecution and pertaining to the accused whom I now recognize.

The accused does not wish to cross-examine this witness.

F.89794. C. MacKenzie. Cpl.
(C. MacKenzie)

The accused having been duly cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

"The accused makes the following statement".

No. C.16528 Private John James DENNIE, on strength of No. 1 C.O.R.U., states:-

"I was not apprehended. I sent word to the C.I.D. to come and get me at 92 Panmure Street, Glasgow. Two C.I.D., came and I went with them to the Police Station. I told them I was A.W.L. and wished to surrender. One of the C.I.D. men telephoned the Cdn. Provost Corps that I was there and in a few minutes, two Cdn. Provosts came in and took me to their Barracks. I feel nervous and confused and have bad headaches and wish to be examined at the Cdn. Neurological Hospital which was promised to me at the time of my last Court Martial.

Pte. Dennie J.J. Pte.
(J.J. Dennie)

Certified that R.P. 4 (C) (D) (E) and (F) have been complied with.
Taken down by me in the presence and hearing of the accused this 20th day of August 1943 at Bordon Camps.

(J.K. CAMERON) LIEUT.
OFFICER TAKING SUMMARY.

No. C-16526 Name Dennie, J.J. Sqn., Battery, or Company C Corps R.C.A.T.C. Date of enlistment 10-1-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

M.F.M. 6 A.F.B. 190 [illegible]

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dressing with trial	By whom awarded	Remarks
Petawawa	3-11-40	Gnr		AWL from 0630 hrs 3-11-40 until 1000 hrs 30-12-40 (Absent 57 days, 3 hrs, 30 mins)	L/Bdr Brown M.V. Sgt Firth, P	28 days Detention	25-1-41	Col A.V. Tremaine O.C.RCATC	Forfeits 58 days under FR&I
On Board HMS Duchess of York	13-2/41	Gnr		1. When ordered by an officer to behave on sick parade inspection his behavior and insolence was not Army Military Discipline. 2. Using foul and obscene language to a commissioned officer.	Sgt Cowley Capt R.D.Rolph Lt. G.Perley-Robertson			Major H.A.Jorie (R.C.E.)	148 hours detention and 7 days pay F.R.&I.

X Clerk

(P.T.O.)

Place	Date of offence	Rank	Cause of absence	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Bordon	4-8-42	Pte		A.A.Sec 15(1) Guilty A.A.Sec 15 (1)Guilty A.A.Sec 15(1) Guilty		To undergo detention for a period of one year and six months	31 July 1942	F.G.C.M.	
Field	18Aug 42	Pte.		F.G.C.M. A.A.Sec 15(1) Guilty		To undergo detention for a period of one year and nine months	18 Aug 42	F.G.C.M.	Forf 110 days pay F.R.I.149(b) 366 days remission of sentence.

CERTIFIED TRUE COPY OF ORIGINAL IN MY CUSTODY

[illegible] Capt
Records Officer
No. 1 Cdn Ord Reinf Unit

[illegible]

-COPY-

No. C-16528 Name DENNIE, J.J. Sqn., Battery, or Company [redacted] Corps R.C.O.C. Date of enlistment 10/1/40 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
10/1/42 Previous sheet destroyed on completion of two years service and regtl entries carried forward									
Petawawa	3/9/40	Pte		AWL from 0730 hrs 3-9-40 to 1300 hrs 8-9-40 Absent 5 days 5 hrs 30 mins	L/Bdr Douglas RSM Pugh	7 days C.B.	9/9/40	LtCol Price	Forf 6 days pay
Petawawa	13/9/40	Pte		Having been warned for draft (1) Breaking out of camp whilst a defaulter (2) Absent from 1345 hrs 13/9/40 to 1600 hrs 15/9/40	Sgt Goguel	48 hrs deten	16/9/40	Col Tremaine	Forf 3 days pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposing with trial	By whom awarded	Remarks
Petawawa	1940 Oct 5th	Gnr		1. Disorderly Conduct. ~~2. Damaging property of the Club to the value of $.1.47~~ 2. Resisting an Escort whose duty it was to have him in charge. In that he at Fort Frontenac Guard Room resisted the escort by kicking and struggling. 3. Using abusive language to his Superior Officer.	Documentary	96 hours detention	9-10-40	Col. A.V. Tremaine	
Petawawa	1940 Oct. 20th	Gnr		Out of bounds without a pass in Town of Renfrew	Sgt Goguel	5 days C.B.	23-10-40	CaptWolfe	

M.F.B. 355
20M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C-16528	Private	John James DENNIE	1 C.C.R.V.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For		times	A.W.L.	2 times
For		times	Breaking out of camp whilst a defaulter	1 time
For	SIGN ENLISTMENT	times	Resisting and escort	1 time
For	Using foul language	1 times	Using abusive language	1 time
			Out of bounds	1 time

Number of instances of gallantry or distinguished conduct NIL

or,

There are no entries in the conduct sheets of the accused. NA

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted NA

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 11 days in ~~Air Force~~ military custody, making a total of 11 days in custody, of which 1 days were spent in hospital. CLOSE ARREST

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 years 1 Month Today

6. The date of his commission specified in his ~~record of service~~ attestation attestation paper is 10 Jun 1940

7. The service which the accused is allowed to reckon towards discharge is 3 years 7 months 16 days

8. ~~The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. NIL

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of NA

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

NA dated NA, and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

NA Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force Army

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number C16528 Rank Pte Unit Regiment

Name DENNIE, J.J. of 1 C.O.S.U.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	Field 31 July 42	(1) AA Sec 15.(1) (2) AA Sec 15.(1) (3) AA Sec 15.(1)	2 year 6 months	
F.G.C.M.	Field 18 Aug 42	(1) AA Sec 15(1)	1 year 9 months 366 days	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26th day of Aug 43 Lieut
Asst Records Officer
for No.1. C.O.S.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

5D-108.

Pte. Denneig, A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-104793 Pte Roy DENNING CIC 11 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd	AA Sec 15(3)	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 60 days detention

(Sgd) ..... Judge-Advocate, if any. Date awarded 26/Mar/45 (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of the sentence but I commute the sentence to forfeit all pay for a period of 60 days & I confirm the sentence as so commuted

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 27 Mar 45 (Sgd) (C S N Gostling) Brig

Commanding 2 CDN BASE RPT GP

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M104793 - Pte. Roy Denning	29 March 45	F M Sarder Capt adjt 11 CBR Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 50-108

FIELD GENERAL COURT-MARTIAL

CPA86 (To Lieut. or AFA81) 40/P & S/1&2 (1000) 4/38

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 24 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-104793	Pte		Roy	DENNING	CIC 11 CBR Bn

PROCEEDINGS REVIEWED 19 Apr 45

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 26 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE; AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2) etc~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer?~~ Ans ~~The shorthand writer is sworn.(1) etc~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G G MacKENZIE M BE	FGH I-9 List 3 Cdn RETD
Member	LIEUT	BURTON FITCH	10 CBR BN
Member	LIEUT	J G. MOUAT	11 CBR BN
Judge-Advocate			
Prosecutor	LIEUT	G R. BISSETT	10 CBR BN
Defending Offr	LIEUT	H L JEWETT	11 CBR BN

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (1)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See Dil p 2.)

A8. The accused M-104793 Pte Roy DENNING before arraignment make(s) (no) ~~(a)~~ plea .....

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submission made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF5 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG W.D. p 113

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused are RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 2. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(those pleas)~~ of Guilty to Not Guilty on ..... charge(s). ~~The accused is (are) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP* 115. 2. *RP* 80(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*B*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(2) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.S. 165(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 351 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 552. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes. I do. (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to crimes all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 320, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 40(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see insets on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

REQUEST FOR DEFENDING OFFICER

I wish to have an officer appointed at the discretion of the Commanding Officer defend me at my trial.

R. B. Denning

(M[illegible]793 Pte Denning, R.)

LIST OF WITNESSES

PROSECUTION:

M61006	CSM Rimstad, L.S.
C20503	CSM Darwin, J.J.W.
U1859	Cpl Skelton, J.A.B.
B7907	C.Q.M.S. MARSHALL, A.H.

DEFENCE: nil

12 Mar 45
(DATE)

M104793 Pt. Denning, R.
(NAME OF ACCUSED)

1. I hereby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me

16 Mar 45
(DATE)

2. (a) I request that .....
(NAME AND RANK)
if available, be appointed OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Delete either (a) or (b))

(SIGNED) R. Denning

I hereby certify that Lt ~~W. S. Gray~~ D. R. Butchard was appointed to defend M104793 Pt Denning R (NAME AND RANK) at his forthcoming trial by Court Martial and that (No Rank and Name of ACCUSED) Lt. ~~W. S. Gray~~ D. R. Butchard was notified that he was Defending Officer on 16 Mar 45 (DATE)

D. L. Stewart Capt
(ADJUTANT)

No. M10H793 Name Denning Roy Sqn, Battery, or Company | Corps

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Date of enlistment 10 Nov 42 | GC Badges | Service or Proficiency Pay

Sheet No Two | Signature OC Company, etc [signature] Capt | Character

3/17 MFM 6 (AFB 122) 40/P&B/136 (5418)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer Alta	Aug 44	Pte		AA Sec 40 Ans Act to the prejudice of Good Order & Military Discipline in that he did leave his rifle in Lecture Hut 37 until picked up by C.S.M. McLeod	C.S.M. McLeod J.F.	6 days C.B.	22 Aug 44	Capt J.R. Monahan	[signature]

CERTIFIED TRUE COPY OF THE REGT DOCUMENTS IN MY POSSESSION

[signature]

(D.L. STEWART) CAPT & ADJT

" C.B.R. BN.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer Alta	5 Jun 44	Pte		1. A.A. Sec 15 (1) A.W.L. from 2200 hrs 5 Jun. 44 until 0400 hrs 22 June 44 (Absent 16 Days 6 hrs)	Documentary	25 Days Detention	22 Jun 44	Col. J.I. Burton-Wilkinson	Forf. 17 Days Pay [illegible]
				2. A.A. Sec. 24 (2) Losing by neglect his equipment, clothing and regimental necessaries	Documentary	Stoppage for Loss of [illegible]			
Red Deer Alta	22 Jul 44	Pte		A.A. Sec. 15 (2) Failing to appear at place of Parade appointed by his Com. officer	Documentary	5 Days C.B.	24 Jul 44	Capt. D.J. Sheridan	
Red Deer Alta	11 Aug 44	Pte		A.A. Sec. 15 (2) Absenting himself without Leave from 1106 hrs Aug 44 to 1303 hrs Aug 44 (Absent 1 day 2 hrs 30 min	Documentary	4 Days C.B.	14 Aug 44	Capt. J.H. Morgan	Forf. 2 Days Pay [illegible]

M 10 A 793

No. Name Denning Roy Sqn, Battery, or Company Corps R.C.A.S.C. Date of enlistment 10 Nov. 42 GC Badges Service or Proficiency Pay N/A 3/17 MFM 6 (AFR 122) 40(P&S)-136-10432

Date of last entry in Company Conduct Sheet No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No Signature OC Company, etc [signature] Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Calgary Alta	4-10-43	Pte		Certified No Entries 10 May 43. A.W.L. from 0630 hrs. 4 Oct. 43 to 0615 hrs. 6 Oct. 43 (Absent 1 Day 23 hrs. 45 min)	L/CPL Fox	3 Days C.B.	6 Oct. 43	J.M. Kerr Capt.	Forfeited 2 Days Pay re Parade F.R.41
Red Deer Alta.	4-1-44	Pte.		A.W.L. from 2130 hrs. 4 Jan. 44 to 0100 hrs 5 Jan. 44 Absent 3 hrs. 30 min. AA Sec. 1	Documentary	7 Days C.B.	5 Jan. 44	J.J. Morley Capt.	
Red Deer Alta	17-Aug-44	Pte		AA Sec. 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER & MILITARY DISCIPLINE in that he while on Parade did move in the ranks	Sgt Schulpt #2	5 Days C.B.	18 Nov. 44	J.R. Morgan Capt	

(PTO)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M10H793	PTE	DENNING, R	(CIC)

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. SEC. 15(1)	3 times	A.A.SEC. 15(1)	4 times
For	A.A. SEC. 40	2 times	A.A. SEC. 40	2 times
For	A.A.SEC. 24(2)	1 times	A.A. SEC. 24(2)	1 times
For	A.A.SEC. 15(2)	1 times	A.A. SEC. 15(2)	1 times

Number of instances of gallantry or distinguished conduct N/L

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act, A.F.A. 72, Section 47 of the Army Act and dispensations with trial under A.A. 72 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for N/L days in ~~Air Force~~ civil custody, and N/L days in military custody, making a total of N/L days in custody, of which N/L days were spent in hospital. OPEN ARREST

5. The present age of the accused according to his record of service is 21 YRS attestation paper is

6. The date of his ~~commission~~ attestation specified in his record of service is 10 NOV 41 attestation paper

7. The service which the accused is allowed to reckon towards discharge is 2 YRS 6 MONTHS

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward.

C.V.S.M. & CLASP

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of .....~~

DWD 11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ ..... ~~Permanent Force~~ ~~unit~~ ..... dated ..... ~~and in his regiment (or corps), the rank of~~ ..... dated ..... ~~Date of promotion~~

DWD 12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—~~

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

...reby certify that the foregoing schedule of convictions and dispensations with trial is a true extract ... regimental books in my custody.

...ed this 14th day of March

D.J. Niverthaupt
Capt. [illegible]

... above statement (with the schedule of convictions and of cases in which trial has been dispensed ...ed, marked ..... signed by the president, and annexed to the

4

CHARGE SHEET

The accused M104793 Pte Roy, DENNING, (CIC), 59 Coy, 11 CBR Bn, a soldier of the Cdn Army Overseas is charged with:

FIRST CHARGE "WHEN ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE"
AA SEC 15(1)

in that he,

in the Field, did absent himself without leave from 0800 hrs 2 Mar 45 until reporting to the Orderly-Room at 1945 hrs 5 Mar 45.

(Total absence: 3 days, 11 hrs and 45 mins)

SECOND CHARGE "WHEN ON ACTIVE SERVICE LOSING BY NEGLECT HIS"
AA SEC 24(2) EQUIPMENTS, CLOTHING AND REGIMENTAL NECESSARIES

In that he,

in the Field, on 6 Mar 45, was deficient of the following articles of the value stated:

1 Greatcoat, drab	$11.55
3 Blankets	9.21
1 Sheet, ground	2.34
1 Shirt, Angola	2.03
1 Badge, cap (CIC)	.09
1 Knife, clasp	.69
TOTAL:	$26.71

In the Field,
21 Mar 45.

(R.G. YOUNG) Lt-col,
COMD, 11 CBR Bn

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
24 Mar 45

(G S H Gostling) Brigadier,
Commander
2 Canadian Base Reinforcement Group

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(3).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-104793	Pte		Roy	DENNING	CIC 11 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) G G MacKENZIE MBE (Must be named. RP 106.) FGR X-9 List 3 Gdn NETD (Unit.)

MEMBERS.

Capt or Lt to be detailed by CC 10 CBR Bn 10 CBR Bn

Lt (Rank.) to be detailed by CC 11 CBR Bn (Named or detailed. RP 106.) 11 CBR Bn (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

~~JUDGE-ADVOCATE~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) (G S N Gostling) Brigadier (Rank.)

Dat 24 Mar 45

Commanding 2 Gdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/P & E/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined M-104793
(No.)

PC Denning R and in my opinion he is
(Rank) (Name)

fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field

Date 26 Mar 45

S. Segall Capt RCAMC
Medical Officer

11 C.B.R. Bn.
(Unit)

Plea of Mitigation. (M104793 Pte. Denning, R.)

Voluntarily joined the army 10 Nov 42. After completing training was sent on a cooks course. A was employed as a cook in Calgary for some time. During the time he was employed as a cook he tried to get on a draft for O/S several times but was told he was needed as a cook. Finally was put on draft and arrived in England 5 Dec 44 where he was remustered from the RCASC to the infantry. At CITR he was again employed as a cook then given 1½ wks. training and then came to Belgium. While awaiting draft at CBRG he was sent out to the Chateau for training. The first night they were all allowed down town & he and another chap went to a cafe. Drinks being very cheap they drank too much and stayed away. When they realized they were AWL they came back to their Coy & reported to the orderly room where the accused was placed under open arrest. He admits losing the equipment as detailed on the charge sheet. This equipment was all rolled up in his ground sheet and left at the Chateau with his named tagged to it. When he returned to CBRG he found it had not been brought in with the rest and could not be found. Since being placed under open arrest he has beemed employed as a cook with 11 Bn. Due to his past good record in the army I ask the court to be lenient in sentencing the accused.

All lost equipment replaced by repayment.

H. E. Jewett, Lieut.
Defending Officer.

4 R

SUMMARY OF EVIDENCE

In the case of M104793 Pte Roy, DENNING, (CIC) 59 Coy, 11 CBR Bn, a soldier of the Cdn Army Overseas is charged with absence without leave and losing by neglect Regt'l equipment to the value of $26.68 ~~as per appendix attached.~~

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

M61006 CSM Rimsted, L.S. having been duly sworn, states:

"At 0800 hrs 2 Mar 45 I called the roll. Pte Denning's name was called, he did not answer and was absent. I checked his billets and he was not there."

L S Rimsted
.....
(M61006 CSM Rimsted, L.S.)

The accused declines to cross-examine the witness.

(RP 83(b) has been complied with)

SECOND WITNESS

C20503 CSM Darwin, J.J.W. having been duly sworn, states:

"At 0815 hrs 3 Mar 45 I called the roll to check the absence of Pte Denning, R. He did not answer his name and was marked absent. The roll was duly called at morning and afternoon parades from that date until he reported back at 1945 hrs 5 Mar 45. During which time he failed to answer his name."

J J W Darwin
.....
(C20503 CSM Darwin, J.J.W.)

The accused declines to cross-examine the witness.

(RP 83(b) has been complied with)

THIRD WITNESS

U1859 Cpl Skelton, J.A.B. (PE) 11 CBR BN, having been duly sworn, states:

"On 5 Mar 45 I was on duty at 59 Coy Orderly-Room at approx 1945 hrs the accused, Pte Denning, R. reported to me. I warned him that I was placing him under open arrest and to be ready for Coy Orderly-Room parade the following morning."

J A B Skelton
.....
(U1859 Cpl Skelton, J.A.B.)

The accused declines to cross-examine the witness.

(RP 83(b) has been complied with)

FOURTH WITNESSES

B79074 COMS Marshall, A°H. having been duly sworn states,-

On the 6 Mar 45 I examined the kit of the accused and found it deficient in the following items which had been issued to him,

Greatcoat, drab	1	$11.55	Ordnance
Blankets	3	$ 9.21	vocabulary
Sheets, ground	1	$ 2.94	prices.
Shirts Angola	1	$ 2.03	
Badges Cap (CIC)	1	$ .09	
Knives, clasp	1	$ .89	
	TOTAL	$26,71	

The above articles have been replaced on repayment by a/m soldier on MFM 513.

A.H. Marshall
(B79074 COMS Marshall, A.H.)

The accused declines to cross examine the witness.

RP 83 (b) has been complied with.

The accused was cautioned as follows:
Do you wish to make any statement or give evidence on oath?
"You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you may give will be taken down in writing and may be given in evidence."

The accused does not wish to make any statement.

The accused does not call any witness.

I CERTIFY THAT THE FORGOING SUMMARY OF EVIDENCE CONSISTING OF (2) TWO PAGES WAS TAKEN DOWN BY ME IN THE PRESENCE OF THE ACCUSED AND THAT RP 4 (c) (d) (e) and (f) HAVE BEEN COMPLIED WITH.

Ron A. McCaneed
(R.A. McCaneed) Lieut.
Officer Detailed to
take Summary of Evidence

In the Field
15 March 45

QQ-13

PTG DENNIS C.E.

F-59703 Pte. DENNIS, Cyril, Eric,
Canadian Infantry Corps,
7 Cdn Infantry Reinforcement Unit.

QQ-73

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twentieth day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ Ewd

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint :—~~

~~*(1) Three Officers to form the Court;~~ Ewd

~~*(2) A Field Officer as President;~~

~~for the following reasons, namely :—]~~

Proceedings [illegible] Ewd Drugall Corp
11 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.-col.	J. Gavin Power	6 C.I.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by C.O.	7 C.I.R.U.
A Lieutenant	to be detailed by C.O.	7 C.I.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Ewd Hardenby Brigadier.

Commanding "D" Group, Cdn Rft Units.
Convening Officer.

J Gavin Power Lt Col
Pres

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
	First Charge A.A. Sec.8(2)	not Guilty	Guilty	
	Second Charge A.A. Sec.15(1)	not Guilty	Not Guilty	
			To undergo detention for ninety (90) days J Gavan Power LtCol Pres 21 Sep 43	Confirmed 23 Sep 43 EWHaldenby Brig
F-59703 Pte. DENNIS, Cyril, Eric. Cdn Inf Corps. 7 C.I.R.U.	See Charge Sheet Attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— Nil

(Signed) EWHaldenby Brigadier. (Signed) J Gavan Power LtCol
Commanding "B" Group, C.R.U. 6 C.I.R.U.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th & 21st day of Sep 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*~~(3. The Interpreter)~~ Short hand writer JGP
*~~(4. The officers under instruction)~~ JGP

were duly sworn.

*Omit if not applicable.

Signed this 21st day of Sep 1943.

J Gavan Power LtCol
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ JGP

~~Signed this , day of 19~~ JGP

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ EWH

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of Sep 1943.

EWHaldenby Brig
Confirming Officer.

Part II O.O. 196 dated 25 Sep 43 F-59703 Pte. DENNIS, C.E. (C.I.C.) 7 C.I.R.U.

Promulgated and extracts taken in the case of

(a) (Dated) 23 Sep. 43 (Signed) [illegible] Lieut Asst Adjt 7 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2
J Gavin Donnor Lt Col

CHARGE SHEET

The accused No. W 59703 Private Cyril Eric DENNIS, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service, is charged with:-

FIRST CHARGE
SEC 8 (2)
ARMY ACT

When on Active Service, striking his superior officer,

in that he,

at entrance to Rose and Crown Public House in Reading at approximately 2120 hrs 11 Sep 43 did strike with his fist in the face C 12083 Sgt. Elliott, B.F., Cape Breton Highlanders, 7 Canadian Infantry Reinforcement Unit.

SECOND CHARGE
SEC 15(1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at Haig Lines, Crookham, Hants absented himself without leave from 2200 hrs 12 Sep 43 until apprehended by the Cdn Provost Corps in Reading at 2120 hrs 13 Sep 43.

Total absence - 23 hrs., 20 mins.

J H Calkin Col.
(J.H. Calkin) Colonel
Commander
7 Cdn Inf Rft Unit.

In the Field
18 Sep 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

E W Haldenby
(E.W. Haldenby) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

IN THE FIELD
20 Sep 43.

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. F 59703 Private (Rank)
Dennis, C.E. (Name)
of C.I.C. - 7 C.I.R.U. and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station: In the Field

Date:--- 20 Sep 43.

Sgd. [signature] Capt.
(Medical Officer) 7 Cdn. Inf. Rft. Unit.

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. F 59703 Private (Rank)
Dennis, C.E. (Name)
of C.I.C. - 7 C.I.R.U. and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station: In the Field

Date:--- 20 Sep 43.

Sgd. J.A. Cosm Capt.
(Medical Officer) 7 Cdn. Inf. Rft. Unit.

"L"

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. F59703 Pte (Rank)

Dennis C.B. (Name)

of C.I.C. - 7 C I R U and in my opinion he is fit to undergo trial by Court Martial.

Station: In the Field

Date:--- 21 Sep 43

Sgd. [illegible] M.D.

(Medical Officer) 7 Cdn. Inf. Rft. Unit.

Proceedings of a Field General Court Martial,
Held at Barrosa Barracks, Aldershot, Hants, on
the 20th day of September, 1943.

TRIAL OF: No. F-59703 Pte. Cyril, Eric, DENNIS, CIC, on the strength of No. 7 CIRU, a soldier of the Canadian Army Overseas.

PRESIDENT:	Lt-Col.	J.G.	Power,	6 CIRU.
MEMBERS:	Capt.	F.J.	McNeill,	7 CIRU.
	Lieut.	W.K.	Dickie,	7 CIRU.
PROSECUTOR:	Lieut.	E.W.	Rahm,	7 CIRU.
DEFENDING OFFICER:	Lieut.	A.E.	Wilby,	7 CIRU.
SHORTHAND WRITER:	B-85000 A/Sgt. Sheedy,		CAC	H.Q. CRU.

1. The Order Convening the Court, the charge sheet and the Summary of Evidence are laid before the Court.

2. R.P. 22 and 23 Complied with.

3. The Accused is brought before the Court, and the Order Convening the Court is read in his presence and hearing. Upon being asked whether he objects to being tried by the President or by any of the Officers named in the Convening Order, the accused answers, "No, sir.".

4. The President and Members are duly sworn.

5. The Accused is asked whether he objects to A/Sgt. Sheedy being sworn as shorthand writer, and he answers, "No, sir.".

6. The shorthand writer is sworn.

7. The Medical Certificate is produced, signed by the President and annexed to the Proceedings.

8. The Accused is arraigned on the charges in the above mentioned charge sheet. The Accused pleads 'Not Guilty' to the charges.

9. R.P. 39(a) is complied with the accused answers "No, sir", which is recorded by the President.

10. The Prosecuter does not make an opening address.

11. The Prosecuter proceeds to call witnesses.

[illegible] WITNESS G-19083 Sgt. Elliott, B.F., C.B.H., on the strength of No. 7 CIRU, [illegible] the Prose- being duly sworn is examined by:
[illegible]ution.

THE PROSECUTOR:

Q.1 Sgt. do you recognize the accused?
A.1 Yes, sir.
Q.2 Do you remember the night of the 11th of September, 1943?
A.2 Yes, sir.
Q.3 What night was that?
A.3 Saturday, sir.
Q.4 Will you tell the Court everything you know, relating to the arrest of the accused?
A.4 On Saturday afternoon of the 11th of September, 1943, I proceeded on pass to Reading and arrived in Reading about 5 o'clock, and walked around a bit, and finally entered the Rose & Crown pub with C.Q.M.S. Hills. After being in there a while I noticed the accused enter the pub and went to the back of the room where he stayed for about an hour and 15 minutes. We had two glasses of beer and on finishing the second glass we left the pub. On going outside, just as I went through the door, I heard somebody call my name and I [illegible]

A.4 (con'd) to see who it was and the accused approached me. He walked up to me and said that I had got him 27 days detention.
Q.5 How did he say that? He didn't actually say "I had got him 27 days detention" did he?

DEFENDING OFFICER: "I object. The Prosecutor is leading the witness. He is suggesting the answer to him."

PRESIDENT: "Objection sustained. You may ask him what were the exact words of the accused."

Q.6 Just what did the accused say?
A.6 "You got me 27 days detention, you are not in 7 CIRU now." He grasped me with his left hand on the right side of my blouse and I said, "Listen to me". He then struck me with his right hand and I turned around and walked back into the pub to avoid further trouble.
Q.7 Where did he strike you?
A.7 In the face. I was followed into the pub by C.Q.M.S. Hilts, and the accused followed me back into the pub, and nothing further was said.
Q.8 Prior to the incident outside the pub that evening, had you any words whatever with the accused?
A.8 No, sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.9 Do you know the accused quite well?
A.9 I just met him since I came to 7 CIRU sir.
Q.10 When was that?
A.10 Well, I can't say exactly. He has been in the company, but I am not prepared to say that.

THE PRESIDENT: "How long have you been at 7 CIRU?"
A.11 I landed there on the 27th of May.

Q.12 Have you known the accused ever since that time?
A.12 No, sir.
Q.13 Well, would you be prepared to say how long you have known him?
A.13 No, sir, when I first heard tell of him he was --

(The remainder of A.13 was deleted from the record on the instructions of the President)

Q.14 How long have you known the accused -- can you say in months or weeks or days?
A.14 I might say approximately 2 months ago.
Q.15 Since 2 months ago, you have known the accused?
A.15 Yes, sir.
Q.16 How many times would you have seen him, during these two months?
A.16 I have seen him several times sir, before I went out to the field.
Q.17 Would you recognize him anywhere?
A.17 Yes, sir.
Q.18 Was he every in your company or platoon?
A.18 He was in the company sir.
Q.19 Would there be any danger of your mistaking him for someone else?
A.19 No, sir.
Q.20 Under no circumstances?
A.20 No, sir, at no time?
Q.21 Now, on the night this particular incident happened, you are positive that it was the accused?
A.21 Yes, sir.
Q.22 Could you tell us what he was wearing that particular night?
A.22 He was wearing a battle dress sir?
Q.23 Anything else outstanding about his dress?
A.23 He had a highland cap on sir?
Q.24 What type of highland hat do you mean?
A.24 Well, I am not just sure of the proper names.

PRESIDENT: "Was it a balmoral or a glengarry?
A.25 A glengarry sir.

Q.26 Any particular colour?
A.26 Dark blue or black sir.
Q.27 Did you see any friends with the accused that particular night?
A.27 There were men standing near the door of the pub, whether they were friends or not, I don't know.
Q.28 You don't know how they were dressed?
A.28 No, sir.
Q.29 They may have been dressed the same as the accused, on that particular night?
A.29 I am not prepared to say sir.
Q.30 You should be. You know there was somebody there with him. You are not prepared to say that they were dressed the same as the accused -- you cannot say; they may have been; is that right?
A.30 Well, I --

PRESIDENT: "He has already said that he doesn't know. There is not much use in trying to make him say something he doesn't know."

Q.31 Was there anyone with you that particular night, when this incident was supposed to have occurred?
A.31 Talking right to me sir?
Q.32 Yes.
A.32 No, sir.
Q.33 You say you were just stepping outside the door -- was there anyone with you when you stepped outside the door?
A.33 No, sir, I was following C.Q.M.S. Hilts.
Q.34 Where was C.Q.M.S. Hilts?
A.34 He was standing outside the pub near the door.
Q.35 Now, how far was he when the accused was supposed to have said to you, "You got me 27 days detention"?
A.35 2 to 3 yards sir.
Q.36 How far was that from the door?
A.36 He was standing to the left of the door, I would say 2 feet -- possibly 2 feet.
Q.37 You know the accused by name, do you Sgt.?
A.37 Yes, sir, his name is Deanis.
Q.38 Did anyone else speak to you that night besides the accused?
A.38 Not that I know of.
Q.39 No one else spoke to you?
A.39 Well there were men spoke to me that night.
Q.40 Sgt. at this time I would like to call to your attention that you are under oath. Now the words, "You got me 27 days detention" do you know who said that to you?
A.40 Yes, sir.
Q.41 Who was it? Was it the accused?
A.41 Yes, sir.
Q.42 You are sure that it was nobody else but the accused?
A.42 Yes, sir.
Q.43 Could it have been somebody else besides the accused?
A.43 There was nobody else besides the accused.
Q.44 You claim to have been struck outside the pub -- at any time were you hit a blow inside the pub?
A.44 No, sir.
Q.45 You are sure of that?
A.45 Yes, sir.

EXAMINED BY THE PRESIDENT:

Q.46 Were there many more people around this door of the pub, as you came out?
A.46 Yes, there was quite a few soldiers followed us out.
Q.47 Just as you were going through the door, how many people would have been around the door?
A.47 When we came out sir, I never noticed any people around the door.
Q.48 Where were you struck -- outside or inside the pub?
A.48 Outside the pub.
Q.49 How many soldiers would be around you at that particular moment?
A.49 The accused would be the only one around me -- there were several standing not close to the door.

Q.50 And you are perfectly sure that the accused is theman who hit you.
A.50 Yes, sir. (In the opinion of the Court it is not necessary to comply with R.P. 83(b) in connection with this witness.)

SECOND WITNESS For the Prosecution. F-40567 CQMS Hiltz, C.R. West N.S.R., on the strength of No. 7 CIHU, being duly sworn is examined by:

THE PROSECUTOR:

Q.51 Do you recognize the accused?
A.51 Yes, sir.
Q.52 What is his name?
A.52 Dennis.
Q.53 Do you remember the night of the 11th of September, 1943?
A.53 Yes, sir.
Q.54 Will you tell the Court everything you saw happen with relation to the accused and his arrest?
A.54 On Saturday, the 11th of September, Sgt. Elliott and myself, in the afternoon proceeded to Reading on pass, arriving there about 1700 hrs. We had taken a walk down around the park and decided to go down to the Rose & Crown, which we did, and were there approximately an hour, when we decided to leave. I was first going out of the door and the Sgt. followed me out. I turned left when I got outside and I heard the remark, "You give it to him, he deserves it more from you than he does from me". I don't know who made that remark, but it caused me to turn about and I saw Pte. Dennis strike Sgt. Elliott in the face. Sgt. Elliott ran into the pub and Pte. Dennis ran in after him. I didn't go in immediately, but I stated to Pte. Bryantem, I think it was, "Is all that necessary?" or words to that effect, and he said, "He is no good, he had it coming to him anyway." I then went into the pub and I saw Sgt. Elliott with a handkerchief up to his face and there was blood on it, and I asked him where he was hit and he told me that it was on the face, on his lip.
Q.55 Did you actually see the blow delivered?
A.55 Yes.
Q.56 What hand did he hit him with?
A.56 His right hand.
Q.57 How far were you from Sgt. Elliott or the accused?
A.57 Approximately 3 yards.
Q.58 Was anyone closer to Sgt. Elliott and the accused than you?
A.58 No, sir.
Q.59 Could you have delivered a blow to Sgt. Elliott or the accused from where you were?
A.59 No, sir, not from that distance.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q.60 You say that you overheard someone say, or you heard someone say, "You can give it to him, he deserves it more from you than from me", - you heard that.
A.60 Yes, sir.
Q.61 Yet you are not able to say who said it?
A.61 No, sir, I don't know -- there were people standing around there.
Q.62 They were that close were they?
A.62 Pardon.
Q.63 There were people standing right close, by the door?
A.63 Yes, sir.
Q.64 How far were you from the door?
A.64 About 6 steps sir, approximately 6 steps to the left of the door.
Q.65 Were they in between you and Sgt. Elliott?
A.65 No, sir.
Q.66 What time was it?
A.66 About 2100 hrs, sir.
Q.67 Was it a very moonlight night?
A.67 Well --
Q.68 That is at 2100 hrs?
A.68 Yes, sir.
Q.69 Was it bright enough to see who struck the Sgt.?
A.69 Yes, sir.
Q.70 Did you see Sgt. Elliott, or did you see anyone strike him any other time that evening?
A.70 No, sir.

Q.71 Not inside the pub?
A.71 No, sir, I didn't go inside the pub immediately after him. When I saw him he was holding a handkerchief over his face, or over his mouth.
Q.72 How long have you known the accused?
A.72 I have not known him very long.
Q.73 How long would you say?
A.73 From when he came to 'B' Company, that afternoon on draft.
Q.74 How long before?
A.74 A couple of hours before I saw him that night.
Q.75 Then how could you recognize him so readily that night?
A.75 I looked right at the man sir, when he was there.
Q.76 You can remember faces that well?
A.76 Yes, sir, I remember him.
Q.77 How was he dressed?
A.77 He had a hat on, a black one -- I forget what you call it -- with tassles on the back that hang down, and a battle dress.
Q.78 Did he have any friends with him?
A.78 I wouldn't be prepared to say that.
Q.79 How was Pte. Bryanton dressed?
A.79 In battle dress sir.
Q.80 What did he have on his head -- think hard now?
A.80 I believe it was a forage cap.
Q.81 Is there any doubt in your mind?
A.81 I wouldn't say positively.
Q.82 You are pretty certain of what Pte. Dennis was wearing?
A.82 Yes, sir.
Q.83 But you have doubt as to what Bryanton was wearing?
A.83 Yes, sir.
Q.84 Yet Pte. Bryanton spoke to you, and you have told the Court that Pte. Dennis did not speak to you?
A.84 No, sir, he did not -- I spoke to Pte. Bryanton.
Q.85 And the man you spoke to, you don't remember his dress.
A.85 I know he had battle dress on, but I wouldn't say for certain what he had on his head. I know Pte. Dennis -- it was very outstanding -- had a black hat on with tassles hanging down the back to his shoulders.
Q.86 Do you know the names of any of the others who were there?
A.86 No, sir.
Q.87 How come you can name Pte. Bryanton here then?
A.87 I didn't know his sir, until we got before the Company Commander.
Q.88 Were there any others there besides Pte. Dennis and Pte. Bryanton?
A.88 There were others standing around.
Q.89 Do you know whether or not they were in company with the accused?
A.89 No, sir, I don't.
Q.90 I would like to remind you that you are under oath.
A.90 Yes, sir.
Q.91 And that it is quite a serious charge that is laid against the accused. It is never too late to retract statements, in case you have made a mistake. You are certain that it was the accused struck at Sgt. Elliott?
A.91 Yes, sir.
Q.92 No doubt in your mind whatsoever.
A.92 Not a bit sir.
Q.93 You only met, or saw Pte. Dennis for the first time, a few hours before this.
A.93 Yes, sir.
Q.94 Under what circumstances did you meet him previous to this?
A.94 Well, I am the quartermaster.
Q.95 Who went out of the pub first, you or Sgt. Elliott?
A.95 I did, sir.
Q.96 Do you know who spoke to Sgt. Elliott first?
A.96 No, sir, I was walking away from the pub when I heard the remark -- I don't know who it was said it, but I do remember the words, "You give it to him. He deserves it more from you than he does from me."

RE-EXAMINED BY THE PROSECUTOR:

Q.97 As C.Q.M.S. of B Company, did you have any dealings with the accused in the few hours you knew him?
A.97 No, sir.

Q.98 Did you allott him in his quarters?
A.98 No, sir, there is a Sgt. who does that.

EXAMINED BY THE PRESIDENT:

Q.99 You are positive that the accused is the man you saw strike Sgt. Elliott?
A. 99 Yes, sir.

(In the opinion of the Court it is not necessary to comply with R.P. 83 (b) in connection with this Witness)

THIRD WITNESS For the Prosecution.

F-60095 Sgt. McCallum, A.J.,(C.I.C.) on the strength of No. 7 CIRU, being duly sworn is examined by:

THE PROSECUTOR:

Q.100 Were you on duty the night of the 11th of September, 1943?
A.100 Yes, sir.
Q.101 In what capacity?
A.101 Orderly Sgt. of 'B' Coy.
Q.102 And as Orderly Sgt., it is your duty to do what?
A.102 Collect tattoos and submit them to 'H' Wing?
Q.103 Was F-59703 Pte. Dennis, C.E., an absentee on that report?
A.103 Yes, sir.
Q.104 From what time?
A.104 From 2200 hrs., sir.
Q.105 Of what date?
A.105 Of the 12th of September, sir.

PROSECUTOR: "I made an error at the beginning in asking him the question, in connection with the 11th of September.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

(The evidence in chief of the witness is read at the request of the Defending Officer)

Q.106 Do you know Sgt., whether or not there was a roll call in the huts that night?
A.106 I didn't check up on it sir.
Q.107 For all you know then, the accused may have been in his hut that evening?
A.107 Well, I put more faith in NCOs than that sir.
Q.108 But judging from that point, whether or not a roll was called -- you yourself do not know about that.
A.108 No, sir.

PRESIDENT: "You didn't call the roll yourself."
A.109 No, sir, I didn't.

Q.110 As far as you know then, Pte. Dennis may have been in his hut that evening?
A.110 Yes, sir.

RE-EXAMINED BY THE PROSECUTOR:

Q.111 Why didn't you call the roll Sgt?
A.111 We have not been carrying on that way sir.
Q.112 Why?
A.112 Because, on account of the fact that there are too many men in the Company.
Q.113 How many men in the Company approximately?
A.113 Well over 300 men sir.
Q.114 What is the system you follow out then?
A.114 The NCOs call the roll and submit their individual reports to me at the Orderly Room.
Q.115 Were you duty Orderly Sgt. on the night of the 12th?
A.115 Yes, sir.

EXAMINED BY THE PRESIDENT:

Q.116 On this particular evening Sgt., who called the rool in the hut in which the accused slept?
A.116 I can't tell you that sir.
Q.117 Who was on duty that night -- how many Corporals?
A.117 11 sir -- 1 for each platoon, which would make 11.
Q.118 What platoon does the accused belong to?
A.118 I couldn't say sir.

(In the opinion of the Court it is not necessary to comply with R.P. 83 (b) in connection with this witness)

DEFENDING OFFICER: "I would like to suggest to the Court, that the Prosecution should have had one of the NCOs present to give this evidence instead of the Orderly Sgt."

PROSECUTOR: "I would like to remind the Court, that this is a holding unit."

DEFENDING OFFICER: "It is taking an unfair advantage of the accused, and judging from the fact that he did not call the rool, I don't know how the Sgt. can swear to what he has; in effect that the accused was absent."

PROSECUTOR: "At this stage sir, I would like to file as an exhibit, certificate in accordance with P.C. 2797 which certifies that the accused was arrested at Reading at 2120 hrs., on the 13 Sep. 43"

PRESIDENT: "The Court cannot allow you to produce that document, because it is illegal."

PROSECUTOR: "I was under the impression that it was admissible sir."

PRESIDENT: "No, it is not admissible -- however, if you wish an adjournment will be granted in order to have you procure the evidence of any witness, who can swear to the contents of this certificate."

PROSECUTOR: "No, sir, that will not be necessary."

THE PROSECUTION IS CLOSED :

DEFENDING OFFICER: "Sir, at this point I make a motion that the Prosecution has not established a case against the accused. I move that the case against the accused be dismissed, on both charges, on the grounds that the Prosecution has not established a prima facie case against the accused. One point in particular in the 2nd charge, is that Sgt. McCallum gave evidence that the accused was absent from 2200 hrs. on the 12th of September, and he says himself that he was not the one who called the rolls in the huts, so that unless he could hear and see the roll being called or called it himself, I don't see how he would be prepared to say that the accused was A.W.L.

Regarding the first case, I think there is a doubt there as to what the witnesses soldier Bryanton, one of the accused's friends was wearing on that particular night. Also there were others present who could have very easily have delivered the blow, and I think we could prove that without any trouble at all, that it was not the accused, but someone else who is not available at the moment, who struck the Sgt. on that particular night."

PRESIDENT: "Are you suggesting that if you should be required to defend the case, that you will have to have an adjournment to get this witness?"

DEFENDING OFFICER: "That is right sir."

PRESIDENT: "Did they give you enough time to prepare this case?"

DEFENDING OFFICER: "I got a short notice from the Prosecutor at noon."

PROSECUTOR: "Regarding the motion before the Court, I would like to point out that there is nothing to the contrary, that the accused did strike Sgt. Elliott. There was no doubt whatever in the minds of the witnesses, and I don't see why a witness, having seen a blow struck, or having witnessed any other fact, should have to recall how everyone in the area was dressed, and I maintain that there is a definite case before the Court, against the accused."

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION:

THE COURT IS REOPENED

PRESIDENT: "The Court accepts the motion of the Defence in so far as it relates to the 2nd charge only, and disallows it in so far as it relates to the 1st charge. The Court allows the motion on the 2nd charge, due to the fact that there is no proof before the Court of the beginning or end of the absence without leave, with which the accused is charged."

DEFENDING OFFICER: "I request an adjournment then, in order to have a certain witness, whose name is McQueen, give evidence for the Defence."

PRESIDENT: "The Defending Officer was only warned at lunch time of this case, this afternoon. The motion to quash having been dismissed in so far as it concernes the 1st charge, the Defending Officer requests an adjournment because he requires the presence of a Pte. McQueen who it appears is at present in Civil custody. The Adjournment is granted and the matter is referred to the Convening Officer."

THE COURT ADJOURNED AT 1630 HRS. UNTIL 0930 HRS. ON 21 SEP 43.
SAME
THE COURT IS REOPENED AT 0930 HRS. on 21 SEP 43.
R.P. 40 Complied with.

D E F E N C E

FIRST WITNESS For the Defence. The accused, F-59703 Pte. Cyril Eric DENNIS, (C.I.C.) on the strength of No. 7 CIRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.119 Would you tell the Court what took place in Reading on the night of the 11th of September, 1943?

A.119 On the 11th of September 1943, I was in reading at about 1830 hrs. I entered the Rose & Crown pub with Pte. McQueen. We stayed there until about 2130 hrs. I first noticed Sgt. Elliott when I entered the pub, and we bought a bitter together. Between 9 and 930 sir, I cannot say the exact time, we noticed Sgt. Elliott and CQMS Hilts go out. Pte. Bryanton, McQueen and myself went out behind them. Sgt. Elliott and CQMS Hilts were headed towards the gentlemen's toilet. Pte. McQueen walked up to Sgt. Elliott and spoke to him. I don't know what he said but when I walked up I stated to Sgt. Elliott, about what he called me when I was up and remanded for the CO that is "convict". Then Sgt. Elliott turned and moved back up towards the pub. While I was talking to him about what he called me, Pte. McQueen stepped in from my right hand side, which would be Sgt. Elliott's left, and hit Sgt. Elliott on the face. Sgt. Elliott ran for the pub door. Pte. McQueen got him before he got to the door, and he hit him again at the entrance, also at what I thought to be his face. He entered the pub with Pte. McQueen holding onto his back. When he went into the pub Pte. McQueen turned him around and hit him again, which caused blood to come to his nose. Then the fight was over and that was all. We drank bitters until the time the pub closed and Pte. McQueen and I took a girl home. That is all.

Q.120 CQMS Hilts tells us he was outside. Do you remember seeing CQMS Hilts at this time?

A.120 There was only one place I seen CQMS Hilts, and I am pretty sure he could not see him, as another man, Pte. Bryant, held him up against the wall and told him not to move -- that if he moved he would give it to him too.

Q.121 CQMS Hiltz also said it was pretty bright out that night?
A.121 Well, sir, to my knowledge I cannot definitely swear that it was. It was sort of a damp rainy night. It was sort of dark sir, and it would be pretty hard for CQMS Hiltz to say it was bright.
Q.122 Do you remember any moon at that time?
A. 122 No, sir, there was no moon. It was pretty bright about 11 o'clock, when we were at this girl's home, when we were stopping at the gate, but at the time I am accused of hitting Sgt. Elliott, it was pretty dark.
Q.123 You said something about blood on Sgt. Elliott's face. When did you first notice that?
A.123 Directly after Pte. McQueen hit Sgt. Elliott.
Q.124 Was that outside?
A.124 No, sir, inside the pub. It was the first blood on Sgt. Elliott that I noticed.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.125 When you saw Sgt. Elliott leave the pub, why did you follow?
A.125 Not for a fight.
Q.126 Why did you follow?
A.126 I was going to the toilet.
Q.127 Did you go to the toilet?
A.127 I was going to the toilet.
Q.128 Who passed out through the door first?
A.128 Pte. McQueen.
Q.129 How big is McQueen?
A.129 He isnot quite as tall as I am sir. He might be heavier set -- broader shoulders.
Q.130 He could hardly be mistaken for you?
A.130 I don't know sir -- in the dark he might.
Q.131 What did you say to Sgt. Elliott?
A.131 All I said to Sgt. Elliott sir, is that I started talking to him about him callingme a convict.
Q.132 What didyou say?
A.132 I said, "Sgt. do you remember about calling me a convict the morning I was remanded for the O.C?" That is what I said.
Q.133 Anything else?
A.133 No, sir, there was 27 days detention mentioned in it, but it was not me mentioned it -- it was Pte. McQueen.
Q.134 Who did the 27 days detention?
A.134 I did.
Q.135 Who said "You got me 27 days detention" to the Sgt.?
A.135 I didn't.
Q.136 But you were the man who served the 27 days.
A.136 I served 27 days, yes.
Q.137 Did you say anything else to the Sgt.? Didn't you go up to him and say "You are not at 7 CIBU now."?
A.137 No, sir, not that I can recall.
Q.138 Did anyone say that?
A.138 I cannot swear definitely on that. I am on oath sir. I can't swear that because I really don't know who said that. It might have been said. I won't say it was, and I won't say it was not, because I don't know.
Q.139 Who said, or who made the remark about the 27 days detention?
A.139 I heard it, but I cannot swear who said it.
Q.140 Did Pte. Bryanton also come out of the pub with you?
A.140 Yes, sir, the 3 of us came out together.
Q.141 And Bryanton was the last going out?
A.141 No, sir, I was last.
Q.142 And when you got outside, there was an argument with the Sgt.?
A.142 I won't call it an argument.
Q.143 Somebody was talking to the Sgt.
A.143 Pte. McQueen was talking to the Sgt.
Q.144 And not one of the 3 of you had gone to the urinal yet.
A.144 No, sir.
Q.145 You don't know what Pte. McQueen said to Sgt. Elliott?
A.145 I couldn't swear on it sir.

Q.146 You were close enough to talk to him yourself.
A.146 I walked up to him after Red McQueen had finished -- McQueen was not talking to him then.
Q.147 Did McQueen walk away when you walked up?
A.147 He stepped aside and Sgt. Elliott stood with his back to the pub, and I was talking about the time he called me a convict.
Q.148 Where was Bryanton?
A.148 He had Hiltz up against the door and would not let him move, and told him if he did that there would be trouble.
Q.149 How far were you from the door?
A.149 Half way from the door to the urinal.
Q.150 You could hear what Bryanton said to the CQMS at the door, but you could not hear what Pte. McQueen said to Sgt. Elliott, yet it was half way.
A.150 He was further from me. Sgt. Elliott was further from me at the time he was speaking to McQueen, than Pte. Bryanton was when Sgt. Elliott and I were talking.
Q.151 In other words you left one to go to the other.
A.151 No, I did not.
Q.152 Which fight started first?
A.152 There was only fight sir.
Q.153 And you were last man out of the pub.
A.153 Yes, sir.
Q.154 CQMS Hiltz was the first man out of the pub and Bryanton had him up against the door, and McQueen had Sgt. Elliott over between the door and the urinal.
A.154 They were just standing on the sidewalk sir, which goes along by the side of the pub.
Q.155 How far was Sgt. Elliott and Pte. McQueen from the door of the pub?
A.155 About 6 yards -- half way sir.
Q.156 There was 12 yards altogether then.
A.156 No, sir, 6.
Q.157 Where were you?
A.157 In the centre sir.
Q.158 Then there were 3 yards on each side, and you could hear what one was saying and not the other.
A.158 When I came out of the pub, and walked down towards the place where I was going, when I was coming out the door Pte. McQueen was talking to Sgt. Elliott.
Q.159 Where was Pte. Bryanton?
A.159 He was standing at the doorstep right then.
Q.160 Where was CQMS Hiltz?
A.160 I don't know, but when I turned around Bryanton had him up against the door.
Q.161 While you were talking to Sgt. Elliott you turned around.
A.161 Yes.
Q.162 Just tell us then, what Pte. Bryanton said to CQMS Hiltz?
A.162 He told him that if he moved there would be trouble.
Q.163 You could hear that.
A.163 Yes, Bryanton talked a little louder than McQueen did.
Q.164 Did you threaten the Sgt.?
A.164 I asked him sir would he fight man to man -- that is not threatening sir, I don't think.
Q.165 Did you ask him anything else?
A.165 No, sir.
Q.166 What did he say?
A.166 He never said nothing. He was hit before he had a chance to say anything.
Q.167 How were you standing?
A.167 Sort of like this. If he would have fought with me, I was ready.
Q.168 You were in a fighting position.
A.168 I never had my hands up as if I would fight. I had them up here though against my breast.
Q.169 Who went into the pub first after Sgt. Elliott?
A.169 Pte. McQueen was right on his back sir.
Q.170 Who came next?
A.170 I just can't say whether anybody came in after him or not, but there might have been one ahead of me, but I came in behind them.

Q.171 But McQueen and Sgt. Elliott were in before you were.
A.171 Yes, I just got in in time to see McQueen hit him, and I seen the blood and then Sgt. Elliott pulled his handkerchief out and put it to his face. He stayed in the pub to closing time.
Q.172 Was there light inside?
A.172 Yes, sir, the pub was open and well lit up.
Q.173 And you mean to tell me, that the Sgt. has taken McQueen for you.
A.173 I am not saying he has.

RE-EXAMINED BY THE DEFENDING OFFICER:

Q.174 You say that Sgt. Elliott once called you a convict.
A.174 Yes, sir.
Q.175 Do you think he had something in for you?
A.175 Well, I don't know sir, he might, because I told him that he better watch what he was saying. I first asked since when did he start calling men convicts that were remanded for the C.O.

PRESIDENT: "This is not coming out as a result of the cross-examination. The Defence had an opportunity to bring this out in the examination in chief."

Q.176 You didn't threaten Sgt. Elliott?
A.176 No, sir.
Q.177 And you definitely state that McQueen hit Elliott?
A.177 I will definitely state that McQueen hit Sgt. Elliott 3 times. Once when I was talking to him, once going in the pub and once in the pub.

(In the opinion of the Court, it is not necessary to comply with R.P. 83 (b) in connection with this witness).

SECOND WITNESS For the Defence. F-59642 Pte Bryanton, W.C., West N.S.R., on the strength of No. 7 CIRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.178 You were in Reading on the night of September 11th.
A.178 Yes, sir.
Q.179 Can you tell us what occurred?
A.179 Well, sir, I went in there about 7 o'clock with Pte. Forestal, and very shortly after 7 o'clock we went down to the Rose & Crown, and around about 1/4 past 9 I went outside the pub and there was a big argument on and I heard Pte. Dennis say to Sgt. Elliott some words accusing him of something about getting him detention and he asked him if he wanted to fight it out, and he also said he was not at 7 CIRU now. Sgt. Elliott said he didn't give a fuck for all the 7 CIRUs in England and they both squared off, and this other chap hit Sgt. Elliott, and Sgt. Elliott turned around and went into the pub, and I followed them.
Q.180 Do you know who this other chap was that you mention?
A.180 Yes, sir.
Q.181 Do you know him by name?
A.181 Yes, sir.
Q.182 What is his name?
A.182 It is Pte. McQueen.
Q.183 And you definitely say that Pte. McQueen hit Sgt. Elliott?
A.183 Yes, sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.184 You say you definitely heard the accused say to Sgt. Elliott, "You got me 27 days detention and you are not at 7 CIRU now."
A.184 Yes, sir.
Q.185 Did he also ask him if he wanted to fight it out man to man?
A.185 Yes, sir.
Q.186 You say he was standing in front of the Sgt.
A.186 He was standing facing him sir -- about 6 feet away from him.
Q.187 How far were they away from the door of the pub?
A.187 Well, Pte. Dennis would be about 12 feet sir.

Q.188 From the door of the pub?
A.183 Yes, sir.
Q.189 And where were you standing?
A.189 I was standing right outside the door.
Q.190 And Pte. Dennis was between you and Sgt. Elliott?
A.190 No, sir, he was out front. Sgt. Elliott was handier to me than Pte. Dennis.
Q.191 Whereabouts was McQueen standing?
A.191 I don't know sir. At the time I think he came out behind him. I didn't
Q.192 Did you come out of the pub with the accused? see him then.
A.192 No, sir, he must have went out ahead of me, because he was out there and the arguing was going on when I went out.
Q.193 He was already out side when you went out.
A.193 Yes, Pte. Dennis was sir.
Q.194 What were you doing standing at the door of the pub?
A.194 Well, sir, I was going to the toilet, but there was Sgt. Elliott and this quartermaster and they were having an argument, and naturally I stopped.
Q.195 Did you have the CQMS backed up against the wall threatening him, or anything?
A.195 No, sir.
Q.196 You didn't have him against the wall?
A.196 No, sir, he was out front.
Q.197 Did you say anything to him when the fight was going on?
A.197 No, sir, I never spoke to him.
Q.198 Who entered the pub first after the fight?
A.198 Sgt. Elliott did I think.
Q.199 Who came after him?
A.199 I think Pte. McQueen sir.
Q.200 Did Pte. McQueen have a hold of him going in? He had to pass you, you know?
A.200 I didn't turn around when they went in, and my back was to them.
Q.201 But you were standing right at the door and they passed you.
A.201 Yes, behind me sir.
Q.202 You didn't have the CQMS backed against the wall.
A.202 No, sir, I didn't.
Q.203 And you say that the accused was already outside when you went out, and you did hear him threaten the Sgt.?
A.203 Yes, sir.

RE-EXAMINED BY THE DEFENDING OFFICER:

Q.204 Did you notice, when Dennis or McQueen went outside, did you notice when they went out?
A.204 I never noticed Dennis going out of the pub.
Q.205 You never noticed him.
A.205 No, sir.
Q.206 Yet you are sure that he was outside when you came out.
A.206 Definitely sir, I recognized him as soon as I came out.
Q.207 About CQMS Hilts, did you speak to him or did you not, that evening?
A.207 No, sir, I never seen either of these men before. CQMS Hilts said I said that Sgt. Elliott was no good. I never said that and I didn't know neither Sgt. Elliott or Quartermaster Hilts Before.
Q.208 Did CQMS Hilts speak to you?
A.208 No, sir, he spoke to me after the fight sir.

EXAMINED BY THE PRESIDENT:

Q.209 Would you tell me what the weather was like that night?
A.209 It was find out sir.
Q.210 Was it raining?
A.210 No, sir.
Q.211 Was the moon out?
A.211 Yes, sir.

(In the opinion of the Court it is not necessary to comply with R.P. 83 (b) in connection with this witness)

THIRD WITNESS For the Defence.

F-77921 Pte Chisholm, D.S., North N.S. Hldrs. on the strength of No. 7 CIRU, being duly sworn is examined by:

THE DEFENDING OFFICER:

Q.212 You were in Reading on the night of September 11th.
A.212 Yes, sir.
Q.213 Will you tell the Court what happened that particular night, with regard to the accused?
A.213 On the evening of September 11th, 1943, I was in Reading and I met the accused Pte. D nnis in front of the Rose & Crown pub. We went inside and were drinking beer in there until about 1/4 past 9, and we then left the pub and went outside to the urinal. On the way back coming in from the urinal, between the urinal and the door, there was an argument started. I went over and saw that Pte. Dennis was arguing with Sgt. Elliott. I didn't know him then. I couldn't quite distinguish what was said - I couldn't make out what was said because there was quite a few around the vicinity there. After that the Sgt. walked into the pub., and we followed him in. After we got inside I saw the Sgts' nose bleeding. That is all I seen. I never saw any blows struck, when the argument was going on.
Q.214 You say you never saw any blows struck outside, - did you see any blows struck inside the pub?
A.214 No sir, I never saw a fight at all.
Q.215 You didn't see then, Pte. Dennis hit Sgt. Elliott?
A.215 No, sir.
Q.216 What kind of night was it that night, do you remember?
A.216 It was quite a dark night sir.

CROSS-EXAMINED BY THE PROSECUTOR:

Q.217 Were you with Pte. Dennis all evening?
A.217 Yes, sir.
Q.218 When he left the pub did you go with him?
A.218 Yes, sir.
Q.219 Did he go with you to the urinal?
A.219 Yes, sir.
Q.220 And on the way back from the urinal you saw him arguing.
A.220 Yes, sir.
Q.221 He had gone to the urinal with you.
A.221 Yes, sir.
Q.222 And on the way back he started the argument with the Sgt. Did you see anyone else hit Sgt. Elliott?
A.222 No, sir.
Q.223 Who first entered the pub afterwards?
A.223 Sgt. Elliott sir.
Q.228 Did anyone have a hold of him when he went in?
A.224 Not that I know of sir.
Q.225 Who followed afterwards?
A.225 He followed in afterwards. I couldn't say if the CQMS went in right afterwards or not.
Q.226 Were you long afterwards?
A.226 Not long after, no.
Q.227 You couldn't hear a word that was said?
A.227 No, sir.
Q.228 Was there anybody else arguing with the Sgt.?
A.228 I never seen anybody else.
Q.229 How far was Pte. Dennis standing from the Sgt., when he was talking to him or arguing with him -- as near as I am to you?
A.229 He would be a little further back.
Q.230 Was anyone else closer at any time to the Sgt.?
A.230 I didn't see anyone else any closer -- there was quite a bunch together.

EXAMINED BY THE PRESIDENT:

Q.230 Do you know a Pte. McQueen?
A.231 Yes, sir.

Q.232 Was he around there that evening?
A.232 Yes, sir, he was around that evening.
Q.233 At the moment of the argument, was he close to Sgt. Elliott?
A.233 No, sir, I never seen him handy at all.
Q.234 Did you see Sgt. Elliott go back into the pub?
A.234 Yes, sir.
Q.235 Did Pte. McQueen go back in with him?
A.235 No, sir, Pte. McQueen came in with us, behind.
Q.236 Of your group, that is, yourself, McQueen and the accused, which one of you went in first?
A.236 Pte. Dennis, I think, went in first sir.

DEFENDING OFFICER: "That is the defence sir."

THE DEFENCE IS CLOSED:

DEFENDING OFFICER MAKES A CLOSING ADDRESS: "I have now no alternative but to leave the case with the Court, as to whether or not Pte. Dennis is guilty of the alleged charge against him, that is, that he did, 'at the entrance to the Rose & Crown Public House in Reading at approximately 2120 hrs. 11 Sep 43, strike with his fist in the face G-19083 Sgt. Elliott, R.F., Cape Breton Highlanders, 7 CIRU." In support of the Sgt's claim, of course, we have his own testimony that he was hit or supposed to have been hit by the accused. Against this the Defence has the testimony of Pte. Dennis himself, to say that he did not strike or hit Sgt. Elliott; so that on that score I think everything is even -- that is my opinion. In reference to the witnesses the Prosecution brought forward, was CQMS Hiltz who said that Sgt. Elliott was hit by Pte. Dennis. To even that score the Defence has the testimony of Pte. Bryanton, who did say that Pte. Dennis did not hit or strike Sgt. Elliott. That would still leave us even, except that Pte. Bryanton took it a step further and he did mention by name Pte. McQueen, who was the man that struck at Sgt. Elliott. With that in mind I think it puts the defence a step ahead of the Prosecution, especially so when the accused himself under oath as well as the witness Pte. Bryanton, who is also under oath, both stated that it was Pte. McQueen who hit Sgt. Elliott, and that it was not Pte. Dennis.

In connection with Pte. Bryanton, I think we can take his word very definitely, because he is wearing a good conduct badge, and he stated that it was Pte. McQueen that hit Sgt. Elliott. When the Prosecution tried to shake him from this evidence, he still stuck to his story, that it was Pte. McQueen who delivered the blow. As far as the other witness is concerned, personally I view his more or less in a neutral way. He was not able to throw much light on the matter, one way or another, so that from the testimony that was given, the preponderance of evidence is in favour of the accused, but also on the matter of justice or from the stand point of justice, where the two witnesses for both sides balance one and other, I do not think that Pte. Dennis should be found guilty of the charge against him. However as I said at the beginning, I shall leave it with the Court to decide.

THE PROSECUTOR MAKES A CLOSING ADDRESS: "Mr. President and Members of the Court. I could go ahead and pick the evidence as submitted by the Defence in many small pieces, but rather than waste time, I shall bring out a few points which are the main ones.

The accused himself said that Pte. McQueen, Pte. Bryanton and himself left the pub in the order named, and that Bryanton was supposed to be in front of the accused. Bryanton says that when he got out there, the accused was already arguing with the Sgt. The next witness for the Defence , said that the accused accompanied him to the urinal and the argument started on the way back. Now, the accused under oath said that Pte. Bryanton had CQMS Hiltz up against the pub, and even quoted words said by Pte. Bryanton to the CQMS. If this is true as I presume it is, given under oath, Pte. Bryanton who says that McQueen struck the Sgt. would have his back to the accused, and could

see nothing, whereas CQMS Hiltz would be facing him and he could witness it all. The accused claimed that the Sgt. entered the pub with McQueen on his back; but all the other witnesses deny this. Pte. Chisholm states that the accused himself entered before McQueen did.

I could go on pulling this evidence apart, but I am sure that all the facts are before the Court, and it is no difficult matter for them to come to the proper conclusion.

THE COURT IS CLOSED FOR THE CONSIDERATION OF ITS FINDING:

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES:

> "The Court find the accused not guilty of the 2nd charge. The finding on the 1st charge being subject to confirmation by higher authority, will not be announced in open Court."

THE PROSECUTOR PRODUCES MFB 355 AND MFM 6 IN CONNECTION WITH THE ACCUSED.

R.P. 46 (b) IS COMPLIED WITH.

THE DEFENDING OFFICER MAKES THE FOLLOWING PLEA IN MITIGATION OF PUNISHMENT:

> "The accused enlisted for active service on that fateful day, the 3rd of September, 1939, the very day of the outbreak of the present War. He served 2 years in Newfoundland. The rest of his service has been between Canada and here. There is nothing drastically wrong with his crime sheet, to indicate anything of a serious nature against this man. It would have all the tendancies to point to a man that is at least an average soldier. He is a married man with a wife and child. It should be pointed out more so than anything else in this man's case, that this is his first Court Martial, and if the Court finds some way to be as lenient as possible, in my opinion it would have the desired result, to make a good soldier of this man."

THE COURT ANNOUNCES THAT AS THE SENTENCE OF THE COURT IS SUBJECT TO CONFIRMATION, IT CANNOT BE ANNOUNCED IN OPEN COURT.

THE COURT IS CLOSED TO CONSIDER THE SENTENCE.

PROCEEDINGS IN OPEN COURT ARE TERMINATED.

I, the undersigned, hereby certify that the preceding fifteen pages, annexed together, the front of each page being typewritten upon, is a true transcript of the evidence taken down by me in shorthand and transcribed by me, in the case the particulars of which are noted on the first page hereof.

Jos. S. Shandley, Sgt.
Shorthand Writer.

SUMMARY OF EVIDENCE

In the case of No. F 59703 Private Cyril, Eric, DENNIS, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

C 19083 Sgt. Elliott, B.F., Cape Breton Highlanders, on the strength of 7 Canadian Infantry Reinforcement Unit, having been sworn states:

I am C 19083 Sgt. Elliott, B.F., C.B. Highrs, on the strength of 7 Can Inf Rft Unit. On the evening of 11 Sep 43 I was on pass and proceeded to Reading, Berks with C.S.M.M. Hiltz. We arrived in Reading at about 1710 hrs after walking around a bit we entered the Rose and Crown Pub I'd say the time would be around 2000 hrs. We sat down and had a beer. About 30 minutes after we arrived I noticed the accused whom I recognize as Pte Dennis, C.E. walk through the room to the back where he stayed, about 2115 hrs we had finished our second glass of beer and left the pub. Just as I stepped outside someone from the interior of the Pub shouted "Sgt. Elliott", I stopped and the accused approached me and said "You got me 27 days detention and you are not in No. 7 C.I.R.U. now", while he was saying this he grasped me by the Blouse, just over the right breast, with his left hand. I said "Listen to me" but he hit me in the mouth with his right fist. I broke away from his grasp as he hit me and I turned around and went back into the pub to avoid trouble. C.S.M.M. Hiltz came into the Pub behind me. The accused also entered shortly after but no further was said or done. We stayed inside for about 20 minutes had a beer then left went to the station and caught the train home. There were a number of soldiers both in the Pub and when the incident happened outside. I don't know if they were with the accused or not.

Cross examined by the accused,

Q. 1. Where was C.S.M.M. Hiltz when I was supposed to have hit you?

A. 1. He was standing outside the Pub near the door.

Q. 2. How far from the door were we standing when I said "You got me 27 days detention"?

A.2. Between 2 and 3 yards.

Q.3. How far was C.S.M.M. Hiltz from the door?

A.3. He was about 2 feet to the left of the door close to the building.

Q.4. What time was it when I was standing beside you at the bar?

A.4. I don't know.

Q.5. From the time you stopped outside the Pub until I spoke to you had anyone else spoken to you?

A.5. Not that I know of.

B.F. Elliott Sgt.

In the case of No. F 60703 Private Cyril Eric DENNIS, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

SECOND WITNESS FOR THE PROSECUTION — F 40587 C.Q.M.S. Hiltz, C.R., West Nova Scotia Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, having been sworn states:-

I am F 40587 C.Q.M.S. Hiltz, C.R., West N.S.R., [illegible] Rft Unit. On the evening of 11 Sep 43 Sgt Elliott and I went to Reading, arriving there about 1700 hrs and after taking a walk we decided to go to the Rose and Crown Pub for a beer. Approximately one hour later having finished our second glass of beer we decided to leave. We left the Pub, I was first through the door, Sgt Elliott was right behind me. I had taken about half a dozen steps to the left of the door when I heard some one say "you give it to him he deserves it more from you than from me", I am not prepared to say who uttered these words but they caused me to turn around and it was then I saw Pte Dennis whom I recognize as the as the accused strike Sgt Elliott in the face. Sgt. Elliott ran back into the Pub and Pte Dennis went in after him. I didn't go in immediately. I asked Pte Bryanton who was now standing near me if this was all necessary or words to that effect, he replied, "Sgt Elliott was no good he had it coming to him" I then entered the Pub where I saw Sgt Elliott holding a handkerchief up to his mouth. I could see blood on the handkerchief so I asked him where he was cut he replied, "the inside of my lip". We stayed there from 15 to 30 minutes then proceeded straight to the station and caught our train for home.

S.R. Hiltz .....CQMS

(The accused declines to cross examine this witness)

THIRD WITNESS FOR THE PROSECUTION — F 60095 Sgt. McCallum, A.J., Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, having been sworn states:

I am F 60095 Sgt. McCallum, A.J. Cdn Inf Corps, on the strength of 7 Cdn Inf Rft Unit. On the 12 Sep 43 I was Coy Orderly Sgt of "B" Coy 7 C.I.R.U., ans as such it is my duty to compile the absentee reports as submitted to me by the Platoon N.C.O's. Pte Dennis's name appeared as an absentee from one of the Platoons as of 2200 hrs 12 Sep 43.

A.J. McCallum .....Sgt.

(The accused declines to cross examine this witness)

SUMMARY OF EVIDENCE

In the case of No. F 59702 Private Cyril Eric DENNIS, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FOURTH WITNESS FOR THE PROSECUTION: Lt. D.W. Rahm, Canadian Infantry Corps, 7 Canadian Infantry Reinforcement Unit, having been sworn states:

I am Lt. D.W. Rahm, Cdn Inf Corps, on the strength of 7 Cdn Inf Rft Unit. I produce certificate in accordance with P.C. 2787 which relates to the accused, this document is marked exhibit "A".

Rahm Lt.

(The accused declines to cross examine this witness)

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing, and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

FIRST WITNESS FOR THE DEFENCE: F 59648 Pte. Bryanton, W.L., West Nova Scotia Regiment, on the strength of 7 Canadian Infantry Reinforcement Unit, having been sworn states:

I am F 59648 Pte. Bryanton, W.L., West NSR, on the strength of 7 Cdn Inf Rft Unit. On the evening of 11 Sep 43 I with Pte Forrestall went to Reading. At about 1900 hrs we went to the Rose and Crown Pub. It was about 2115 hrs when I went outside to go to the Dents toilet as soon as I stepped outside I heard the accused Pte Dennis, accuse Sgt Elliott of getting him detention and he said "You are not at 7 C.I.R.U. now do you want to fight it out man to man", or words to that effect. Sgt Elliot said "I don't give a damn for all the CIRUs in England". Dennis was standing in front of Sgt Elliott in a fighting pose. Almost immediately and like a flash a chap butted in coming from the side and hit Sgt. Elliott. Sgt. Elliott turned and ran into the Pub, all the others standing around went in shortly after. A C.Q.M.S. and I were the only ones left outside and he said to me "What was the cause of this was it necessary", I replied, "Perhaps he had it coming to him". I went inside and he followed me.

W. L. Bryanton Pte.

SUMMARY OF EVIDENCE

In the case of No. F 59702 Private Cyril Eric DUNNE, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

SECOND WITNESS FOR THE DEFENCE — F 77921 Pte. Chisholm, D.S., North Nova Scotia Highlanders, on the strength of 7 Canadian Infantry Reinforcement Unit, having been sworn states:

I am F 77921 Pte. Chisholm, D.S., Nth N.S. Highrs, on the strength of 7 Cdn Inf Rft Unit. On the evening of 11 Sep 47 I was in Reading and about 1900 hrs I met the accused Pte Dennis in front of the Rose and Crown Pub. We went into the Pub and sat drinking beer until about 2115 hrs when we left to go outside to the urinal. On returning between the urinal and the door I noticed an argument. I went over and saw Pte Dennis in an argument with Sgt. Elliott, I couldn't distinguish what was said nor did I see any blows struck. The Sgt turned around and walked back into the Pub, we followed. After I got inside I saw that the Sgts nose was bleeding. We left them, the Pub closed.

Chisholm D.S. Pte

THIRD WITNESS FOR THE DEFENCE — F 80119 Pte. Boutilier, N., Cape Breton Highlanders, on the strength of 7 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am F 80119 Pte. Boutilier, N., C.B. Highrs, on the strength of 7 Canadian Infantry Reinforcement Unit. On the evening of 11 Sept 47, at about 1900 hrs I met Pte Chisholm and the accused Pte Dennis whom I recognize in front of the Rose and Crown Pub in Reading. We went inside and sat around drinking beer together. At about 2115 hrs we left the Pub to go to the urinal and on returning I saw what appeared to be an argument going on between the urinal and the door of the pub. I recognized the men taking part in the argument as Pte. Dennis and Sgt. Elliott. I could not discern what was said nor did I see any blows struck at all. Within a very short time Pte. Dennis turned around and entered the Pub, we followed him and after us came the Sgt and he was followed by the C.Q.M.S. We started drinking again until 2200 hrs when the Pub closed.

N.J. Boutilier

I certify that the foregoing Summary of Evidence consisting of FOUR pages was taken down by me in the presence and hearing of the accused and that rules of Procedure 4 (c), (D), (E) and (F) have been complied with.

Lt.
(Officer taking Summary)

In the Field
17 Sep 47.

No. F 59703 Name Dennis E.E. Sqn., Battery, or Company HG Corps P.E.I. Highrs Date of enlistment 4-4-39 G.C. Badges 'G' Lt Col Hamilton Gold Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc.

M.F.M. 6 (A.F. B.122) 40/P & /B126 (2963)

Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
J.L. Magazine	16-6-40	Pte		AWL from 2200 hrs 16-6-40 till 0045 hrs 17-6-40 and another man having to take his place	Cpl Dalzell	5 Days C.B. 2 Extra Guards	17-6-40	Major Howard	Forfeits 1 Day Pay & Rel
"	23-10-40	Pte		AWL from 2030 hrs 13-10-40 till 1830 hrs 22-10-40	Lt Col Mc Donald Cpl Dalzell	14 Days Detn	23-10-40	Lt Col Thompson	Forfeits 4 Days Pay & Rel
Halifax	23-3-41	Pte		Conduct to the prejudice, etc	Lt Col Casey	5 Days C.B.	24-3-41	Major Howard	
Gander	8-6-42	Pte		AWL from 0630 hrs 8 Jun 42 till 0630 hrs 11 Jun 42	Cpl Mc Wm Kenzie	6 Days Pay	11-6-42	Lt Col Thompson	

Certified True Copy Officer having Custody of original (C.M.C. Arthur) Co[illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Jul 43	Pte		WOAS AWL from 2354 hrs 18 Jul 43 until 08.00 hrs 19 Jul 43 Total absence 0 hrs 1 min A A 15 (1)	Documentary	7 Days F.P. 7 Days Pay	24 Jul 43	[illegible] Lt Col	1 Days Pay [illegible]
Field	26-7-43	Pte		WOAS AWL from 0815 hrs 16-7-43 till [illegible] 1 Days 6 hrs 15 min A A Sect 15 (1)	Documentary Sgt Dwight [illegible]	14 Days F.P. 14 Days Pay Cost of [illegible] 2 [illegible]	30 Jul 43	[illegible] Major	2 Days Pay [illegible]
Field	1 Aug 43	Pte		WOAS AWL from 1300 hrs 1 Aug 43 until appr in London 1425 hrs 17 Aug 43 (absent 12 days 0 hrs 25 min) A A Sect 15 (1) (Absent Whilst a defaulter)	Cathedral Documentary	27 Days Date	17 Aug 43	Major [illegible]	13 Days Pay [illegible]

Certified True Copy Officer having custody of original

(C.M.G. Arthurs) Capt & Adjt
7 Cdn Inf Rft Unit

"H" 1st Guards Brigade Mtd Bns

M.F.B. 355
2/2M.—4-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
[illegible]	Private	Davis, [illegible]	C.I.Sc. 7 P.V.R.V.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ ~~Conduct sheets or Company Conduct sheets of~~ the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.A. Sec 18 (1) 3 times	A.A. Sec 18 (1) 3 times
For	times	A.A. Sec 40 1 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act, and dispensations with trial under A.A. 75 are set out in the schedule annexed to this statement.~~ A.F.A. 75

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 8 days in Air Force military custody, making a total of 8 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years, 10 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 3 Sep 1939

7. The service which the accused is allowed to reckon towards discharge is 4 years 16 days

4 years 16 days

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~or is in possession of or entitled to~~. ~~State any air force decoration or reward.~~ ~~military~~

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

1. I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Leipzic Barracks, preliminary to my court-martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at
this 13 day of
September 194

C.E. Dennis
(C.E. Dennis)

2. I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at Leipzic Barracks, preliminary to my Court-Martial.

Dated at
this _____ day of
_____ 194

.....

3. I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lt. Wilk
if he is available.

Dated at
this 13 day of
September 194

C.E. Dennis
(C.E. Dennis)

"H" J Squad Crown Court Bns

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
7 Secret	Private	Secret, Sara, C.I.C.	7 C.I.B.U.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Conduct sheets ~~or Company Conduct sheets of~~ Regimental ~~and Squadron, Battery~~ the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 18 (1)	7 times	A.A. Sec 18 (1) 8 times
For	times	A.A. Sec 40 1 times
For	times	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		times

~~or,~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act, and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 8 days in Air Force military custody, making a total of 8 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years 10 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 8 Sep 1970

7. The service which the accused is allowed to reckon towards discharge is 4 years 16 days 4 years 16 days

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~an air force~~ military decoration, or ~~air force~~ military reward ~~for which he is in possession of or entitled to~~. ~~State any air force decoration or reward.~~ ~~military~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of~~

11. ~~(In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number [illegible] Rank Private Name Dennis, C.E. of C.I.C. - 7 C.I.R.U. ~~Regiment~~ Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Rahn Lieut Assist Adjt 7 C.I.R.U.

Signed this 21st day of Sep. 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

AAA-87 (case #3)

PTE DENNIS CE

See QQ-73 for last case

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-59703 Pte Dennis, Cyril Eric - CIC - 7 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one hundred and fifty (150) days.

21 Jan 44. (Sgd) F D Tweedie Lt Col.
Date awarded. President. (RP 45, 50.)

(Sgd) ..... Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and Sentence Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) G Thanoosen Brigadier Commander "D" Group

Date 24 JAN 1944 Commanding (Cdn. Reinforcement Units) C.A. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr
F-59703 Pte Dennis, C.F. C/C 7 C.I.R.U. Part II Order No. 22 dy 28 Jan 44	26 Jan 44	J. R. Willby Capt, C/7 CIRU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

AAA-89

CFAC 4 (in lieu of AFA3) 40/P.A.S./1608 (3864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier G. Francoeur Comd "D" Gp, CRU dated 20 JAN 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-59703	Pte	Cyril Eric	DENNIS	7 CIRU CIC

PROCEEDINGS REVIEWED F D Tweedie Lt Col 4 Feb 44

REVIEWING OFFICER, JAG BRANCH CMHQ England

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date) 21 Jan 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~acting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... ~~as interpreter?~~ Ans ..... Do you object to Sgt Hurst as shorthand writer? Ans No

~~The interpreter is sworn.~~(1) The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.-Col.	F D Tweedie	H & C R U
Member	Captain	R J Tangert	4 C I R U
Member	Lieutenant	J C Campbell	7 C I R U
Judge-Advocate			
Prosecutor	Lieutenant	A B Wilby	7 C I R U
Defending Offr	Lieutenant	A G St Pierre	7 C I R U

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 28, 37, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~NIL~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 14, 70), such plea, the witnesses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~severally~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. When more than one Charge Sheet see RP 42; when arraigned accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 3. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~adjourns~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated* :

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80), 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E2 of Record Form E. 5. Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes/(s) his (their) plea(s) on ..... charge(s). Part 1 of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)~~
(*1. RP 37(A) (2).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

~~D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules~~ relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP [redacted] 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 44(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E below~~.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or MFB 256. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP [redacted]. Give sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, a to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 108, 120, 563-566, Overseas RO 309, 2327, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 58(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. F 59703 Private Cyril Eric DENNIS, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service, is Charged with:

FIRST CHARGE
SEC 15(1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

In the Field, absented himself without leave while undergoing detention from 0800 hrs 4 Oct 43 until surrendering himself to the Civilian Police in Daventry St. W.2 at 2135 hrs 14 Jan 44.

Total absence 102 days 12 hours, 40 minutes.

J.R. Calkin Col.
(J.R. Calkin) Colonel
Commander
7 Cdn Inf Rft Unit.

In the Field
18 Jan 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

IN THE FIELD
20 JAN 1944

G. Francoeur
(G. Francoeur) Brigadier.
Commander,
"D" Group, Cdn Rft Units.

401.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1637 (2865)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-59703	Pte		Cyril Eric	DENNIS	7 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 20 JAN 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Lt-col.	F. D. Tweedie	HQ CRU

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
A Captain	to be detailed by CO	4 CIRU
A Lieutenant	to be detailed by CO	7 CIRU

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.

On Active Service in the Fd

in England (Country.) — [signature] (Signed personally. RP 105 fn 2.) — Brigadier. (Rank.)

Date 20 JAN 44 — Commanding "D" Group, Cdn Rft Units. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. F-59703 PTE (Rank)

DENNIS, C.E. (Name)

of 7 CIRU and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station:

Date:--21 Jan 44

Sgd. . . . . M. G. Cameron Cpt. . . . . .

(Medical Officer) 7 Cdn.Inf.Rft.Unit.

NOTE 'A'

The defending officer states that he has received verbal notice that the prosecutor is a lawyer and waives notice under RP 89 B.

FDP

Plea for Mitigation

In Re: F59783 Pte Cyril Eric Dennis

The accused has for three years tried to stop his wife's allowance. In my opinion he had very good reasons to do so. In the first place she sold all his furnitures without his permission, on the other hand coming back from Newfoundland, where he had served under his Majesty's Service, he found his wife living under another man's name.

As I told you he tried to stop her allowance but nobody would believe his story, or when they did, they promised him to look after that, but nothing has never been done.

The accused could'nt get any results, so he deliberately went absent just to have her allowance stopped. Unfortunately I don't have any written evidence to prove his family trouble, but I would ask the Court to question the accused if they think it's necessary.

[illegible signature]

[illegible]

List of Witnesses in the case of F 59703 Pte Dennis, C.E.

FOR THE PROSECUTION

First Witness - Lt. G.W. Rahm, Cdn Inf Corps - 7 C.I.R.U.

FOR THE DEFENCE

NIL

List of Exhibits in the case of F 59703 Pte. Dennis, C.E.

Exhibit "A" - Certified True Copy of the Declaration of a Court of Inquiry.

Exhibit "B" - A.F.O. 1617 purporting to be signed by J. Resler, Station Sgt Metropolitan Police Force Paddington Station, London.

1. I Hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Leipzic Barracks, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at
this 18 day of
January 194 4

.....
(C.E. Dennis)

2. I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at preliminary to my Court-Martial.

3. I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of _____

if he is available.

Dated at
this 18 day of
January 1944

.....
(C.E. Dennis)

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 10 day of November 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. F 59703 Pte. Dennis, C.E.,7Cdn Inf Rft Unit

DECLARATION

The Court declare, that F 59703 Pte. Dennis, C.E., Cdn Inf Rft Unit Cdn Inf Corps, illegally absented himself without leave from Haig Lines, Crookham, Hants while undergoing detention at 0800 hrs 4 Oct 43 and that he is still so absent, and that on the 10 Nov 43 he was deficient and is still so deficient articles of kit and equipment to the value of £1-15-6 as listed in appendix "A" attached hereto.

Names of President and Members:
Lt. J.A. MacDonald, D.I.C.- 7 C.I.R.U.- President.
A11004 C.S.M. Gillingham, C.I.C.- 7 C.I.R.U. - Member

Signature of Commanding Officer J.R.CALKIN COL

Certified true copy
Signature of Officer having custody of original record.
(A.J. Davis) Capt/Adjt.
7 Cdn Inf Rft Unit.

"Appendix "A"

List of deficiencies of kit and equipment of F 59703 Pte. Dennis, C.E., Cdn Inf Corps, on the strength of 7 Cdn Inf Rft Unit as at 10 Nov 43.

Article	Vocabulary Price £.	S.	D.	Appraised Value £.	S.	D.
Badges Capt			4½			3½
Badges Canada Shoulder prs 1			1½			1
Boots Ankle prs 1	1	4	5		18	3½
Brushes Button		1	2			10
Combs hair			2			1½
Overalls combination		12	2		9	1½
Shirts Flannel Cotton		9	1		6	9
Total £	2	6	6	£ 1	15	6

C.R. Hiltz ..... C.Q.M.S.
(C.R. Hiltz) F 40567
C.Q.M.S. "B" Coy
7 Cdn Inf Rft Unit.

J.B.D.

Exhibit "B"

I CERTIFY that the man whose personal description is given below surrendered himself to* P.C. 155 D Kirkup at Daventry St, W.2, at (hour) 9.35 a.m. on the 14th day of Jan 1944 as being No. F59703 (Rank and Name) Private Cyril Eric DENNIS a ~~deserter (or~~ absentee without leave) from 9th C.I.R.U. and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 23 Height 6 Feet 1 Inches

Complexion Fair Hair Fair

Eyes Blue

Marks Scar on right thigh

In uniform or plain clothes Uniform

Probable Date and Place of Attestation	Charlottetown P.E. Island 1930
Probable Date of Desertion or beginning of absence, and from what place	September 1943 from Fleet, Hants.

Signature of Officer of Police in charge of Paddington Station.

14/1/44 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies *only* in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of No. ..... who surrendered to the Police at ..... on .....

Payable to .....

CERTIFIED that this statement of expenses is correct.

..... Superintendent or Officer in charge of Police Station at .....

..... Date of Signature.

IMMEDIATE.

Army Form O. 1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

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* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; *e.g.*, such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 482/1940).

(22741) Wt.35503/151 25,000 10/42 A. & E. W. Ltd. Gp.698
(23650) Wt.46126/1200 40,000 2/43 " " Forms/O 1617/18

SUMMARY OF EVIDENCE

In the case of F 59703 Private Cyril Eric DENNIS, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lt. G.W. Rahm, Canadian Infantry Corps, on the strength of 7 Canadian Infantry Reinforcement Unit, having been sworn states:

I am Lt. G.W. Rahm, and am Acting Adjutant of 7 Canadian Infantry Reinforcement Unit. I produce Certified True Copy of Declaration of Court of Inqhiry which shows the accused absent without leave while undergoing detention from Haig Lines, Crookham Hants at 0800 hrs 4 Oct 1943 and still so absent on the 10 Nov 1943. This document is marked Exhibit "A". I also produce A.F.O. 1617 purporting to be signed by J. Resler, Station Sergeant Metropolitan Police Force, Paddington Station, London which states the accused surrendered himself to P.C. 155 "D" Kirkup in Daventry St. W.2 at 2135 hrs 14 Jan 44. This document is marked Exhibit "B".

Rahm Lt.

(The accused declines to cross examine this witness)

The accused was cautioned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

Ex A 991.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Lt.
(Officer taking Summary)

In the Field
17 Jan 44.

M.F.M. 6
(A.F. 8.177)
40/F & /5136 (2000)

No. F59730 Name Dennis C.E. Sqn., Battery, or Company Corps Cdn Inf Corps Date of enlistment 4 Sep 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Jul 43	Pte		WOAC AA Sec 15(1) AWL 8 hrs 1 min	Documentary	7 dys pay	24 Jul 43	Lt.Col.W.C.Lawson	
Field	26-Jul 43			WOAC AA Sec 15(1) AWL 7 days	Documentary	7 dys P.P. 14 days pay	30 Jul 43	Maj J.A.MacNaughton	
Field	1 Aug 43	Pte		WOAC A.A.Sec 15(1) AWL 12 days 1 hrs 35 mins	C.S. Laundry Documentary	14 days PP 7 days detn	17 Aug 43	Major J.A. MacNaughton	
Field	11 Sep 43	Pte		1) WOAC AA Sec 8 (2) striking his superior officer 2) WOAC AA Sec 15(1) 23 hrs 40 min	Cpl Hillett C.S. Hiltz Documentary	90 dys detn	21 Sep 43	FGCM	

Certified True Copy Rahm H. Capt. Officer Making Custody of Original Document

(P.T.O.)

M.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F 59703	Private	DENNIS Cyril Eric	Cdn Inf Corps - 7CIRU

1. The following is a fair and true summary of the entries in the Conduct sheets ~~Company Conduct sheets of~~ the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15(1)	3 times	A.A. Sec 15(1)	3 times
For		times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~

or,

The accused at the present time is under sentence for 90 days beginning on the 21 day of September 1943

4. The accused has been in confinement awaiting trial on the present charges, for ONE day in civil custody, and SIX days in military custody, making a total of SEVEN days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service in~~ attestation paper is 22 years 2 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service in~~ attestation paper 4 Sep 1939

7. The service which the accused is allowed to reckon towards discharge is 4 years 66 days

8. The accused is entitled to reckon 4 years 66 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~for it in possession of or entitled to).~~ State any ~~air force decoration or reward.~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. (In the case of an officer.) ~~The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

~~Air Force~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number F 59703 Rank Private Unit

Name DENNIS Cyril Eric of Cdn Inf Corps - 7 C.I.R.U. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In the Field 21 Sep 43	A.A. Sec 8(2) A.A. Sec 15(1)	90 days detn	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. [illegible] 4/9/43 7 C.I.R.U.

Signed this 21st day of Jan 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

HD.58

PTE DENNIS F.

(2)

36

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: P 36422 Pte Frank Dennis, S D & G Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 10	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence for ... beginning on (date) ...~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of nil days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 120 days.

(Sgd) ... Judge-Advocate, if any.

12 Sept 44 Date awarded.

(Sgd) "H.O.Clennett Maj" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(7), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of the court, but commute the sentence so that it shall read "to undergo detention for 90 days and confirm the sentence as so commuted.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) "J.M. Rockingham Brig"

Date 13 Sep 44 Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
P36422 Pte Dennis F.	15 Sep 44	"S.P. LaFontaine Capt"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4D.58

FIELD GENERAL COURT-MARTIAL

CFA96 (1st Issue) (of AFA32) 40/P & S/1698 (40839) 4/38B

Convened by Order of Brig J.M. Rockingham Comd 9 Cdn Inf Bde dated 11 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P36422	Pte		Frank	DENNIS	S D & G Highrs

CERTIFIED TRUE COPY
D.J.A.G.
Cdn Sec G.H.Q 2 Echn 21 Army Gp

PROCEEDINGS REVIEWED
D. J. A. G.
Cdn. Sec. G.H.Q. 2 Echn, 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Fmn 80 on (date(s)) 12 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

Date 13/9/44

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for matts and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1045 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ... as interpreter? Ans ...~~

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H.O. Clennett	North Nova Scotia Highrs
Member	Capt	J.W. Ferguson	HQ 9 Cdn Inf Bde
Member	Lieut	D.H. Playford	H L I of C
Judge-Advocate			
Prosecutor	Capt	S.P. LaFontaine	S D & G Highrs
Defending Offr	Lieut	D.C. Stewart	S D & G Highrs

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)

(1. RP 2b, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1 p 3.)

A8. The accused P36422 Pte Dennis F before arraignment make(s) (no) ~~(a)~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

Pr Vol 1 page 83

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. Yes (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (~~not~~) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~1st~~ charge(s). The accused is (~~not~~) so informed, and he (~~they~~) change(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

~~B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)~~
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. ~~The Summary of Evidence is marked Ex. ..... initialled and read aloud by the President.(1)~~
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I wish to do neither. Do you intend to call witnesses on your behalf ? Ans. No. Are they witnesses as to character only ? Ans. N/a
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A. 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. B respectively.(2)
(1. *MFB 255 or MFB 296.* 2. *MFM 6.* 2. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (by Defending Officer)(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(C) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and also by the members of the Court~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas SO 309, 2323, MML p 90, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

To Convening Officer

F.C.C.M.
F.36422 Pte Dennis, F.

1. The Court feel that as this man is an Indian who is not allowed liquor in Canada, and further that as he has a very low mentality, (the Court had great difficulty in proceeding with the case as it was hard to make the accused realize what was going on) that the sentence might be reviewed (after the accused has been sos the regiment) and possibly reduced.

2. The Court further suggest that this man should be reallocated from a field unit to duties at a pioneer or base unit.

Field
12 Sept 44

"M.C. Clennett Maj"
Pres

Cond 9 Bde

Recommend confirmation but suggest that an AF B3104 be raised recommending review in 30 days.

"Alex C Hall" Capt
ADJA

"M46 [illegible] Reg"

CHARGE SHEET

The accused, F36422 Pte Frank [illegible]NNIS, Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with: when on active Service

AA 3[illegible]c 19

DRUNKENNESS

in that he

in the Field, on 22 Aug 44, was drunk.

"R Rowley Lt col"

(R. Rowley) Lt-col,
Commanding
S D & G Highlanders

Field
9 Sep 44

To be tried by FIELD GENERAL COURT-MARTIAL

"J.M. Rockingham"

(J.M. Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field,
11 Sep 44

12 Sep 44

F 36422 Pte Dennis F. is fit
to undergo trial by Court-
Martial.

"J.D. Gibson Capt "
R.C.A.M.C.

2486

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F36422	Pte	----------	Frank	DENNIS	SD&G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 11 Sep 44 endorsed by me, (~~a true copy of which is hereto annexed~~), he (~~they~~) should be tried by Field General Court-Martial ";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it would not be practicable to assemble a General Court-Martial without serious detriment to the service~~)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby appoint~~ (a) the Offrs named hereunder to form the Court, (b) ~~a Fd Offr as President~~, for the reasons ~~stated herein~~
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I hereby appoint as Judge-Advocate the Offr mentioned hereunder~~
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	M.G. CLEMETT	NWS Highrs

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.W. FERGUSSON	HQ 9 Cdn Inf Bde
Lieut	R.H. BOWDEN	N.S Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D.R. MAYFORD	RLI of C

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
On Active Service in the Fd		
In France (Country.)	"J.M. Rockingham" (Signed personally. RP 105 (c) 2.)	Brigadier (Rank.)
Date 11 Sep 44	(J.M. Rockingham) Commanding 9 Cdn Inf Bde	

(Convening Officer.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for words and notes for use on trial.)

First Witness for the Prosecution

Capt J.W. Braden, SD&G Highrs sworn states:

I am Capt J.W. Braden, 2 i/c of A Coy SD&G Highrs. On 22 Aug 44 while the Bn was in Trun I went to the coy kitchen to see how the noon meal was coming. Pte Dennis whom I now recognize who was on kitchen fatigue was there and I noticed he was unable to carry out his duties owing to drink. He was endeavouring to start serving the meal, and was staggering over the hay boxes and spilling the food. I ordered him to return to his platoon, which he did not do. His pl Sjt then came and a charge was laid against Pte Dennis. The pl Sjt took charge of Pte Dennis and sometime later he appeared before me in coy orders. I noticed at the time Pte Dennis had a very glassy stare in his eye. I could smell alcohol on Pte Dennis' breath. I am convinced that Pte Dennis staggering over the hay boxes was from influence of alcohol.

Cross examined by the Defence

This incident took place at the noon meal. I do not know whether Pte Dennis was placed under open or close arrest.

Questioned by the Court

In my opinion Pte Dennis was drunk.

Second Witness for the Prosecution

C.54199 Sjt Hummell, A.A. SD&G Highrs sworn, states:

I am C.54199 Sjt Hummell, A.A. pl Sjt of 8 pl A Coy S.D. & G Highrs. Dennis was detailed for kitchen fatigue on the morning of the 22 Aug 44. He reported to the kitchen fatigue all right. When I went up for dinner Dennis was sitting on the sidewalk. I could smell liquor on him. and he was trying to eat his dinner which he made a poor job of. I told him he was under close arrest and laid the charge. When he was eating his dinner he could not manipulate his fork and mess tin. I would say that Dennis's difficulty with his mess tin was due to drink. In my opinion he was drunk.

Cross-examined by the defence

I am not positive as to whether this ~~incident~~ incident with Pte Dennis was at the noon or supper meal. I do not what duties Pte Dennis performed after he reported back to his pl area. He was ordered to report to his cpl, which he did, and I told the Cpl Dennis was under close arrest and was not to leave the area. I do not know if Dennis was placed on guard after he returned to his pl area.

Statement of accused.

I don't understand very much but I know I was drinking that day, I was working in the kitchen, washing pots and pans and the barber came over and gave us a haircut, and he had two bottles of wine and gave us a drink. We did not take very much. only two glasses of the wine, and we drank two glasses of cognac, that's all we drank. I was talking to Capt Braden and he told me to report to the pl sjt and after that I was talking to the sjt when I was eating supper alongside the road, and the sjt told me to go back to my own area and we went back. After that I reported to my own area to the cpl and I was placed on guard from 0100 hrs to 0400 hrs in the morning, I knew what I was doing. I was not very drunk. I am an Indian and don't drink very much as in Canada an Indian cannot get any liquor. Whenever anybody gives me something I drink.

No F36422 Name Dennis, F. Sqn, Battery, or Company — Corps CIC — Date of enlistment 23-11-43 — GC Badges — Service or Proficiency Pay — Sheet No 1

Date of last entry in Company Conduct Sheet 29-4-44 — No and date of last drunk 2 29-4-44 — Period not reckoning towards freedom from extra fine — Signature OC Company, etc GM Hazle Lt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot NS 31-5-44	Previous sheet destroyed upon completion of six months service 26-7-44 (eff 23-5-44) NG Thomas Lt (1) AWL from 2200 hrs 31 May to 1200 hrs 2 Jun 44 (absent 1 day 14 hrs) (AA Sec 15(1) (2) Drunkenness (3rd offence) AA sec 19 I hereby certify that this is a true extract from the regimental books in my custody.	Pte	3		Sgt Place	14 dys det 2 dys pay	3 Jun 44	Col McKendish Total forf - 16 dys	

"S.P. LaFontaine" Capt
(S P LaFontaine)Capt & Adjt

(PTO)

Exhibit C AFC

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-6(2)
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F36422	Pte	Dennis, F.	S D & G Highrs

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA sec 15(1)	1 times	1 times
For AA sec 19	3 times	3 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and nil days in military / Air Force custody, making a total of nil days in custody, of which ..... days were spent in hospital.

5. The present age of the accused according to his record of service is 27

6. The date of his attestation specified in his record of service is 23 Nov 43

7. The service which the accused is allowed to reckon towards discharge is 10 mos

8. The accused is entitled to reckon 10 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward / military decoration, or military reward

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer / Air Force last held the regimental rank of .....

Page 9
Age E

Ples of Mitigation of Sentence for P.36422 Pte Dennis F.

Gentlemen of the Court, there are a few points that I would like to draw to the attention of the Court.

(1) That the liquor and spirits of France are entirely different than the spirits in England or Canada. And unless one was warned of the effects of a few drinks of certain types of liquor over here, he would indulge in too much and would do things that he would not ordinarily do.

(2) To the fact that Pte Dennis is a Mic-Mac Indian. In Canada they are not allowed to purchase or have in their possession any liquor what-so-ever. We know that liquor has a greater influence on them, and Pte Dennis is no exception. He did sample a few drinks, and I strongly plead for leniency of his sentence.

That is all gentlemen.

"D.C. Stewart Lieut"

W98

SUMMARY OF EVIDENCE in the case of F36422 Pte Dennis F., Stormont Dundas and Glengarry Highlanders, a soldier of the Canadian Army Overseas. By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

Capt J.W. Braden, having been duly sworn, states:

I am Capt J.W. Braden, 2 i/c of A Coy. During mt tour of our kitchen on 22 Aug 44, I found the accused, who was on kitchen fatigue, unable to carry out his duties due to drunkenness. I ordered the accused to report to his platoon which he did not do. Sgt Hummell, his platoon Sgt then laid the charge and took Dennis off kitchen fatigue.

"J.W. Braden"
(J.W. Braden)Capt

The accused declines to cross examine the witness.

2nd Witness for the Prosecution

C54199 Sgt Hummell A.A., having been duly sworn, states:

Capt Braden told me that Dennis had been warned to report to me off kitchen fatigue. Dennis did not report to me. When I came up for dinner Dennis was seated on the road trying to eat his dinner. He was incapable of doing kitchen fatigue due to the influence of drink. Dennis is a member of my platoon and I laid the charge against him, placing him under close arrest.

"Sgt Hummell, A.A"
(A.A. Hummell)Sgt

The accused declines to cross examine the witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4K reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 7th day of Sep 44, in the Field.

"F. Keith Pelton"

(F.K. Pelton)Lt,
S D & G Highlanders.

To Convening Officer

F.C.C.M.
F.36422 Pte Dennis, F.

1. The Court feel that as this man is an Indian who is not allowed liquor in Canada, and further that as he has a very low mentality, (the Court had great difficulty in proceeding with the case as it was hard to make the accused realize what was going on) that the sentence might be reviewed (after the accused has been sos the regiment) and possibly reduced.

2. The Court further suggest that this man should be reallocated from a field unit to duties at a pioneer or base unit.

Field
12 Sept 44

"M.G. Clennett Maj"
Pres

Comd 9 Bde

Recommend confirmation but suggest that an AF B3104 be raised recommending review in 30 days.

"Alex C Hall" Capt
ADJA

"Mr Clement May"
Pres

CHARGE SHEET

The accused, F36422 Pte Frank DENNIS, Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with: when on active Service

AA 30c 19

DRUNKENNESS

in that he

in the Field, on 22 Aug 44, was drunk.

"R Rowley Lt col"

(R. Rowley)Lt-col,
Commanding
S D & G Highlanders

Field
9 Sep 44

To be tried by FIELD GENERAL COURT-MARTIAL

"J.M. Rockingham"

(J.M. Rockingham)Brig
Comd 9 Cdn Inf Bde

In the Field,
11 Sep 44

12 Sep 44 MG6

F 36422 Pte Dennis F. is fit
to undergo trial by Court-
Martial.

"J.D. Gibson Capt "
R.C.A.M.C.

1 of 6

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F36422	Pte	----------	Frank	DENNIS	SD&G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (*date*) 11 Sep 44 endorsed by me, (~~[illegible]~~) to be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~[illegible]~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~[illegible]~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	M.G. CLEARETT		MNS Highrs

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.W. FERGUSSON		HQ 9 Cdn Inf Bde
Lieut	R.H. BOWDEN		MNS Highrs

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	D.R. BLAYFORD		HLI of C

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (*Country.*) "J.M. Rockingham" (*Signed personally. RP 105 fn 2.*) Brigadier (*Rank.*)

(J.M. Rockingham)

Date 11 Sep 44 Commanding 9 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CF AFB (to be) of AFA 40/7 & 8/1867 (4651)

(*See overleaf for oaths and notes for use on trial.*)

First Witness for the Prosecution

Capt J.W. Braden, SD&G Highrs sworn states:

I am Capt J.W. Braden, 2 i/c of A Coy SD&G Highrs. On 22 Aug 44 while the Bn was in Trun I went to the coy kitchen to see how the noon meal was coming. Pte Dennis whom I now recognize who was on kitchen fatigue was there and I noticed he was unable to carry out his duties owing to drink. He was endeavouring to start serving the meal, and was staggering over the hay boxes and spilling the food. I ordered him to return to his platoon, which he did not do. His pl Sjt then came and a charge was laid against Pte Dennis. The pl Sjt took charge of Pte Dennis and sometime later he appeared before me in coy orders. I noticed at the time Pte Dennis had a very glassy stare in his eye. I could smell alcohol on Pte Dennis' breath. I am convinced that Pte Dennis staggering over the hay boxes was from influence of alcohol.

Cross examined by the Defence

This incident took place at the noon meal. I do not know whether Pte Dennis was placed under open or close arrest.

Questioned by the Court

In my opinion Pte Dennis was drunk.

Second Witness for the Prosecution

C.54199 Sjt Hummell, A.A. SD&G Highrs sworn, states:

I am C.54199 Sjt Hummell, A.A. pl Sjt of 8 pl A Coy S.D. & G Highrs. Dennis was detailed for kitchen fatigue on the morning of the 22 Aug 44. He reported to the kitchen fatigue all right. When I went up for dinner Dennis was sitting on the sidewalk. I could smell liquor on him. and he was trying to eat his dinner which he made a poor job of. I told him he was under close arrest and laid the charge. When he was eating his dinner he could not manipulate his fork and mess tin. I would say that Dennis's difficulty with his mess tin was due to drink. In my opinion he was drunk.

Cross-examined by the defence

I am not positive as to whether this ~~incident~~ incident with Pte Dennis was at the noon or supper meal. I do not what duties Pte Dennis performed after he reported back to his pl area. He was ordered to report to his cpl, which he did, and I told the Cpl Dennis was under close arrest and was not to leave the area. I do not know if Dennis was placed on guard after he returned to his pl area.

Statement of accused.

I don't understand very much but I know I was drinking that day, I was working in the kitchen, washing pots and pans and the barber came over and gave us a haircut, and he had two bottles of wine and gave us a drink. We did not take very much. only two glasses of the wine, and we drank two glasses of cognac, that's all we drank. I was talking to Capt Braden and he told me to report to the pl sjt and after that I was talking to the sjt when I was eating supper alongside the road, and the sjt told me to go back to my own area and we went back. After that I reported to my own area to the cpl and I was placed on guard from 0100 hrs to 0400 hrs in the morning, I knew what I was doing. I was not very drunk. I am an Indian and don't drink very much as in Canada an Indian cannot get any liquor. Whenever anybody gives me something I drink.

No. F36422 Name Dennis, F. Sqn, Battery, or Company 2 Corps CIC Date of enlistment 23-11-43 GC Badges Service or Proficiency Pay MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet 26-4-44 No. and date of last drunk 29-4-44 Period not reckoning towards freedom from extra fine Sheet No. 1 Signature OC Company, etc GM Hazle Lt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with title	By whom awarded	Remarks
				Previous sheet destroyed upon completion of six months service			26-7-44 (eff 23-5-44)	WO Thomas Lt	
Aldershot NS	31-5-44	Pte		(1) AWL from 2200 hrs 31 May 44 to 1200 hrs 2 Jun 44 (absent 1 day 14 hrs) AA Sec 15(1)	Sgt Place	14 dys det 2 dys pay	3 Jun 44	Col McKendish	Total forf- 16 dys
			3	(2) Drunkenness (3rd offence) AA sec 19					

I hereby certify that this is a true extract from the regimental books in my custody.

"S.P. LaFontaine" Capt
(S.P. LaFontaine) Capt & Adjt

Exhibit Q 2nd C

M.F.B. 355
22M—5-41 (272-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F36422	Pte	Dennis, F.	S D & G Highrs

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For AA sec 15(1)	1	times	1	times
For AA sec 19	3	times	3	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for nil days in Air Force civil custody, and nil days in military custody, making a total of nil days in custody, of which days were spent in hospital.

5. The present age of the accused according to his record of service is 27

6. The date of his attestation specified in his record of service is 23 Nov 43

7. The service which the accused is allowed to reckon towards discharge is 10 mos

8. The accused is entitled to reckon 10 mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward military military

military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Regiment

Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 day of Sep 44 "S.P. LaFontaine Capt"

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Plea of Mitigation of Sentence for P.36422 Pte Dennis F.

Gentlemen of the Court, there are a few points that I would like to draw to the attention of the Court.

(1) That the liquor and spirits of France are entirely different than the spirits in England or Canada. And unless one was warned of the effects of a few drinks of certain types of liquor over here, he would indulge in too much and would do things that he would not ordinarily do.

(2) To the fact that Pte Dennis is a Mic-Mac Indian. In Canada they are not allowed to purchase or have in their possession any liquor what-so-ever. We know that liquor has a greater influence on them, and Pte Dennis is no exception. He did sample a few drinks, and I strongly plead for leniency of his sentence.

That is all gentlemen.

"D.C. Stewart Lieut"

WPR

SUMMARY OF EVIDENCE in the case of F36422 Pte Dennis F., Stormont Dundas and Glengarry Highlanders, a soldier of the Canadian Army Overseas. By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

Capt J.W. Braden, having been duly sworn, states:

I am Capt J.W. Braden, 2 i/c of A Coy. During my tour of our kitchen on 22 Aug 44, I found the accused, who was on kitchen fatigue, unable to carry out his duties due to drunkenness. I ordered the accused to report to his platoon which he did not do. Sgt Hummell, his platoon Sgt then laid the charge and took Dennis off kitchen fatigue.

"J.W. Braden"
(J.W. Braden)Capt

The accused declines to cross examine the witness.

2nd Witness for the Prosecution

C54199 Sgt Hummell A.A., having been duly sworn, states:

Capt Braden told me that Dennis had been warned to report to me off kitchen fatigue. Dennis did not report to me. When I came up for dinner Dennis was seated on the road trying to eat his dinner. He was incapable of doing kitchen fatigue due to the influence of drink. Dennis is a member of my platoon and I laid the charge against him, placing him under close arrest.

"Sgt Hummell, A.A"
(A.A. Hummell)Sgt

The accused declines to cross examine the witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4% reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 7th day of Sep 44, in the Field.

"P. Keith Pelton"

(P.K. Pelton)Lt,
S D & G Highlanders.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 36422 Pte Frank Dennis, S D & G Highrs

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 19	Not Guilty	Guilty	246
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2. RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 120 days.

(Sgd) ... Judge-Advocate, if any. 12 Sept 44 Date awarded. (Sgd) "M.G.Clennett Maj" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding and sentence set forth in Part I is:

I confirm the finding of the court, but commute the sentence so that it shall read "to undergo detention for 90 days and confirm the sentence as so commuted.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) "J.M. Rockingham Brig"

Date 13 Sep 44 Commanding 9 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F36422 Pte Dennis F.	15 Sep 44	"S.F. LaFontaine Capt"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4D-58 246.

FIELD GENERAL COURT-MARTIAL

CFAS8 (In lieu of AFA31 and P & B/1008) 4/38B

Convened by Order of Brig J.M. Rockingham Comd 9 Cdn Inf Bde dated 11 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F36422	Pte	Frank	DENNIS	SD&G Highrs

CERTIFIED TRUE COPY
W.F. Vaughan Major
D.A.A.G.
Cdn. Sec. G.H.Q. 2 Ech. 21 Army Gp.

D.J.A. 10 Dec 44
Cdn. Sec. G.H.Q. 2 Ech, 21 Army Gp.

PROCEEDINGS REVIEWED Date 12/12/44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 12 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1045 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (1)

(1. KR Con 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans ...~~

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	M.G. Clennett	North Nova Scotia Highrs
Member	Capt	J.W. Fergusson	HQ 9 Cdn Inf Bde
Member	Lieut	D.H. Blayford	H L I of C
Judge-Advocate			
Prosecutor	Capt	S.F. LaFontaine	S D & G Highrs
Defending Offr	Lieut	D.C. Stewart	S D & G Highrs

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 2.)

A8. The accused F36422 Pte Dennis F before arraignment makes(s) (no) ~~and~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GE)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. No (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (~~not~~) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty on 1st charge(s). The accused is (~~are~~) so informed, and he (~~they~~) change(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. ~~On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.~~(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. ~~The Summary of Evidence is marked Ex ; initialled and read aloud by the President.~~(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*E*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

File here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. I wish to do neither. Do you intend to call witnesses on your behalf ? Ans. No. Are they witnesses as to character only ? Ans. N/A.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Rest charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*f*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MAM* 6. 3. *RP* 46, *KR Con* 532. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (By defending Offr) (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*g*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then JA, if any.~~(2)
(1. *When several accused tried separately see RP* 77 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 363-366. *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(16), 68(7), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 347. *As to assembly and disposal of record after trial see inserts on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F 36422 Pte Dennis, F. of 2 Bde Sig Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Alt Sec 19	Not Guilty	Guilty	NJS
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

~~Accused under sentence for~~ ~~(insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)~~ beginning on (date) (1)

Time in confinement awaiting present trial—a total of 911 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 120 days.

(Sgd) ..... Judge-Advocate, if any. 12 Sept 44 Date awarded. (Sgd) W J Cumb Brig President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 32(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Pending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the findings and sentence set forth in Part I is:

I confirm the finding of the court but commute the sentence so that it shall read "To undergo detention for 90 days and confirm the sentence as so commuted"

~~I direct that the accused be not committed to prison or detention barracks until further endorsed.~~ (1. AA 57A. Delete if not used.)

(Sgd) John Rockingham Brig

Date 13 Sep 44 Commanding 9 Cdn Inf Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
F36422 Pte Dennis F.	15 Sep 44	W P La Fontaine Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160, 40-58

RECEIVED 14 NOV 1944 JAG BRANCH CMHQ

CPA86 (To face of AF A3) 47-P.A.B.-1604 (3604)

FIELD GENERAL COURT-MARTIAL

Convened at Brig J. M. Rockingham Comd 9 Cdn Inf Bde dated 11 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F36422	Pte	Frank Dennis		2 Bde Sig Regt

PROCEEDINGS REVIEWED 15 Nov 44 A.C. Church Capt REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED Date 15 Nov 44 JAG Sec G.H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 12 Sept 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12|122

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1045 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 567(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N/O (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W G Clemett	Nth Nova Scotia Highrs
Member	Capt	F W Ferguson	HQ 9 Cdn Inf Bde
Member	Lieut	D R Playford	R.C.I.C.
Judge-Advocate			
Prosecutor	Capt	J P La Fontaine	SD&G Highrs
Defending Offr	Lieut	D C Stewart	SD&G Highrs

Questions by President: Is the Prosecutor a lawyer? Ans N/O Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 108, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused F36422 Pte Dennis F before arraignment makes(s) (no) ~~no~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 32, 112. See para 1 of instrs p 2. Where more than one Charge Sheet see RP 62; unless several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is cleared and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Yes. (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 15(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides ~~(note)~~ to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ~~(1st)~~ charge(s). The accused is ~~(are)~~ so informed, and he ~~(they)~~ change(s) his (their) plea(s) on ~~(2nd)~~ charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

~~B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.~~(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

~~B5. The Summary of Evidence is marked Ex ..., initialled and read aloud by the President.~~(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any pleas is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ... charge(s).~~(2) The Court is closed, ~~and considers the submission.~~(3) The Court is re-opened, ~~and the President announces that the submission is disallowed on the ... charge(s), and allowed on the ... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. I would like to give evidence. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans. N/a.
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A & B and Ex C & D respectively.(3)
(1. *MFB* 255 *or MFB* 296. 2. *MFW* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes (by counsel (Major)) (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the members of the Court~~.(2)
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 48, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas KO* 309, 1323, *RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 48, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas KO* 309, 1323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 66(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

COUNTER NUMBER 545632

HOUR 11 10

OPERATOR'S INITIALS EM

RELIEVING OPERATOR E.M.

9/10 Convening Officer.

F G C M.
F36422 Pte Dennis F.

1. The Court feel that as this man is an Indian who is not allowed liquor in Canada, and further that as he has a very low mentality, (the Court had great difficulty in proceeding with the case as it was hard to make the accused realize what was going on) that the sentence might be reviewed (after the accused has been SOS the regiment) and possibly reduced.

2. The Court further ~~suggest~~ that this man should be reallocated from a field unit to duties at a pioneer or base unit.

[signature]
Pres

Field
12 Sept 44.

Comd 9. Bde

Recommend confirmation but suggest that an AFB 3104 be raised recommending review in 30 days

[signature] Capt
AD of A

A.A. Sec 19

CHARGE SHEET

The accused, F36422 Pte Frank DENNIS, Stormont Dundas and Glengarry Highlanders, a soldier in the Canadian Army Overseas, is charged with:-

when on active service

DRUNKENNESS

in that he

in the Field, on 22 Aug 44, was drunk.

R Rowley Lt Col

(R. Rowley) Lt.-Col.,
Commanding
S/D/ & G Highlanders

Field
9 Sep 44.

To be tried by FIELD GENERAL COURT-MARTIAL

J M Rockingham

(J.M.Rockingham) Brig
Comd 9 Cdn Inf Bde

In the Field,
11 Sep 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1607 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F36422	Pte	———	Frank	DENNIS	SD&G Highrs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 11 Sep 44 endorsed by me, "To be tried by Field General Court-Martial"

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial;
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	M.G. CLENNETT (Must be named. RP 106.)	MMS Highrs (Unit.)

MEMBERS.

Capt	J.W. FERGUSSON	H.Q.9 Cdn Inf Bde
Lieut (Rank.)	R.H. BOWDEN (Named or detailed. RP 106.)	MMS Highrs (Unit.)

WAITING MEMBER.

Lieut (Rank.)	D.R. BLAYFORD (Named or detailed, if any. RP 106.)	HLI of C. (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (Country.)

(J.M. Rockingham) (See AA 185 fn 2.)

Brigadier (Rank.)

Date 11 Sep 44

Commanding 9 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

12 Sep 44

F 36422 Pte Dennis F. is fit to undergo trial by Court-Martial

J. D. Gibson Capt.
R. C. A. M. C.

"Plea" of Mitigation of Sentence for F. 36422 Pte Dennis F.

Gentlemen of the Court, ~~although Pte Dennis pleaded~~ ~~guilty~~, there are a few points that I would like to draw to the attention of the Court.

(1) That the liquor and spirits of France are entirely different than the spirits in England or Canada. And unless one was warned of the effects of a few drinks of certain types of liquor over here, he would indulge in too much and would do things that he would not ordinarily do.

(2) Is the fact that Pte Dennis is a Mic-Mac Indian. In Canada they are not allowed to purchase or have in their possession any liquor what-so-ever. We know that liquor has a greater influence on them, and Pte Dennis is no exception. He did sample a few drinks, ~~he did admit his wrong~~ and I strongly plead for leniency of his sentence. That is all gentlemen.

D.C. Stewart Lieut.

First witness for the Prosecution.

Capt J. W. Braden, S.D.G. Highrs sworn states

I am Capt J W Braden, 2 i/c of A Coy, S D G Highrs. On 22 Aug 44 while the Bn was in Trun I went to the coy kitchen to see how the noon meal was coming. Pte Dennis, whom I now recognize, who was on kitchen fatigue was there and I noticed he was unable to carry out his duties owing to drink. He was endeavouring to start serving the meal, and was staggering over the hay boxes and spilling the food. I ordered him to return to his platoon, which he did not do. His pl sgt then came and a charge was laid against Pte Dennis. The pl sgt took charge of Pte Dennis and sometime later he appeared before me in coy orders. I noticed at the time Pte Dennis had a very glassy stare in his eye. I could smell alcohol on Pte Dennis' breath. I am convinced that Pte Dennis staggering over the hay boxes was from influence of alcohol.

Cross examined by the defence.

This incident took place at the noon meal - I do not know whether Pte Dennis was placed under open or close arrest.

Questioned by the Court

In my opinion Pte Dennis was drunk.

Second witness for the Prosecution.

C54199 Sgt Hummell, A.A., S.D.G. Higher sworn states:

I am C54199 Sgt Hummell, A.A., pt sgt of 8 pt. A Coy S.D.G. Higher. Dennis was detailed for kitchen fatigue on the morning of the 22 Aug. He reported to the kitchen fatigue all right. ~~During the time he was up~~ ~~there~~ When I went up for dinner Dennis was sitting on the sidewalk, I could smell liquor on him, and he was trying to eat his dinner, which he made a poor job of. I told him he was under close arrest and laid the charge. When he was eating his dinner he could not manipulate his fork and mess tin. I would say that Dennis's difficulty with his mess tin was due to drink. In my opinion he was drunk.

Cross examined by the defence.

I am not positive as to whether this incident with Pte Dennis was at the noon or supper meal. I do not what duties Pte Dennis performed after he reported back to his pt area. He was ordered to report to his cpl, which he did, and I told the cpl Dennis was under close arrest and was not to leave the area. I ~~did~~ do not know if Dennis was placed in guard after he returned to his pt area.

Statement of accused:-

I dont understand very much but I know I was drinking that day, I was working in the kitchen, washing pots and pans and the barber came over and gave us a haircut, and he had two bottles of wine and gave us a drink. we did not take very much, only two glasses of the wine, and we drank two glasses of cognac that's all we drank. I was talking to Capt Braden and he told me to report to the pl s/t. and after that I was talking to the s/t when I was eating supper alongside the road, and the s/t told me to go back to my own area and we went back. after that I reported to my own area to the cpl and I was placed on guard from 0100 hrs to 0400 hrs in the morning, I knew what I was doing. I was not very drunk. I am an Indian and dont drink very much as in Canada an Indian cannot get any liquor. whenever anybody gives me something I drink.

Exhibit B

MFM 6
(AFB 122)
(PAS/156 (3438))

No F36422 Name Dennis, F. Sqn, Battery, or Company 2 Corps CIC Date of enlistment 23-11-43 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 29-4-44 No and date of last drunk 29-4-44 Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc GM Hazle Lt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed upon completion of six months service 26-7-44 (eff 23-5-44) WG Thomas Lt									
Aldershot NS	31-5-44	Pte		(1) AWL from 2200 hrs 31 May to 1200 hrs 2 Jun 44 (absent 1 day 14 hrs) AA sec 15(1)	Sgt Place	14 dys det 2 dys pay	3 Jun 44	Col McKendish	Total forf - 16 dys
			3	(2) Drunkenness (3rd offence) AA sec 19					

I hereby certify that this is a true extract from the regimental books in my custody.

S P LaFontaine Capt
(S P LaFontaine) Capt & Adjt

(PTO)

Exhibit A 29

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F36422	Pte	Dennis, F.	S D & G Highrs

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not admitted to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given in the most severe offence in each entry, and to any recommended special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA sec 15(1)	1 times	1 times.
For AA sec 19	3 times	3 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and Nil days in military custody, making a total of Nil days, of which _____ days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 27

6. The date of his ~~enrolment~~ attestation specified in his ~~attestation paper~~ record of service is 23 Nov 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 0 m 0 d

8. The accused is entitled to deferred pay or gratuity in respect of 1 yr 0 m 0 d service.

9. The accused is entitled to reckon 1 yr 0 m 0 d service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated _____

(*33000) Wt.24490/1750 30,000 10/43 A.& E.W.Ltd. 6[illegible]
(*50000) Wt.31044/1400 12,500 4/44 " "

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 **day of** Sep 44

[signature] Capt

SUMMARY OF EVIDENCE in the case of F36422 Pte Dennis F., Stormont Dundas and Glengarry Highlanders, a soldier of the Canadian Army Overseas. By direction of the Commanding Officer the evidence is taken on oath.

1st witness for the Prosecution

Capt J.W. Braden, having been duly sworn, states;- I am Capt J.W. Braden 2 i/c of A Coy,. During my tour of our kitchen on 22 Aug 44 I found the accused, who was on kitchen fatigue, unable to carry out his duties due to drunkenness. I ordered the accused to report to his platoon which he did not do. Sgt Hummell, his platoon Sgt then laid the charge and took Dennis off kitchen fatigue.

J.W. Braden, Capt.

The accused declines to cross examine the witness

2nd Witness for the Prosecution

C54199 Sgt Hummell A.A., having been duly sworn, states,- Capt Braden told me that Dennis had been warned to report to me off kitchen fatigue. Dennis did not report to me. When I came up for dinner Dennis was seated on the road trying to eat his dinner. He was incapable of doing kitchen fatigue due to the influence of drink. Dennis is a member of my platoon and I laid the charge against him, placing him under close arrest.

A.A. Hummell, Sgt

the accused declines to cross examine the witness.

The accused, having been duly cautioned in accordance with Rule of Procedure 4Z reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 7th day of Sep 44, in the field.

F.K. Pelton

(F.K. Pelton) Lt.,
S D & G Highlanders.

80 Q

REGIMENTAL DOCUMENTS

H.Q. FILE No. .....

NAME Pte DENNIS, A.L. REGIMENTAL No. .....

UNIT OF ENLISTMENT ..... RANK .....

	CONTENTS	NON-EFFECTIVE BY
	COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
	SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
	PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
	FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
	CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
	FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
	DENTAL HISTORY SHEET	DISCHARGE
	MEDICAL REPORT OR CASE HISTORY SHEET	DATE
	MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
	TRANSFER CLOTHING STATEMENT	AUTHORITY
	LAST PAY CERTIFICATE (M.F.D.930A)	
	PROCEEDINGS ON DISCHARGE	
	PROCEEDINGS COURT OF ENQUIRY	DESERTION
	DECLARATIONS COURT OF ENQUIRY	DATE
	PAY SHEETS	AUTHORITY
	CARDS	
	SUNDRY	

THE ACCUSED ELECTS TO BE TRIED BY F.G.C.M. 80.Q.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-SIXTH day of OCTOBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 2nd CANADIAN DIVISION CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[~~[illegible]~~]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[~~I am unable to appoint~~ :—

*(1. ~~Three Officers to form the Court~~)

*(2. ~~A Field Officer as President~~)

~~for the following reasons, namely~~ :—

In my opinion, military exigencies, namely the dispersion of units, difficulties of communication, and other difficulties render it inexpedient to comply with those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the soldier named in the annexed schedule.

*Omit if not applicable.

PROCEEDINGS REVIEWED

Reviewing Officer

4 Nov 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	H. F. McLACHLAN,	1 Cdn Fd Pk Coy, R.C.E.

Members.

Rank.	Name.	Regiment.
CAPTAIN	E. R. DICKIE	2 Cdn Div Sup Coy (6 Coy)RCASC
CAPTAIN	W. G. HAMILTON	2 Cdn Div Ord Wkshop (RCOC)

*Signed (G.V. Whitehead) Brigadier

T/ Commanding 2 CANADIAN DIVISION

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A27053, Pte George Lloyd Dennie, 11 Cdn Fd Amb, RCAMC	FIRST CHARGE A.A.Sec. 6(2)(e) BEING A SOLDIER ACTING AS A SENTINEL SLEEPING ON HIS POST (See charge sheet attd)	Not Guilty	Not Guilty	
	SECOND CHARGE (Alternative) A.A.Sec. 11 NEGLECTING TO OBEY STANDING ORDERS (See charge sheet attd)	Not Guilty	Not Guilty	

Hugh F. McLachlin Major

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :— No Sir

(Signed) G. V. Whitehead (Signed) Hugh F. McLachlin Major
(G. V. Whitehead) Brigadier,
T/Commanding 2 Cdn Division
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 27th day of October 1942.

Hugh F. McLachlin Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmative

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Accused elects trial by Court Martial.

CHARGE SHEET.

The Accused No. A27033 Pte. George Lloyd Dennis, 11 Cdn Fd Amb RCAMC., a Soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE.
AA Sec 6 (2)(a).

BEING A SOLDIER ACTING AS A SENTINAL ON ACTIVE SERVICE, SLEEPING ON HIS POST.

in that he,

at Field, on or about, 2310hrs 18 Oct 42, when a sentry on No. 1 Post, H Q, Guard, was asleep.

ALTERNATIVE CHARGE.
AA Sec 11.

NEGLECTING TO OBEY STANDING ORDERS FOR 11 CDN FD AMB.

in that he,

In the field at about 2310 hrs. 18 Oct 42 whilst a sentry was sitting down at his post., contrary to Unit Standing Order para 7 dated 27 Aug 42.

G L Morgan Smith

(G L MORGAN SMITH) Lieut-colonel.
Commanding 11 Cdn Fd Amb RCAMC.

Field.
20 Oct 42.

TO BE TRIED BY F.G.C.M.

~~xxxx

MEDICAL CERTIFICATE.

I have examined No. A27033 Pte Dennis G L. 11 Cdn Fd Amb RCAMC and find him FIT to stand trial by Court Martial.

Date 27-OCT-42

J Hornsey Roderick major RAMC
Medical Officer.

Hugh F. McLachl Maj

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the field on the 27 day of October 1942 by order of Maj. Gen. J H Roberts

Commanding 2 Cdn Div

dated the 26 day of October 1942

President.

Major H. F. McLachlin 1 Cdn Fd Pk Coy RCE

Members.

Capt E. R. Dickie, 2 Cdn Div Sup Coy (6 Coy) RCASC

Capt W. G. Hamilton, 2 Cdn Div Ord Wkshp RCOC.

, ~~Judge Advocate~~

Trial of* A 27033 Pte George Lloyd Dennis, 11 Cdn Fd Amb RCAMC

The order convening the Court, the charge-sheet and the ~~summary~~ (~~or~~ abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

, ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut C. M. Beattie, 11 Cdn Fd Amb.

~~Counsel,‡ or~~ defending officer† Lieut W H Braughall, RHLI

At o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No. Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q6274. Wt.W16626/78. 25,000 sets. 4/43. K. & H., Ltd. G667/11. Forms A 9/25.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lieut. R K Templeton, Tor Scot R(MG)

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Question to the accused.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? Not guilty

Answer.

Question.

Are you guilty or not guilty of the second charge against you, which you have heard read ? Not guilty

Answer.

Question.

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~

Answer.

Question.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? No, Sir

Answer.

The prosecutor makes an opening address ~~[handed in a written address which is read, marked , signed by the President, and attached to the proceedings]~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. A27092 Cpl Jenkins, J., 11 Cdn Fd Amb RCAMC

being duly sworn, is examined by the prosecutor.

Know accused (points)
Was NCO i/c guard on 18 Oct 42 - Posted Dennis at 2200 hrs at front door of mdcn billets, No 1 post, - was to remain until 2359 hrs.

Cross-exam
No 1 post main entrance of bldg - like a verandah with two posts on either side. all staff cars + MC's go past post - are entered in book by piquet. A staff car was missing + 2 checked book + it wasn't entered - checked book with ~~them~~ at 2200 hrs + again 2230 hrs - used light with shade down to check book - when bent over looking at book with light on couldn't say if could see the light. Bench upon which book was is just usual form - spoke to him again at 2240 hrs. Did not see him again - Was not sleepy + was alert when I approached - he was a No 1 man on his post

Re-exam - I just knew about car at 2200 hrs when shield down on light I could see light only at his feet - ~~couldn't see~~ could see ~~light~~ about 50' away when shield down. If walking up behind man shield down could not see the light.

2nd Wit Pros A 27099 Pte Green, G. J., 11 Cdn Fd Amb RCAMC duly sworn, states:-
Am in orderly room + have been there 2 months. I recognize standing orders of unit which were posted on N A Coy notice board about 1 Sept +

have been there ever since (Exhibit A).
Demois in H. Q. Coy.
No Cross-exam
Court - nil

3rd wit } Captain R. C. Long, 11 Cdn Fd Amb RCAMC
Pros } duly sworn, states:-
Was orderly officer of 11 Fd Amb on 18 Oct 42.
Part of duty to check picquet. I came out of door of main bldg at 2310 hrs & did not at first see picquet - Using my flash I found him seated on a bench to the right of the doorway & did not move as I came out of the door. I went over & it was only after I had tapped his foot several times that he moved. Had to come out of two doors which would make some noise. Sitting on the bench he would be facing door

Cross-exam
I looked at my watch when found sentry
Was with sentry 1½ to 2 mins. First saw him when I shone my light over to right, he usually stands out in the doorway - Use ordinary flash not dimmed much -
Sitting with knees crossed - Didn't notice whether had kit on or off - Don't wear tin hats & don't know if he had headdress - Don't think I was mistaken. Acsd could not have been kneeling on bench the way his legs were crossed.
When I tapped his foot he got up - I had light on him all this time.
Likely could have heard inner door open but would have heard it close
Not more than one pace out of outer door when saw accused - light is partially blacked out - don't think I was mistaken.
No re-exam.
Court - nil
Prosecution closed.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. yes, sir

Question. Do you intend to call any other witness in your defence ?

Answer. yes, sir

Question. Is he a witness as to character only ? *Answer.* no

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. ~~Have you anything to say in your defence ?~~

Answer. ~~The accused in his defence says :~~

~~[hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

HMC

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

1st Wit Def } The accused duly sworn, states:-
2 was posted on picquet at 2200 hrs - there was talk about a car being out & the Cpl mentioned it when 2 was posted. About 1030 the Cpl came up & then the Ord. Sgt went through several times at 1055 he came past me - then Pte Cutting came out door mill mess tens & spoke to me when he left 2 went over to bench & was leaning over bench when the orderly officer came out - 2 didn't hear him - he ~~came~~ touched my foot with his foot & 2 turned around. 2 had gone down one page of the book 2 was checking & was doing another - it usually take 3 or 4 mins to examine it properly - 2 sprung up & he mumbled something 2 didn't hear & then he went away - came back with Ord Sgt who placed me under arrest.

Cross-exam
My back was to the door. Don't know where Ord officer came from. Definitely not sitting on bench. Light was good enough to see book by.

Re-exam - none

Court - none

2nd Wit Defence } #A5684 Pte Cutting, R.S., 11 Can Fd Amb RCAMC duly sworn, states:-
Knew Dennis. He relieved me 2200 hrs - 2 went for my lunch & when going back to guard room 2 spoke to Dennis about the missing car & then went back to guard room. Saw clock which is about 50' from Dennes & it was 2305 when 2 passed.

Cross-exam
We post the guard by the clock - can't say whether it was on time or not - it usually runs fast.

Re-exam
last time 2 was on guard the clock was 1 min fast.

Court - clock is through the guard room. 2 wanted to see what time it was.

3rd Wit Defence } #A27072 Sgt Barker E.J., 11 Can Fd Amb RCAMC duly sworn, states:-
Was Ord Sgt 18 Oct. Saw Dennis at 2255 - he halted me when I was making blackout check - did not accompany orderly officer until after Dennis placed under arrest. Have known Dennis since unit formed - can't say whether he was on sentry duty before.
Received orders to place Dennis under arrest at 2310 hrs - 2 was in room just above where Dennes posted.

Cross-exam
arrested at 2310 - Capt Long looked at his watch - Proceeds at front door halted me - it is habit of picquet to halt everyone. Was 2255 when 2 passed clock.

Re-exam - none

Court - what clock to see if Capt Longs watch compared with guard clock.

Defence closed.

Defending officer in closing - submits accused not asleep or sitting down
Contradiction in evidence - loopholes in prosecution evidence in favor of accused
Remains evidence.

Prosecutor in closing - Contradiction in evidence between Capt Long & accused
Proved between Cutting & Long seeing accused was sufficient to go to sleep

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused Not guilty of the first charge and second charge

Court re-opened & court finding read in open court.

Hugh E. McLachlan Mjr
President

Proceedings on Conviction *before* Sentence.

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused in a departmental [illegible] or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

Exhibit A
Lieut. F.M. Rankin Major

STANDING ORDERS
for
11 Cdn Fd Amb. RCAMC. 27 AUG 42.

- - - - - - - - - - - - - - - - - -

7. Guards & Picquets.

5. The Guard or Picquet will not take off any article of clothing or accoutrements while on guard. They will remain standing at all times while on post, and in their 4 hours off duty, will remain in the Guard Room.

CERTIFIED TRUE COPY.

Field.
20 Oct 42.

(G L MORGAN SMITH) Lieut-colonel.
Commanding 11 Cdn Fd Amb RCAMC.

ABSTRACT OF EVIDENCE IN THE CASE OF A27033 PTE George Lloyd DENNIS.
11 Cdn Fd Amb RCAMC.

It is proposed to bring forward Captain R G. Long RCAMC., 11 Cdn Fd Amb, who was Orderly Officer making his rounds, as witness for the prosecution.

Captain R G. Long, at about 2310hrs on 18 Oct 42, visited sentry Post No. 1 in front of the main headquarters building, and found No. A27033 Pte G L Dennis, 11 Cdn Fd Amb, sitting down, head down.

Pte Dennis was not aware of his approach, he did not move when a flashlight was shown in his face, and only moved when his foot was tapped to rouse him.

An extract from Unit Standing Orders will be produced by No. A27099 Pte. Green D J., 11 Cdn Fd Amb, who will be prepared to swear that these orders have been posted on the headquarters notice board since 1 Sep 42.

It is proposed to bring forward No. A27092 Cpl Tomkins T., 11 Cdn Fd Amb who was Corporal of the Guard on the night of 18 Oct 42, as witness for the prosecution, who will be prepared to swear that, No. A27033 Pte Dennis G L., was posted by him at 2200hrs, at No. 1 Sentry Post and was warned by him that his tour of duty was from 2200hrs to 2400hrs.

Field.
20 Oct 42.

Hugh F. M. Leckie Major
11 Cdn Fd Amb RCAMC.

KK-132

GNR DENNIS H E.

KK-132

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 19 th day of Aug, 1943

Whereas it appears to me, the undersigned, an officer in Command of 1 Army Gp., R.C.A. First Cdn Army, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

~~And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary Genl Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*I am unable to appoint:—~~

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President;~~

~~for the following reasons, namely:—~~

* Omit if not applicable.

Gl Lepus

Re Tertsonler Capt

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	H.D. Hayden	3 Cdn Med Regt.

Members.

Rank.	Name.	Regiment.
Captain	(to be detailed by C.O.)	1 Cdn Med Regt.
Lieutenant	(to be detailed by C.O.)	4 Cdn Med Regt.

*Signed (D. J. Leach) Brigadier
Commanding 1 Army Gp., R.C.A.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F14183 Gnr. Dennis, H.E. 1 Cdn Med Regt	FIRST CHARGE A.A. Sec. 9 (1) W.O.A.S. Disobeying in such a manner as to show wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office.	Guilty	Guilty 60 days Detention 21 Aug 43. H.D. Hayden Maj.	Confirmed R.J.L.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" N/A.

Answer (to be recorded on separate sheet if necessary):—

(Signed) R.J. Leach (R. J. Leach) Brigadier Commanding 1 Army Gp., R.C.A. Convening Officer (e)

(Signed) H.D. Hayden Maj. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of Aug 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court ✓
2. The witnesses ✓
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

Signed this 21 day of Aug 1943.

H.D. Hayden Maj.
President of the Court Martial.

* Omit if not applicable.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

H.D.H.

President of the Court Martial.

* See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ R.J.L.

Signed this 23rd day of August 1943

R.J. Leach
Confirming Officer.
(R. J. Leach) Brigadier
Comd. 1 Army Gp., R.C.A.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of F14183 Gnr. Dennis H.E.

(a) (Dated) 24 Aug 43 (Signed) H.D. Sutter Capt. ADJUTANT, 1 MED. REGT. R.C.A.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. 14183 Gnr Dennis, Hugh Merl, of the 2nd Bty 1 Cdn Medium Regiment, a soldier of the Cdn Army (Overseas), is charged with:-

First Charge
Sect 9 (1)
Army Act

W.A.O.S. DISOBEYING IN SUCH A MANNER AS TO SHOW WILFUL DEFIANCE OF AUTHORITY, A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS OFFICE

in that he

at Dunley Hill Camp, at approximately 0100 hrs on 31 Jul 43, being a member of the Regimental Gate Guard, when personally ordered by Bdr Loader, the Guard Commander, to "Get out and do your beat, Dennis", replied "I am not going to do it", and did not do his best.

(G.A. Johnston) Major RCA
A/Comd 1 Cdn Medium Regt

In the Field
17 Aug 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(R. J. LEACH) Brigadier
Comd. 1 Army Gp., R.C.A.

In the Field

19 Aug 43

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA [illegible]

I certify that I have this morning examined

No. F14183 Gnr Dennis, Hogh Earle

of 1st Med. Regt RCA and in my opinion he

is fit/~~unfit~~ to undergo Trial by Court Martial.

Station Field

Date 21 August, 1943

L. L. Plak Capt. RCAMC.
Medical Officer

[illegible]

HBH

PAGE 1

Accused F14183 Gnr. Hugh Earl Dennis 1 Cdn. Med. Regt. RCA.
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in England on 21 Aug 43.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major H. D. Hayden	3 Cdn. Med. Regt. RCA.	
MEMBERS:	Capt. E. A. Mowatt	1 Cdn. Med. Regt. RCA	
	Lieut. R. G. Lalonde	4 Cdn. Med. Regt. RCA	

JUDGE ADVOCATE: (If any)

OFFICERS UNDER INSTRUCTION:

PROSECUTING OFFICER: Lieut. A. G. Thomas Lawyer? Ans no.

DEFENDING OFFICER: Lieut. J. H. Harrington Lawyer? Ans no.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Re P 17(E), 22(A)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (R.P.49; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge discloses an offence. (R.P.106)

The accused is (are) brought before the Court, and at 0909 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R. (Can)557 (See CMHQ Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to N.A. as interpreter? Ans ____

The interpreter is duly sworn.

Do you object to C1158 Gnr. H. T. Shields as shorthand writer? no.

The shorthand writer is duly sworn. (Forms of Oath on Page 'C'.
The Convening Order is read in the hearing of the accused.
The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the Officers whose names you have heard read over? Ans no.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.26-27 (Forms of Oath on Page 'D')

The Charge Sheet(s) is (are) initialled by the President.

~~The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.W.46(2))~~

(If special plea/s is/are made for separate trial on one or more charges (Rs P 62(E), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.W. 130, R.P.57), record such pleas and evidence (if any) on separate sheet/s to be initialled by the President and attached to the proceedings.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Guilty	Fifth Charge _____
Second Charge _____	Sixth Charge _____
Third Charge _____	Seventh Charge _____
Fourth Charge _____	Eighth Charge _____

(For procedure on alternative charges, see R.P. 37, fn 2)

Further proceedings are recorded on Pages hereto attached.

HSW

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans no.

HSW (Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans no

HSW (Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans yes.

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.896) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "B", and "C", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans no. (No cross-examination)

HSW (Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.B.3)
(Punishments, A.A.44, F.R(Can)563 - 566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

H. Hayden Mag
(Signature of President)

PAGE 'B'

(For use when accused pleads 'Not Guilty' to all Charges)
(All printed matter not applicable to be struck out, and all alterations, erasures, and additions to be initialled by the President)

1. President to accused:
Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A). Ans_____

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.[illegible] fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans _____
Q. Do you intend to call any other witness in your defence? Ans _____
Q. Is he a witness as to character only? (R.P.40(B)) Ans _____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see Rs P 40, 41 and 42)

8. The Court is now closed to consider the finding (Rs P 43 and 117) (Record Finding on Page [illegible] of A.F.A.3)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F(B).6) signed in the manner required by A.A.[illegible](1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "[illegible]", "[illegible]" and "[illegible]" initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131)

11. President to accused:
Q. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.46(D).
Ans _____ No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.44, K.R.(Can)567-568; one sentence only awarded, (R.P.46); sentence should be dated.

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

PAGE 'C'

[For use when there are pleas of 'Guilty' and 'Not Guilty']

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, in respect to 'Guilty' pleas, by the President ascertaining that accused understands the nature of the charge(s) (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P.37(B) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:

Q. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby or that you have not had sufficient time for preparing your defence? (R.P.37(A). Ans _____

3. The Prosecutor's opening address (if any) (R.P.37(B) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See Record of Evidence on Page 'D')

4. The Prosecution is closed. (If submission that no prima facie case established, see R.P. 80 fn 1; R.P. 70 fn 1)

5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination. (R.P. 40, fn 2) or that he may, if he wishes make an unsworn statement upon which he can not be cross-examined. (R.P. 40(D)(ii)(a))

6. President to accused:
Q. Do you apply to give evidence yourself as a witness? Ans _____
Q. Do you intend to call any other witness in your defence? Ans _____
Q. Is he a witness as to character only? (R.P. 40(B) Ans _____

7. The evidence for the defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

8. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses, see R.P.40, 41 and 42)

9. The Court is now closed to consider the finding. (R.P 43 and 117) (Record Finding on Page 2 of R.P.A.3)

10. The Court being re-opened, the accused is again brought before it and the findings of 'Not Guilty' (if any) are pronounced. (R.P.117(B))

11. The charges, to which the accused pleaded 'Guilty' are read to the accused.

12. President to accused:
Q. Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded 'Guilty'? (R.P.37(B) Ans _____

(Statement (if any) not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon.)

13. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such Summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings) R.P.37(B).

PAGE '6' CONTINUED

14. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C)) Ans _____
No cross-examination.
(Statement (if any) is recorded on separate sheet, initialled by the President and attached hereto)

15. President to accused:
Q. Do you wish to give evidence yourself or call witnesses as to character? (R.P.37(C)) Ans _____

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

16. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.167(1)(m) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings. (R.P.46; Overseas R.O.3331)

17. President to accused:

Q. Do you wish to address the Court on the Statements of Character, Service and Conduct and in mitigation of punishment? (R.P.46(2)).
Ans _____ No cross-examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto)

18. The Court is not closed to consider the sentence. (Record on Page 2 of A.F.A.3)

(Punishments, A.A.44; K.R.&(Can)563 - 566; one sentence only required, R.P.48. Sentence should be dated)

The sentence is not announced to the accused by the Court.

_____
(Signature of President)

[illegible]

[illegible] record evidence in the first person, i.e.: "On 13 7, Corporal T. Jones, [illegible] stated:- 'I saw a quantity of [illegible] in the room at [illegible] Cpl 14 Jun 42 [illegible] be accused to [illegible] or words to that effect. [illegible] was not to do so.'" If a shorthand writer is employed, he should record the evidence verbatim, i.e. by question and answer. After completion of examination-in-chief, cross-examination, re-examination by the defending officer and prosecutor, proceed with evidence in the same manner. If the prosecutor or accused [illegible], enter the words "Re-examined by the Prosecutor" and proceed as above. If a shorthand writer is not employed the [illegible] of each witness must be read over to him at the [illegible] his evidence and a note made after the evidence of each witness "It was read over to the witness [illegible] evidence [illegible] and signed with."
If a shorthand writer is employed, it shall not be necessary to read the evidence over unless the witness so desires; if the evidence is not read over a note shall be made after the evidence of each witness "It was not read over to the witness [illegible]."

[illegible] BE ADMINISTERED TO [illegible]

President and Members

"You shall well and truly try the accused (or "accused persons) before whom you are [illegible] to the evidence, and that "you will duly administer justice according to the laws in force for the "Government of the Militia of Canada, without partiality, favour or "affection, and you do further swear that, except so far as may be per-"mitted by instructions of the Presiding Officer for the purpose of communicating "the sentence to the accused you will not disclose the sentence of the Court "until it is duly confirmed, and you do further swear that you will not on "any account at any time whatsoever disclose, or discover the vote or "opinion of any particular member of this court-martial unless thereunto "required in due course of law."

Judge Advocate

"You shall well and truly [illegible] that you will not, unless it is necessary for the "due discharge of your official duties, disclose the sentence of this court-"martial until it is duly confirmed, and that you will not on any account, "at any time whatsoever, disclose or discover the vote or opinion of any "particular member of the court-martial unless thereunto required in "due course of law."

Officers under Instruction

"You shall well and truly [illegible] that you will not disclose the sentence of this "court-martial until it is duly confirmed; and that you will not on any "account, at any time whatsoever, disclose or discover the vote or "opinion of any particular member of this court-martial unless thereunto "required in due course of law."

Shorthand Writer

"You shall truly and faithfully [illegible] that you will to the best of your "power take evidence to be given before this court-martial and such other "matters as may be required, and will, when required, deliver to the court "a true transcript of the same."

Interpreter

"You shall truly and faithfully [illegible] that you will to the best of your ability truly "interpret and translate, as you shall be required to do, touching the "matter before this court-martial."

Witness

"You shall [illegible] that the evidence which you shall give before "this court shall be the truth, the whole truth and nothing but the truth."

PAGE 'B'

RECORDING AND DISPOSAL OF PROCEEDINGS

1. The original record, only, is required except where the charge(s) is (are) ones(s) respecting injuries sustained by the accused, when a true copy thereof will be prepared and forwarded.

2. All alterations, interlineations and erasures shall be initialled by the President or Judge-Advocate (if any)

3. The President or Judge-Advocate (if any) will attach all documents at the top left corner thereof to the top of Page 3 of this form in the following order:

(i) Charge Sheet initialled by the President
(ii) Medical Certificate, initialled by the President.
(iii) Record of Evidence, initialled by the President, with the pages numbered consecutively.
(iv) Exhibits, in order of production, marked as such by consecutive letters and initialled by the President
(v) The Summary of Evidence (if not already an exhibit), and initialled by the President.
(vi) Declaration (if any) under R.P. 104 (Form - M.M.L. p741), and initialled by the President.

4. The heading of each of the three pages, 'A', 'B', and 'C' indicates the nature thereof. As occasion requires, the appropriate page will be used and the others returned with the proceedings to the Confirming Officer or to the D.J.A., H.Q., First Cdn Army, in accordance with the appropriate drill for different formations. The delivery of the documents should be made without delay by the speediest method. When not delivered by hand by the President, they should be accompanied by a covering letter in an envelope marked 'Confidential'. The release of exhibits will not be granted until after confirmation and review of the proceedings. Application therefor must be made to the J.A.G. Branch, CMHQ, through the normal channels.

Summary of Evidence in the case of:-

F14183 Gnr Dennis, H.E
2 Med Bty 1 Cdn Med Regt RCA
Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

1st Witness for the Prosecution — D-9062 Bdr Loader, L.E.M., 2 Med Bty 1 Cdn Med Regt RCA having been duly sworn states:-

I am D-9062 Bdr Loader, L.E.M., 2 Med Bty 1 Cdn Med Regt RCA. I was Regimental Gate Guard Commander from 1700 hrs 30 July 43 to 1700 hrs 31 July 43. F14183 Gnr Dennis H.E was a member of the Regimental Gate Guard. I called Gnr Dennis at about 0053 hrs 31 July 43, and said:-Wake up. It's time to go on your beat." Gnr Dennis mumbled and started to get his boots on. About five minutes later I went back and he still was not ready for guard. I said:"Come on, get going the fellow out there wants to be relieved. Its one O'clock." Gnr Dennis said:"What would a fellow get if he did not go on his beat?" I said:"Don't be foolish." When I saw that he really meant not to go on his guard, I went for the Orderly Sergeant. He returned with me to the guard tent. Gnr Dennis was still in the guard tent. Sgt Nicholson questioned the defendant Gnr Dennis as to the trouble, and I said:"Get out and do your beat, Dennis." Gnr Dennis said:"I am not going to do it." I said:"Don't be foolish,Dennis,go out and do your beat. The fellow out there is waiting to be relieved." Gnr Dennis answered:"I am not going to do my beat," Sgt Nicholson then placed him under close arrest.

(D-9062 Bdr Loader L.E.M)
2 Med Bty 1 Cdn Med Regt RCA

The accused declines to cross-examine the witness

2nd Witness for the Prosecution — F-14265 Sgt Nicholson D., 2nd Med Bty 1 Cdn Med Regt RCA having been duly sworn states:-

I am F-14265 Sgt Nicholson D.,2nd Med Bty.,1 Cdn Med Regt RCA. I was Regimental Orderly Sergeant from 1700 hrs 30 July 43 to 1700 hrs 31 July 43. At 0100mhrs Bdr Loader, Regimental Gate Guard Commander, came to me and as a result of what he told me I accompanied him to the guard tent. On arriving at the guard tent F14183 Gnr Dennis H.E., was lying on his blankets. Bdr Loader said:"Gnr Dennis it is time for you to go on guard." Gnr Dennis replied:"I am not going on guard." Bdr Loader said:"Gnr Dennis get up and go on your guard." Gnr Dennis again replied:"I am not going on guard." Bdr Loader said:"Don't be foolish Gnr Dennis, get up and go on your guard." Gnr Dennis again replied :"I am not going on guard," I then placed Gnr Dennis under close arrest

(F-14265 Sgt Nicholson D)
2 Med Bty 1 Cdn Med Regt RCA

The accused declines to cross-examine this witness.

3rd Witness for the Prosecution — Lieut. J.W.MacNaughton, 2 Med Bty.,1 Cdn Med Regt RCA having been duly sworn states:-

I am A/C.P.O 2 Med Bty., 1 Cdn Med Regt RCA. As such I submit a copy of Battery Part 1 Daily Orders, No 156 dated 29 July 1943 in which the accused, Gnr Dennis H.E was detailed for Guard Duty on the night of 30 July 43

(J.W. MacNaughton) Lieut. RCA
A/C.P.O.2 Med Bty 1 Cdn Med Regt RCA

The accused declines to cross-examine this witness.

The copy of Part 1 Daily Orders, No 156, dated 29 July 43 has been read to the accused, annexed and marked -A-

(2)

exhibit "A" to this Summary of Evidence

(J.D. Tucker) Lieut. RCA
2 Med Bty 1 Cdn Med Regt RCA

The accused was asked the following question:"Do you wish to make any statement or give any evidence on oath?" You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say, or any evidence that you give will be taken down in writing and may be given in evidence."
Answer by the accused:"I won't make no statement, Sir."

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused at Dunley Hill Camp on the second day of August 1943, and that the Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

(J.D. Tucker) Lieut. RCA
2 Med Bty 1 Cdn Med Regt RCA

21 Aug 1943.

CHARACTER WITNESSES FOR THE DEFENCE.

1st Witness For the defence — Captain Phillips, padre of the 1st Cdn Medium Regiment R.C.A. was duly sworn.

Q.1 Will you please tell the Court how long you have known the accused.

A.1 My first intiment knowledge of the accused commenced in February 1941. My knowledge of the family goes back to 1928.

Q.2 Would you tell the Court, your knowledge of the conduct of the accused.

A.2 Yes. He is a slightly irresponsibile soldier, he is a bit fed up with things lately waiting to get into action, but he is not a bad lad. Since his arrest I have had several personal talks with him and he stated "One thing is worrying me, and that is my Mother. I am worrying about my assigned pay being cut off". A man with so much consideration for his Mother, cannot have very much wrong with him. In my firm and honest opinion he is a good lad.

2nd Witness For the defence — Captain J.D. Hazen of the 2nd Med Bty 1st Cdn Medium Regiment R.C.A. was duly sworn.

Q.1 Are you Troop Commander of the troop to which Gnr Dennis belongs?

A.1 Yes.

Q.2 How long have you known the accused?

A.2 I have known Gnr Dennis for four months. Since my acquaintance with Gnr Dennis I can quite truly say that he is a good soldier. He has had two minor charges, but he is definitely an asset to the troop.

21 Aug 43.

ADDRESS OF THE DEFENDING OFFICER.

The accused has pleaded guilty but in sentencing him, I would like the Court to take these facts into consideration. You have heard the Padre and his Troop Commander, Capt. Hazon, who have both stated that the accused is a good soldier and an asset to his Troop.

Gnr Dennis enlisted on the 2nd September 1939. He came Overseas with the 1st Medium Regiment in February 1940. Since then the accused has been employed as Battery Commanders Driver. He is also qualified as a Driver Mechanic. His record of Character is very good having had only two minor charges since he joined the Army. I do not wish to minimise the seriousness of the charge now laid against him, but I would like the Court to take these facts into consideration, his very excellent record and the evidence of his Padre and Troop Commander as to his previous conduct and his value to the Regiment.

DAILY ORDERS
BY
MAJOR G.W. JOHNSTON
O.C. 2 Med Bty 1 Cdn Med Regt

Exhibit "A"

29 Jul 43

Part 1. (136)

I. DAILY ROUTINE

Reveille	0630 hrs		
Breakfast	0715 hrs	Troop Parade	1330 hrs
Sick Parade	0745 hrs	Supper	1700 hrs
Troop Parade	0830 hrs	First Post	2130 hrs
Dinner	1215 hrs	Lat Post	2200 hrs
		Tattoo	2300 hrs

Lights Out 2315 hrs

2. DUTIES

30 Jul 43 - Battery Orderly Sergeant - Sgt Holt
31 Jul 43 " " " " - Sgt Elliott

30 Jul 43 - Regt'l Orderly Officer - Lieut Buskwell

30 Jul 43 - Battery Runner - 1730 hrs - Gnr Arthur G.W

M.T. PROWLER GUARD - To mount at Bty Parade Gnd 1630 hrs 30 Jul 43
L/Bdr MacDonald A.D
Gnr Cleary T
Gnr Gnr Smith J.R Gnr MacAdam L.M

G Th GUARD - To mount at Bty Parade Gnd 1630 hrs 30 Jul 43
Bdr Loader L. L.M
Gnr Dennis H.E L/Bdr Arkwright C.R
Gnr Comeau C.W Gnr Champagne N
Gnr De usoliel J.M.H. Gnr Burns G.F Gnr Bernard C.J
Gnr Bernard R.J Gnr Brandt A.F
Gnr MacDonald J.E

REGT'L DET'N GUARD - to mount at Bty Parade Gnd 1630 hrs 30 Jul 43.
Gnr Ramsay P.E Gnr May H.H Gnr MacDonald R.F Gnr Smith S.A

NAAFI DETAIL - To report to NAAFI Manager 0830 hrs 30 Jul 43.

CANTEEN DETAIL - To report to YMCA at 1800 hrs 30 Jul 43 - Gnr Henderson G
Gnr Berriault P.

L.A.D. 30 July 43
Gnr Dixon L.H Gnr Cheverie M.L Gnr Gill E.F
Gnr Bently G.W Gnr Sherren L.H Gnr Costello J.H Gnr Stern W
Gnr Bennett E.L Gnr Rose E.F Gnr Thistle D.T Gnr Swallow J.H

BATTERY BICYCLE

It has become a practice to borrow the Bty Runner's bycycle for making trips in the Regt'l Area and on the occasions for trips to neighbouring villiages. In future no requests will be made for use of Bty Runners Bicycle which will be at all times at the Bty Runner's disposal.

WORKS HOURS / THURSDAY 29 Jul 43

R.C. Personnel 2nd Bty will Parade, NAAFI 1400 hrs
Protestant Personnel 2nd Bty will Parade NAAFI 1500 hrs

MISC. INSPECTION - COOKS

The attention of all cooks and all person el employee in Kitchens is

DAILY ORDERS
BY
Exhibit "A"

Part 1. (136) MAJOR G.W. JOHNSTON 29 Jul 43
O.C. 2 Med Bty 1 Cdn Med Regt

1. DAILY ROUTINE

Reveille	0630 hrs	Troop Parade	1330 hrs
Breakfast	0715 hrs	Supper	1700 hrs
Sick Parade	0745 hrs	First Post	2130 hrs
Troop Parade	0830 hrs	Lat Post	2200 hrs
Dinner	1215 hrs	Tattoo	2300 hrs

Lights Out 2315 hrs

2. DUTIES
30 Jul 43 - Battery Orderly Sergeant - Sgt Holt
31 Jul 43 " " " " - Sgt Elliott

30 Jul 43 - Regt'l Orderly Officer - Lieut Buckwell

30 Jul 43 - Battery Runner - 1730 hrs - Gnr Arthur G.W

M.T. PROBLEM GUARD - To mount at Bty Parade Gnd 1630 hrs 30 Jul 43
L/Bdr MacDonald A.D
Gnr Cleary T Gnr Gnr Smith J.R Gnr McAdam L.M

G.T.S. GUARD - To mount at Bty Parade Gnd 1630 hrs 30 Jul 43
Bdr Lonsdale L.E.M L/Bdr Arkwright C.H
Gnr Dennis H.E Gnr Champagne N Gnr Bernard C.J
Gnr Comeau C.W Gnr Burns C.F Gnr Brandt A.C
Gnr De usoliel J.W.H. Gnr Bernard R.J Gnr MacDonald F.I

REGT'L DET'N GUARD - to mount at Bty Parade Gnd 1630 hrs 30 Jul 43.

Gnr Ramsay P.E Gnr May R.H Gnr MacDonald E.F Gnr Smith J.A

NAAFI DETAIL - To report to NAAFI Manager 0830 hrs 30 Jul 43.
Gnr Berrisault P.A
CANTEEN DETAIL - To report to YMCA at 1800 hrs 30 Jul 43 - Gnr Henderson C

P.A.D. 30 July 43
Gnr Dixon L.H Gnr Cheverie H.L Gnr Gill [illegible].F
Gnr Bently G.W Gnr Sherran L.H Gnr Costello J.H Gnr Stern [illegible]
Gnr Bimmett [illegible].L Gnr Rose [illegible].F Gnr Thistle D.I Gnr Swallow J.H

BATTERY BICYCLE
It has become a practice to borrow the Bty Runner's bycycle for making trips in the Regt'l area and on the occasions for trips to neighbouring villiages. In future no requests will be made for use of Bty Runners bicycle which will be at all times at the Bty Runner's disposal.

PADRES HOURS - THURSDAY 29 Jul 43
R.C. Personnel 2nd Bty will Parade, NAAFI 1400 hrs
Protestant Personnel 2nd Bty will Parade NAAFI 1500 hrs

MEDIC. INSPECTION - COOKS
The attention of all cooks and all person el employed in Kitchens is

drawn to the Regt'l Order No. 160 dated 3 Feb 43 para 1. which reads as follows.

1. All cooks and personnel permantely employed in kitchens will report to the R.A.P. each Monday between 1430 and 1530 hrs .

J.R. MacNaughton Lieut
for O.W. JOHNSTON MAJOR RCA
O.C. 2 Med Bty 1 Cdn Med Regt RCA

Certified true copy
Daily Orders (Regt'l)
Nos 156 dated 29 July 43
J.R. MacNaughton Lieut

M.F.M. 6
(A.F.R. 122)
40/P & S/136 (2637)

No. F.1418 Name Dennis, K.E. Sqn., Battery, or Company 2nd Bty Corps 1 Cdn Med Regt

Date of enlistment 2 Sep 39 G.C. Badges NA Service or Proficiency Pay NA

Date of last entry in Company Conduct Sheet NA No. and date of last drunk NA Period not reckoning towards freedom from extra fine NA Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Feb 43	L/Bdr		AA Sec 40 neglected to turn in tattoo report	L/Sgt Sharp G.B.	Admonished	15 Feb 43	Major J.S. Dunphy	
"	16 Apr 43	L/Bdr		A.A. Sec 40 drove a W.D. Vehicle in a neglectful manner thereby damaging a bicycle to the extent of 2-3-0	Documentary	Reprimanded	24 Apr 43	Lt Col D.K. Todd	Placed under stoppages of 1-1-6

Certified true copy of Regimental Records in my possession.

R.E. Shelton Lieut
(R.E. Shelton) Lieut RCA
ROO 1 Cdn Medium Regiment

"C"

(P.T.O.)

Appx. "B"

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.14183	Gnr	Dennis, H.E.	1 Cdn Medium Regt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 977, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Section 40	1 times	2 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct. N.A.

or

There are no entries in the conduct sheets of the accused N.A.

2. The accused has not been previously convicted, *or* N.A.

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N.A. beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 21 days in military custody, making a total of 21 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 23 yrs

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 2 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is NA

8. The accused is entitled to deferred pay or gratuity in respect of NA service.

9. The accused is entitled to reckon NA service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). NA

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of NA

12. (*In the case of an officer.*) The accused holds in the army the rank of NA dated

and in his regiment (*or* corps *or* department) the rank of dated

(17556) W1.8556/400 15,000 12/40 A.& E.W.,Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. F.14183 Rank Gnr Name Dennis, H.E. of 1 Cdn Medium Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 day of Aug 43

(H. E. Shelton) Lieut Hon
ROQ. 1 Cdn Medium Regt

13 The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(Instructions.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

UU-112
CPL. DENNIS J.G.W.

JAG BRANCH - REVIEW RECORD

Accused

L. 7531 Cpl. Dennis J.B.W.
1 CASCRU.

Remarks	Date
Trial in (Country) Eng.	1st Nov. 43
Charges 15(1) + 19	
Sentence reduced.	1st Nov.
Rec'd from CR at JAG Branch	26 Nov.
To Mch for ~~(pre)~~(post) rev	26 Nov.
Recommendations by JAG Rev 2	
(1) Pass and record.	
~~(2) Ltr on irregularities~~	
~~(3) Quash charge(s).~~	
(4)	
Ret'd to JAG Rev 1 by Rev 2	26 Nov 43
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Record & file Blvd	26 Nov. 43
Instrs completed by	

UU-112

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 45/P & S./1696 (2604)

Convened by Order of Col H.R. Tyner A/ Comd "B" Gp CRU. dated 25 Oct 43

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See letter h 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
R [illegible]	[illegible]	[illegible]	
2nd Charge	not Guilty	Guilty	
4th R 1st charge	Guilty as charged to not Guilty	not Guilty	

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

R At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 30 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

R To be reduced to the ranks.

(Sgd) ..... Judge-Advocate, if any. 1st Nov/43 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I direct that the accused be not committed to [illegible] detention barracks until further orders.(1) J

(1. AA 57A. Delete if not used.)

Date 4 Nov 43 (Sgd) HQ 1 Cdn Corps Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date	Signature of Offr.
L-7531 CPL DENNIS J.G.L.	6/11/43	[illegible] a/Capt.

DO 71 49 Nov 43

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. I/c Records 1 Cdn. A.S.C. Reinf. Unit

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-7531		Cpl.	John Gilbert Wilson	DENNIS	1 CASCRU.

Proceedings Reviewed 26 Nov 43 [illegible] Reviewing Officer (J.A.G.) C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England. on (date(s)) 1st Nov/43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
R ~~The Court is satisfied that it is properly convened and constituted,~~ accused is (are) amenable to military law, and each charge discloses an offence. (2) The Court is advised that it has jurisdiction to try and that the charge(s) disclose(s) an offence
R That the accused [illegible]

R A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
R ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. ~~President to accused : Do you object to ..... as interpreter ? Ans~~
R ~~The interpreter is sworn.~~(1) ~~Do you object to ..... as shorthand writer ? Ans~~
R ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO - SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

R A7. The President, Members, ~~Judge-Advocate~~, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col.	D.L. Redman.	H.Q. C.R.U.
Member	Major	A. Gillingham.	1 C.S.R.U.
Member	Capt	W.L. Cooper.	1 CASC R.U.
Offr under instruction	Lieut.	J.H. Webster.	1 C.S.R.U.
R ~~Judge-Advocate~~			
Prosecutor	Capt	V.C. Pearce.	1 CASC R.U.
Defending Offr	Lieut	M.I. Friedman.	33 ECTC. RCASC.

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans YES

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

R A8. The accused ..... before arraignment make(s) (no) ~~No~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

R A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records this plea in Part I of the Schedule.

(1. RP 36, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and see separate copies of CF 896 to record proceedings. 2. RP 36, RP 53. If objection, decide and make appropriate record per Notes.)

R A10. The Court ~~adjourned~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 12 and 13

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ~~ALL~~ 1st CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

R ~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

R B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*) NOTE-ATT

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ~~ALL~~ 2nd CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO SIR (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

K D2. The Prosecutor makes (~~no~~) (no) opening address.(1) NOTE-ATT
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

R ~~D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Neither Sir Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans No
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

R D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

R ~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and as he is released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

R ~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans yes just letter as to character
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*) NOTE ATT

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFR 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(2) Ans Only by my self. Officer NOTE ATT
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused to call witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

R E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 209, 2327, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(D), MML p 126. When accused already under sentence of imprisonment or detention see AA 44(B), 96(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispose of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, L-7531 Cpl. John Gilbert Wilson DENNIS, RCASC, on strength of 1 Cdn. A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with:

1st Charge
A.A. Sec.
15 (1).

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the field absented himself without leave from "C" Pl, 41 Cdn Gen Tpt Coy, RCASC, from approximately 1230 hrs 2 Oct 43 until 1730 hrs 2 Oct 43 when he was apprehended by the Civil Police in Liverpool, thereby incurring costs of apprehension in the amount of £2-16-8. (Total Time Absent 5 hours).

2nd Charge
A.A. Sec.
19.

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he,

in the field when on duty in convoy on 2 Oct 43 was drunk.

W. C. Fletcher

Farnborough, Hampshire.
24 October 1943.

(W.C. Fletcher) Lt-col.
Comd No 1 Trg Wing.
1 Cdn. A.S.C. Rft. Unit.

To be tried by Field General Court Martial.

H.R. Tyner

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

25 Oct 43

Medical Officers' Certif.
K.R. (Can) para 557

I certify that I have this morning examined No: L.7531.....

Cpl. DENNIS, J.G. and in my opinion he is fit to undergo
(rank) (name)

trial by Court Martial.

Station:

Date: 1st Nov. 1943 - M

W.G. Krauser Capt.
(Medical Officer)
1 Cdn A.S.C. Rft Unit

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-7531		Cpl	John Gilbert Wilson	DENNIS	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) ..... endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Lt-col	D.L. Redman	HQ CRU

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Major	to be detailed by	1 CSRU
Captain	to be detailed by	1 CASCRU

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.

On Active Service in the Fd

in England (Country.)

H.R. Tyner (Signed ~~personally~~ RP 105 fn 2) Col (Rank.)

Date 25 Oct 43

A/Commanding (H.R. Tyner) Colonel
HQ "B" Gp CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MY

The Court took evidence to cover a discrepancy in the Summary on 1st Charge.

Police Sergeant, 85, J.H. Allman, Cheshire Constabulary, Altrincham, being still under oath, states:-

I first met the accused at 6.15 p.m. at Altrincham, Cheshire, on 2 Oct 43. I arrested him and took him to the Civil Police Station where he was detained in custody and he was handed over to C.Prov.C. the same night.

The President then pointed out that there was no evidence in the testimonies of Lieut Rhodes or elsewhere proving that the accused absented himself "from "C" Pl 41 Cdn Gen Tpt Coy, RCASC." He also stated that the court could not make a special finding on a plea of Guilty. The Defending Officer stated that the accused would not make a plea with an exception under RP.44(H), and asked the court to enter a plea of Not Guilty, which was granted, and the record was amended accordingly.

The prosecutor stated that Lieut Rhodes cannot be summoned to be a witness as he is on special duty elsewhere and will not be available and stated that he had no evidence to prove the particular facts above referred to.

The prosecutor asked for an adjournment to obtain a Part II Order from the Rear Party of 41 Cdn Gen Tpt Coy, RCASC, to prove those facts.

The Defending Officer stated that he opposed the granting of an adjournment. The accused had been in close custody awaiting trial 30 days. Two Summaries of Evidence had been taken and any deficiencies in the evidence could have been remedied. He stated that the prosecutor at any time during the 30 days had not evidence to meet the plea of Not Guilty. He said that a Part II Order that was now obtained would probably be based on hearsay because if there were any facts available on which to base such an Order that evidence could now be produced before this court.

He stated that the lack of preparation of evidence on the part of the prosecution was negligence on their part. They could have got the Part II Order any time in the last 30 days. He quoted fn.4 to RP 86 and said that the court should not grant an adjournment or allow any evidence to be called at this stage.

The court was closed to consider the application.
The court re-opened.

The President announced that the court refused to grant an adjournment or to allow new evidence to be called.

The Defending Officer submitted that no prima facia case had been made by the prosecutor on the 1st charge and asked that the accused be found Not Guilty thereof.

The prosecutor replied.

The court was closed to consider the Defending Officer's submission.
The court re-opened.

The President announced that the submission was allowed and that the accused was found Not Guilty on the 1st charge.

[redacted] was released.

THE COURT WAS CLOSED.

Trial of L 75 31 Cpl. J G W. Dennis 1 Cas CRU
Page 1

NOTE D3 1

1st witness for the Prosecution

Mrs Mary Shadbolt Manageress of Unicorn Hotel Altrincham Cheshire being duly sworn states

I recognize the accused. He came in the Unicorn Hotel about 2 P.M. on a Saturday about 5 weeks ago. He bought off me 4 double whiskies and one or two Gills of beer. He left at 3 P.M. when I closed. He seemed to be quite all right He walked out quite straight

Cross Examined by Def Officer

I didn't see him drink the whiskey. He may have given them to some one else. He was quite sober as far as I could tell. He was quiet and sociable.

2nd witness for the Prosecution

P.C. (270 A) J. A Hopkins of Liverpool City Police being duly sworn states

I recognize the accused. at 5.30 P.M. on 2 Oct 143 I was on Traffic duty at corner of London Road & Lime Street when I saw a soldier on a motor cycle coming in on the London Road. When near the corner he swerved to the side and fell off his machine. I assisted him to his feet and smelt alcohol on him. He was thick in his speech. He staggered slightly. I took him to Lime Street station then to Main Bridewell station where he was put in a cell to await military escort. It was fine and dry when he fell off his machine

Cross Examined by Def Officer

It is about 22 miles from Altrincham to Liverpool. I cannot swear that some

mechanical defect in the cycle did not cause him to fall. He was quiet. He wasnt hurt. He was still staggering when I took him to Main Bridewell State

3rd witness for the Prosecution

Inspector Thomas Heatley of Liverpool Police Force being duly sworn states at 1830 hrs 2nd Oct /43 - I was on duty at Main Bridewell Police station Liverpool when P.C Hopkiss brought the accused into me - I noticed that he could only walk with the help of the constable and when at the counter he kept swaying He smelled strongly of drink. His speech was so thick that I couldnt understand him. He was quite unfit to be in charge of a motor vehicle and as a result of my judgment the accused was to be charged. when driving a motor vehicle to wit etc he was under the influence of drink to such an extent as to be incapable of having proper control of the vehicle etc. if Civil Police were to try him

Cross Examined by D of Officer

Its about 30 miles from Liverpool to Altrincham. The accused was quiet. He was almost incapable of doing anything He was asleep in his cell for the 3½ hrs during which I remained on duty.

4th witness for the Prosecution

Mrs Alice H. Jones 4a Old Market Place Altrincham being duly sworn states I cannot say or swear that I recognise in this room a motor cyclist whom I saw thrown down a Miss Burton 4 weeks last Saturday. He looked to be an older man than the accused.

The 4 Equity Officer declined to cross examine

5th Witness for the Prosecution

Miss Ann Hidden Rangemoor W.L.A. Hostel Chester Road N 2 Knutsford. being duly sworn states.

I recognise the accused. On Sat. afternoon The 1st Sat in Oct The 2nd or 3rd at about 3 30 P.M. I heard a crash in the road. I went out and I saw an injured woman and the accused with a motor cycle about 10 yds away. I told the accused he must wait for the police. I told him to switch off his engine. I went in to phone the police when I came back out he was gone. The accused smelt strongly of drink His eyes were bloodshot. His face was congested and I concluded that he was incapable of understanding what was said to him

Cross Examined by 4 of Officer

It appeared to me that accused had knocked the woman down. I doubt if he realized that he had hit it.

~~The Prosecution advised the Court that Mr W.C. Rhodes was not available to give evidence as he was away on special duty and he asked for an adjournment on the 1st charge to get other evidence The 4 Equity Officer opposed~~

(OVER)

NOTE D 6 . R

Page 4

Trial Proceeded on 2nd charge.
The President advised the accused
under Rule 2 R P 40.

1st Witness for the Defence

A 55471 Pte (A/cpl) M. J. Warvie RCASC
being duly sworn states
On 2nd Oct I was on Convoy duty with
accused we had come Wellington to
Manchester and we were returning to
Wellington. It was an exercise. We had
been a week out. On 1st Oct we had
ridden 180 miles. The 2 Oct about 90.
We had only 1 hours sleep the night before
The case for the Defence is closed.

MJ

NOTE E 1 K

Witness as to Character

Capt W. L. O. Carter of 1 CASC R.A. being duly
sworn states
I have known accused since Oct 1942.
He is a good worker. does his work
satisfactory and has the reputation
of being one of the better type of Corporals

MJ

NOTED 6 R

L. 7031 Cpl. John Gilbert Wilson Dennis, RCASC, 1 Cdn. Rdt. R.V.

~~[illegible]~~ Argument for Defence –

One witness for prosecution swears positively the accused was sober. She saw him during & just after bid been drinking. The ev. shows he had been D'Ring for a week – Drove 180 miles day before – 90 miles that day. They had 1 hr.'s sleep night before on account of rain. His condition can be accounted for by reason of fatigue from his work & nature of the work.

Burn on ~~[illegible]~~ prosecution to prove case beyond a reasonable doubt – Ev. of defence raises a reasonable doubt as to his condition.

M. J. Friedman, Lt
Defending Officer.

NOTE E 3

L: 75-31 Cpl John Gilbert Wilson Dennis, R.C.A.S.C., 1 Cdn. A.S.C. R.U.

Plea in Mitigation

Fact that accused had been working so hard should be taken into consideration – He was cold, tired, wet – needed refreshment. ~~[illegible]~~ Little sleep night before – only one hour. A good wine sheet – Has already been in confinement for 30 days – A minor punishment should suffice.

[illegible]
Defending Officer

L 75

LIST OF WITNESSES FOR THE PROSECUTION

1. Lt. R.D. Munnoch, RCASC, 1 Cdn. A.S.C. Rft. Unit.

2. Mrs. May Shadbolt, Manageress of Unicorn Hotel, 70 Manchester Road, Altrincham, Cheshire. (Documentary)

3. Police Sergeant, 85, J.H. Allman, Cheshire Constabulary, Altrincham. (Documentary)

4. Lt. W.F. Rhodes, 41 Cdn Gen Tpt Coy, RCASC. (Documentary)

LIST OF WITNESSES FOR THE PROSECUTION

1. Lt. R.D. Munnoch, RCASC, 1 Cdn. A.S.C. Rft. Unit.

2. Mrs. May Shadbolt, Manageress of Unicorn Hotel, 70 Manchester Road, Altrincham, Cheshire. (Documentary)

3. Inspector Thomas Heatley, Liverpool City Police. (Documentary)

4. P.C. (270A) J.A. Hipkiss, Liverpool City Police. (Documentary)

5. Lt. W.F. Rhodes, 41 Cdn Gen Tst Coy, RCASC. (Documentary)

6. Mrs. Alice Hodgson Jones, 4a, Old Market Place, Altrincham. (Documentary)

7. Mrs. Ann Hidden, Rangemore, W.L.A. Hostel, Chester Road, Millington. (Documentary).

LIST OF EXHIBITS

(a) Sworn statement of Mrs. May Shadbolt, Manageress of Unicorn Hotel, 70 Manchester Road, Altrincham, Cheshire.

(b) Sworn statement of Inspector Thomas Heatley, Liverpool City Police.

(c) Sworn statement of P.C.(270A) J.A. Hipkiss, Liverpool City Police.

(d) Sworn statement of Lt. W.F. Rhodes, 41 Cdn Gen Tpt Coy, RCASC.

(e) Statement of Mrs. Alice Hodgson Jones, 4A, Old Market Place, Altrincham.

(f) Sworn statement or Mrs. Ann Hidden, Rangemore, W.L.A. Hostel, Chester Road, Millington.

(g) Form CMHQ, 1000:55 - Expense Voucher, purporting to be signed by Lt. J.T. Burger.

EXHIBIT "A"

A — Summary of Evidence in the case of
L 7531 Cpl. John Gilbert Wilson Dennis, 41 Can Gen Pt Coy. R.C.A.C.

The Commanding officer directs that the evidence be taken on oath.

First Witness for Prosecution.

Mrs. May Shadbolt, 70 Manchester Road, Altrincham, Chesire, having been duly sworn states:—

The accused whom I now recognize, came into the Unicorn bar room at about 1400 hrs. with the other accused. They had about four double whiskies and then after that just one or two drinks of beer and then it was three o'clock. They were quiet and sociable customers and they left here at three o'clock and as far as I know they were quite alright.

Cross Examined by the accused:

Q. Do you mean we had 2 whiskies each or 4 each?

A. You each had four whiskies.

Q. Do you think we were drunk?

A. No. You were not drunk at three o'clock when you left me.

Signed (May Shadbolt)

Certified True Copy.
J. F. Burger Lt.

EXHIBIT "B"

Second Witness for Prosecution

Inspector Thomas Heatley, Liverpool City Police, having been duly sworn, states:

At 18 30 hrs. 2 Oct 43 I was on duty at the Main Bridewell Liverpool when the accused, whom I recognize was brought in by P.C. 270 "A" Hipkiss. ~~[illegible]~~ ~~[illegible]~~ was drunk and not fit to have control of a motor vehicle.

Cross Examined by the accused:—

Q. Did I cause any trouble when I was brought in?

A. No.

T. Heatley. Insp.

EXHIBIT "C"

MAIN BRIDEWELL
LIVERPOOL CITY POLICE

Third Witness for Prosecution

P.C. Hipkiss, Liverpool City Police, having been duly sworn states:

At half past five on Saturday 2 Oct 43 I was standing on the Junction of London Road and Lyme Street on traffic duty. When I saw a military D.R. coming down the London Road. He suddenly swerved into the side and fell off his machine. I went over and assisted him to his feet and noticed that he was very drunk, smelling very strongly of alcohol. I took him into Lyme Street Railway Station and from there conveyed him in the Police

3

EXHIBIT "C"
(cont'd)

Patrol van to the Main of Bridewell Police Station, where he was detained pending escort. I recognize the accused as the D.R. I have been speaking about.

Cross Examined by the accused:—

Q. The road on which I fell off my machine, was it cement blocks or level cement.

A. It was the blocks that is what is called setts.

J A Hipkiss bon 270A

4.

EXHIBIT "D"

To Typed Summary
TM

Fourth Witness for the Prosecution

Lieut. W. P. Rhodes, 41 Can. Gen. Tpt. Coy., R.C.A.S.C., having been duly sworn states:—

On 2 Oct 43 at approximately 12 30 hrs. the accused, whom I now recognize, was on point duty escorting a convoy out of the outskirts of Manchester. The convoy proceeded on as per route laid down, and the accused failed to return to his section in the convoy. I did not give them permission to leave the convoy. I did not see them again, but I heard about them from the police in Wellington.

TM

Signed (W. P. Rhodes Lt.)

The accused declined to cross examine this witness.

Certified True Copy
J. P. Burger Lt.

EXHIBIT "E"

6.

Fifth witness for the prosecution

Mrs Alice Hodgson Jones, 44 old Market Place, Altrincham

I would not like to swear to it that the accused is the man who knocked Miss Burton off her cycle. A motor cyclist coming in the same direction as Miss Burton, my husband and myself, hit Miss Burton and knocked her off her cycle. He carried on for about 10 yards or so and then fell off himself. I do not think he realised he had hit anyone. We tried to get him to remain there until the police came, but although he stayed for awhile he would not wait until the police came. He smelled very strongly of drink and I think he was drunk.

Cross Examined by the accused:-

Q. Was there a convoy passing near the scene of the accident?

A. No. The only convoy we saw passed through Altrincham at about 12 3/4 hrs. and the accident occurred at about 15 30 hrs.

Q. What were my reactions to our references to the accident.

A. You seemed to think it was your accident falling off your motor cycle. I don't think you knew you had hit anyone else.

Alice H Jones

EXHIBIT "F"

Sixth Witness for the prosecution

Mrs. Ann Hidden, Langemore, W. L. A. Hostel, Chester Road, Millington, having been duly sworn states:

Sat. afternoon Oct. 2nd about 3:30 P.M. I was sitting in the house reading when I heard what I thought was a skid outside and then a crash. I saw a large boxed wagon which was passing stop, so I went out to see if there was anything I could do. There were two groups of people on the other side of the road about 10 or 12 yds. apart. The group to my left were people with bicycles, and they were gathered around a woman who was lying on the grassy verge there, so I asked if they would like to bring her into the house. They said a private car was taking her to Knutsford hospital, so I asked what had happened. They said that he, the accused, hat hit her, I went over to the other group, and saw they were standing around the accused, whom I now recognize, and his engine was still running. I told him he'd better switch off his engine as he shouldn't go until the police have seen him. But he was so drunk he didn't understand what I said. I asked one of the fry standers to switch the engine off, and they said they couldn't do that. I said, in these circumstances of course you can, in any case, hold him and take his number because

EXHIBIT "F"
(cont'd)

I'm going to phone for the police. I then came into the house again and phoned for the Rowdon police. When I went out the accused had gone. I told them they were a pack of fools and if anything happened it was more their fault than his, and I asked which way he'd gone. They said he'd gone to Mere to pick up a convoy, so I came back into the house and telephoned to the Knutsford Police, and asked them to send a man down to Mere corner to stop him there.

Cross Examined by the accused:—

Q. The noise you heard, what did you think it was, brakes or what.

A. I wasn't sure but I thought it was a skid.

Q. Do you think I knew I'd been in an accident.

A. Frankly I don't think you had the faintest idea about anything.

Anne Hidden.

The accused was cautioned as follows:—

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused did not wish to make a statement or to give evidence.

[illegible]

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of seven pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

J. T. Burger Lt.
H. Edw. Hers. Pt. Coy. R.C.A.S.C.

EXHIBIT "C"

Expense Voucher Re:- Ref: K.R. & O (Can) 539

Reg. No. L.7531 Rank Cpl. Name Dennis J. G. W. Unit 41 Cdn Gen Tpt Coy R.C.A.S.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From Liverpool to Godalming

Date	Particulars	Amount		
	Escorts ~~return~~ single fare from Forest Row To Liverpool		18	6
	Prisoners single fare to Godalming from Liverpool		16	4
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares.		5	
	Escorts single fare from Liverpool to Godalming	–	16	4
	Total	2	16	2

Icertify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt.

Officer Issuing Railway Warrant and Expense monies

SUMMARY OF EVIDENCE

IN THE CASE OF I-7531 Cpl. John Gilbert Wilson DENNIS, RCASC, on strength of 1 Cdn. A.S.C. Rft. Unit, Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken on oath.

1st WITNESS (For the Prosecution) Lt. R.D. Munnoch, RCASC, 1 Cdn. A.S.C. Rft. Unit, having been duly sworn states:-

I am, Lt. R.D. Munnoch, RCASC, 1 Cdn. A.S.C. Rft. Unit, and produce the following documents.

Exhibit "A" Sworn statement of Mrs. May Shadbolt, Manageress of Unicorn Hotel, 70 Manchester Road, Altrincham, Cheshire, purporting to be signed by her and which relates to the accused.

Exhibit "B" Sworn statement of Inspector Thomas Heatley, Liverpool City Police, purporting to be signed by him and which relates to the accused.

Exhibit "C" Sworn statement of P.C. (270A) J.A. Hipkiss, Liverpool City Police, purporting to be signed by him and which relates to the accused.

Exhibit "D" Sworn statement of Lt. W.F. Rhodes, 41 Cdn Gen Tpt Coy, RCASC, purporting to be signed by him and which relates to the accused.

Exhibit "E" Statement of Mrs. Alice Hodgson Jones, 4A Old Market Place, Altrincham, purporting to be signed by her and which relates ti the accused.

Exhibit "F" Sworn statement of Mrs. Ann Hidden, Rangemore, W.L.A. Hostel, Chester Road, Millington, purporting to be signed by her and which relates to the accused.

Exhibit "G" Form C.M.H.Q. 1000:55 - Expense Voucher, purporting to be signed by Lt. J.T. Burger, showing expenses incurred in apprehension and return of the accused to his unit from Liverpool in the amount of £2-16-2.

2nd WITNESS (For the Prosecution) Mrs. May Shadbolt, Manageress of Unicorn Hotel, 70 Manchester Road, Altrincham, Chesire, whose sworn statement reads as follows,

" The accused whom I now recognize came into the Unicorn bar room at about 1400 hrs with the other accused. They had about four double whiskies and then after that just one or two drinks of beer and then it was three o'clock. They were quiet and sociable customers and they left here at three o'clockand as far as I know they were quite alright"

Cross Examined by the accused:-

Question 1. Do you mean we had 2 whiskies each or four each?

Answer 1. You each had four whiskies.

Question 2. Do you think we were drunk ?

Answer 2. No. You were not drunk at three o'clock when you left me.

(Sgd) (May Shadbolt

3rd WITNESS (For the Prosecution).

Inspector Thomas Heatley, Liverpool City Police, whose sworn statement reads as follows,

" At 1830 hrs, 2 Oct 43 I was on duty at the main Bridewell Liverpool when the accused, whom I now recognize was brought in by P.C. 270 "A" Hipkiss. He was drunk and not fit to have control of a motor vehicle"

Cross Examined by the accused:-

Question 1. Did I cause any trouble when I was brought in ?

Answer 1. No.

(Sgd) T. Heatley, Inspector.

4th WITNESS (For the Prosecution)

P.C. Hipkiss, Liverpool City Police, whose sworn statement reads as follows,

" At half past five on Saturday, 2 Oct 43 I was standing on the junction of London Road and Lyme street on traffic duty when I saw a military D.R. coming down the London Road. He suddenly swerved into the side and fell off his machine. I went over and assisted him to his feet and noticed that he was very drunk, smelling very strongly of alcohol. I took him into Lyme street Railway station and from there conveyed him in the Police Petrol Van to the main Bridewell Police Station, where he was detained pending escort. I recognize the accused as the D.R. I have been speaking about."

Cross Examined by the accused:-

Question 1. The road on which I fell off my cycle, was it cement blocks or level cement ?

Answer 2. It was the blocks, that is what is called setts.

(Sgd) J.A. Hipkiss, Con 270A

5th WITNESS (For the Prosecution)

Lieut. W.F. Rhodes, 41 Cdn Gen Tpt Coy, RCASC, whose sworn statement reads as follows,

" On 2 Oct 43 at approximately 1230 hrs the accused, whom I now recognize, was on point duty escorting a convoy out of the outskirts of Manchester. The convoy proceeded on as per route laid down and the accused failed to return to his section in the convoy. I did not give them permission to leave the convoy. I did not see them again, but I heard about them from the police in Wellington."

(Sgd) W.F. Rhodes, Lieut.

6th WITNESS (For the Prosecution)

Mrs. Alice Hodgson Jones, 4A Old Market Place, Altrincham, whose statement reads as follows,

" I would not like to swear to it that the accused is the man who knocked Miss Burton off her cycle. A motorcyclist coming in the same direction as Miss Burton, my husband and myself, hit Miss Burton and knocked her off her cycle. He carried on for about 10 yards or so and then fell off himself. I do not think he realized he had hit anyone. We tried to get him to remain there until the police came but, although he stayed for awhile he would not wait until the police came. He smelled very strongly of drink and I think he was drunk."

.....Cont'd

Cross Examined by the Accused:-

Question 1. Was there a convoy passing near the scene of the accident ?

Answer 1. No. The only convoy we saw passed through Altrincham at about 1230 hrs, and the accident occurred at about 1530 hrs.

Question 2. What were my reactions to our references to the accident ?

Answer 2. You seemed to think it was your accident of falling off your motorcycle. I dont think you knew you had hit anyone else.

(Sgd) Alice H. Jones

7th WITNESS (For the Prosecution) Mrs. Ann Hidden, Rangemore, W.L.A. Hostel, Chester Road, Millington, whose sworn statement reads as follows,

" Sat afternoon Oct 2nd about 3:30 P.M. I was sitting in the house reading when I heard what I thought was a skid outside and then a crash I saw a large boxed wagon which was passing stop, so I went out to see if there was anything I could do. There were two groups of people on the other side of the road about 10 or 12 yards apart. The group to my left were people with bicycles, and they were gathered around a woman who was lying on the grassy verge there, so I asked if they would like to bring her into the house. They said a private car was taking her to Knutsford Hospital, so I asked what had happened. They said that he, the accused had hit her. I went over to the other group and saw they were standing around the accused, whom I now recognize, and his engine still running. I told him he had better switch off his engine as he shouldn't go until the police had seen him. But he was drunk he didnt understand what I said. I asked one of the by-standers to switch the engine off, but they said they couldnt do that. I said, in these circumstances of course you can, in any case, hold him and take his number because I'm going to phone for the police. I then came into the houseand phoned for the Bowdon Police. When I went out the accused had gone. I told them they were a pack of fools and if anything happened it was more their fault than his, and I asked which way he'd gone. They said he'd gone to Mere to pick up a convoy, so I came back into the house and telephoned to the Knutsford Police, and asked them to send a man down to Mere corner to stop him there."

Cross Examined by the accused:-

Question 1. The noise you heard, what did you think it was, brakes or what ?

Answer 1. I w sn't sure but I thought it was a skid.

Question 2. Do you think I knew I'd been in an accident ?

Answer 2. Frankly I dont think you had the faintest idea about anything.

(Sgd) Mrs. Ann Hidden

I hereby certify that in my opinion, the attendance of Lieut. J.T. Burger, Mrs. May Shadbolt, Inspector Thomas Heatley, P.C. (270A) J.A. Hipkiss, Lt. W.P. Rhodes, Mrs. Alice Hodgson Jones, and Mrs. Ann Hidden, owing to the expense and loss of time involved, are not readily procurable and written statements purporting to be signed by them have been read to the accused and are attached hereto.

V.G. Pearce Capt.

(V.G. Pearce) Capt.

I do not require the attendance of these seven witnesses for the purpose of cross-examination at this time.

J.G.W. Dennis

(L-7531 Cpl. Dennis, J.G.W.)

The accused was thereupon warned in accordance with R.P. 4(e). "Do you wish to make any statement or to give any evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

I, L-7531 Cpl. Dennis, J.G.W. do not wish to make any statement at this time.

J.G.W. Dennis

(L-7531 Cpl. Dennis, J.G.W.)

I hereby certify that the foregoing Summary of Evidence was taken down by me in writing this 24th day of October 1943 at 1 Cdn. A.S.C. Rft. Unit, Farnborough, and that R.P. 4(e) (d) (e) (f) and (g) have been complied with.

V.G. Pearce Capt.

(V.G. Pearce) Capt.
1 Cdn. A.S.C. Rft. Unit.

With references to my pending Trial by Field General Court Martial I wish that an officer be assigned to act as defending officer. If Capt. W. Hefferman, 34 Cdn Corps Tps Coy RCASC is available, I wish that he may be assigned for this purpose. In the event that he is not available I would like to have Capt. N. Peters, 41 Cdn Gen Tpt Coy, RCASC.

J.G.W. Dennis

(L-7531 Cpl. Dennis, J.G.W.)

EXA

Farnborough, Hampshire.
24 October 1943.

M.F.M. 6
(A.F.B. 122)
40/P & S/126 (3657)

No. 1-7531 Name DENNIS, J.G.W. | Sqn., Battery, or Company | PREVIOUS SHEET DESTROYED 8-1-42 DQ | Date of enlistment 8-1-40 | G.C. Badges | Service or Proficiency Pay | Character

Corps 41 Gen Tpt Coy R.C.A.S.C. Sheet No. 1 | Signature O.C. Company, etc. R. Foster Capt

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18-2 1942	Pte.		Sec 15 (1) A.A. W.O.A.S. A.W.L. 11 days 7½ hrs.	Cpl Yeats	28 days F.P.	2 Mar 42	Major Armstrong	to Forfeit 40 days pay
Field	2-4 1943	Cpl.		Sec 40 A.A. i.e. appeared on parade without a haircut when previously ordered to do so.	Sgt Shave J. Lt. Sitwell	Severe Reprimand	3 Apr 1943	A.J. Labrie Major	
Field	2-4 1943	Cpl.		Sec 40 A.A. i.e. appeared on parade with his Gas Cape folded improperly, haing been previously instructed in correct method.	Lt. Sitwell Sgt Shave J	Severe Reprimand	3 Apr 1943	A.J. Labrie Major	
Field	17-4 1943	Cpl.		A.A. Sec 15 (1) AWL from 2230 hrs 17-4-43 to 2315 hrs 17-4-43 apprehended by Provost.	Documentary	Severe Reprimand	20 Apr 1943	A.J. Labrie	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY of the documents in my possession.....					
						[signature] Capt Officer i/c Records. 1 Cdn ASC Rft. Unit.			
					EXC [illegible]				

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-59-020
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-7531	Cpl.	Dennis, J.G.W.	1 Cdn. A.S.C. Rft. Unit

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA 15 (1)	ONCE times	AA Sec 15 (1)	TWO times
For	AA 40	TWO times	AA Sec 40	TWO times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused. N/A

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 79 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. N/A

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 30 days in ~~Air Force~~ military custody, making a total of 30 days in custody, of which NIL days were spent in hospital. Held in Field Unit - Came to 1 CASE R/U 18 Oct 43.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20 Years

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 8 Jan 40

7. The service which the accused is allowed to reckon towards discharge is NIL

8. The accused is entitled to reckon NIL service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. NIL military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
N/A dated N/A, and in his regiment (or corps), the rank of
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number L-7531 Rank Cpl.
Unit
Name Dennis, J.G.W. of 1 Cdn. A.S.C. Rft. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	NIL			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1 Nov. 43. day of

Officer i/c Records
1 Can. A.S.C. Reinf. Unit

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Ex B

TTT-43

Pte. Dennis, P.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15 (2) AA	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period 90 days in addition to time spent in custody awaiting trial. ~~Forfeiture of 10 days pay~~ Rdc.

(Sgd) ..... 26 Jun 44 (Sgd) Lieut Deslauriers Pmjr

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Questions after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I vary the sentence so that it shall be as follows, to suffer field punishment for 90 days and to forfeit all ordinary pay for a period of 90 days and confirm the findings and sentence as varied.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) Not.

(1. AA 57A. Delete if not used.)

(Sgd) ..... Dc Thomson Tab Lt Col.

Date 3 July 44 Commanding A/Comd 2 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused 59627 Pte DENNIS P.E. Date. 4 Jul 44 Signature of Offr.

Lieut Lt Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. 4 Jul 44.

RECORD 189 IN AB 160 TTF 43

RECEIVED 1 AUG 1944 C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3) 40/P & D 1/1008 (2864)

Convened by Order of Brig T.G. Gibson Comd 2 Cdn B. dated 23 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F 59627	Pte	Leonard Lewis	Dennis	MG 1

PROCEEDINGS REVIEWED 9 Aug 44

J.D.C. REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 26 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet N attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~was~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~was~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~was~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	Lt Col Deslauriers	Loyal Edm R.
Member	Capt	JR Hasburn	L Edm R.
Member	Lieut	DJ Saunders	L Edm R.
Judge-Advocate			
Prosecutor	Lieut	F Dingle	P.P.C.L.I.
Defending Offr	Lieut	JR Keenagen	P.P.C.L.I.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instrs will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See QL p 2.)

A8. The accused ..... before arraignment makes(s) ~~made~~ (3) plea.

(3. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned ~~respectively~~ on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62 ; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement~~(1) The Court decides (not) to advise accused to change his ~~whose~~ plea[s] of Guilty to Not Guilty on the charge(s). ~~The accused is (are) so advised, and (then changes) his (their) plea(s) on~~ ~~charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea[s] of Guilty is (are) not changed the President records finding[s] of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to that Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under which parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....
Do you intend to call witnesses on your behalf?
Ans. .....
Are they witnesses as to character only? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see RP(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex E-1 respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statements and Conduct Sheets, and in mitigation of punishment?(1) Ans. YES Plea of Prisoner's
(1. *RP 27(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or deal with anything here or previously stated which could affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 45. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 3026, 3301, 3413-3446, Overseas AO 309, 2322, 3046, p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 60(3), KR Can 3564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 3567. As to assembly and disposal of record after trial see matters on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F59627 Private Percy Everett DENNIS, Royal Canadian Army Service Corps, attached Princess Patricia's Canadian Light Infantry, a soldier of the Canadian Army Active Force, CMF, is charged with:-

1st Charge
A.A. Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1800 hrs 21 May 44 until surrendering himself to the Military Police at the QUESTURA POLICE STATION, NAPLES at approximately 2145 hrs 22 May 44. (Absent 1 day 3 hrs 45 mins).

(C.B. Ware) Lt Col
CO, PPCLI

In the Field
19 Jun 44

To be tried by Field General Court Martial

Date
21 Jun 44

(T.G. Gibson) Brig
Comd 2 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAS/1697 (2968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
F59627	Private	Percy Everett	DENNIS	PPCLI

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX] committed the offence[X] set forth in the Charge Sheet(s) attached and on (date) 21 Jun 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; (a[XX XXX XXXX

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 557)

I certify that I have this morning examined No F59627

Pte DENNIS, P.E. of RCASC att PPCLI an in my opinion

he is fit/~~unfit~~ to undergo trial by Court Martial.

Station In the Fd

Date 26 Jun 44

Medical Officer

I submit to the Board the facts in this case for a plea for Mitigation of sentence.

F. 57627

Pte Dennis P.E. Age 29 225 days

Has been in the Army since 1 Sept 39

4 yrs 300 days

Landed with 4th Recd P.L.D.G. July 43

in Sicily. Landed in Italy with 4th Recd

P.L.D.G. - Sept 43. Attached to P.P.C.L.I.

as cook in Jan 44. Has been with

Coml since

Is entitled to - C.V.S. M. and clasp

39-43 Star

Last charges 16 Dec 42 - A.W.L.

Turned himself in to N.P.s at Naples

21.45 hrs 22 May 44

In Custody - 36 days

Summary of Evidence in the Case of F 59627 Pte Dennis P.E. (R.C.A.S.C.) ①

The Commanding officer directs that the evidence be taken on oath.

Last Witness for Prosecution P22030 C.Q.M.S. McMurdo R.J. "A" Coy P.P.C.L.I., having been duly sworn states.

I am P22030 C.Q.M.S. McMurdo R.J. "A" Coy P.P.C.L.I. At 1600 hrs. on 21-5-44 I left my Coy area with Pte Dennis to draw rations at the Ration Point in Support Coy area. I drew my rations and when I looked for Pte Dennis he was not there. When I returned to my Coy area I reported to C.S.M. Moore 6 "A" Coy P.P.C.L.I. at ~~the~~ 1800 hrs the absence of Pte Dennis I am well acquainted with F 59627 Pte Dennis P.E. whom I recognize here as the accused and who has been cooked for "A" Coy for approximately a month & a half.

The accused declines to cross examine this witness. [R.P. N.D.]

R.J. McMurdo
CQMS

Ex.
[illegible]

Ind. Witness for Prosecution | P22339 Sgt. McDonald (2) H.E., having been duly sworn, states

I am P22339 Sgt. McDonald H.E., Deduly Room Sgt PPC.L.I. I herewith produce a certificate of surrender referring to F59627 Pte Dennis P.E. (The certificate having been read to the accused is attached as Exhibit "A"

H.E. McDonald Sgt

3rd Witness for the Prosecution | 1609004 L/Cpl Sewer F.W. 246 Provost Coy, att 111 Coy C.M. Police

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a written statement of his evidence signed by him has been read to the accused & is attached as Exhibit "B."

Thos. Dougall Secret

Do not require the attendance of this witness for the purpose of cross-examination

P.E. Dennis
Signature of accused

The accused was cautioned as follows.

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing & may be given in evidence. [R P 4 (E)]

The accused declines to make any statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify the following Summary of Evidence consisting of three pages was taken down by me in the presence of the accused & that Rules of Procedure 4 (C), (D), (E) & (F) have been complied with

[signature]

In the field

Officer Taking Summary

16 Jun 44

EXHIBIT "A"

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

I, Captain H.E. HOBBS Commanding 111 PROVOST COMPANY, C. M. POLICE,
certify that No F.59627 Rank PTE. Name DENNIS P.E.
of the ROYAL CANADIAN ARMY SERVICE CORPS surrendered himself to
No 1609004 Rank L/CPL. Name LEWIS F.W.
246 PROVOST COMPANY, attached
of the 111 PROVOST COMPANY, C.M.POLICE at NAPLES
at hrs., 2145 on the 22nd day of MAY 1944.
as a deserter (or absentee without leave).

Date 22nd MAY 1944.

H.E. Hobbs
Capt.
O. C. 111 Provost Coy. C. M. P.
Commanding Officer of the person or portion of His Majesty's Forces
to whom the Surrender was made

EXHIBIT "B" 1163/13

Army Form 252
See King's Regulations

CHARGE

THE ROYAL CANADIAN ARMY SERVICE CORPS
ATT. THE PRINCESS PATRICIA CANADIAN LIGHT INFANTRY

Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. F.59627 Rank PRIVATE

Name DENNIS P.E.

Place Date of Offence

OFFENCE W.O.A.S. ABSENT FROM ? UNTIL SURRENDERING TO THE MILITARY POLICE AT THE QUESTURA, NAPLES AT ABOUT 2145 HOURS ON THE 22nd MAY 1944.

Names of Witnesses

1609004 L/CPL. F.W. LEWIS, 246 PROVOST COMPANY, att. 111 PROVOST COMPANY, C. M. POLICE
2651213 CPL. E. THOMAS, 111 PROVOST COMPANY, C. M. POLICE.
N.C.O. i/c. GUARD(BODY RECEIPT ATTACHED)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

540/1/84

Statement of EVIDENCE in the case of:-

No.F.59627 PTE. P.E. DENNIS,
THE ROYAL CANADIAN ARMY SERVICE CORPS,
ATT. PRINCESS PATRICIA CANADIAN LIGHT INFANTRY.

Sir,

At NAPLES on the 22nd MAY 1944, at about 2145 hours, I was on duty at the QUESTURA POLICE STATION, where the a/m soldier approached me and said, "I am absent and I wish to surrender".

I arrested him, obtained his particulars verbally for report, verified same from his A.B.64, and handed him over to the N.C.O. i/c. GUARD to be detained.

NAPLES.
22nd MAY 1944.

L/Cpl
C. M. POLICE.

REMARKS

Summary of Evidence in the Case of F59627
Private DENNIS, P.E., RCASC

The Commanding Officer directs that the evidence be taken on oath.

1st WITNESS for PROSECUTION

P22030 CQMS McMurdo R.J., "A" Coy, PPCLI, having been duly sworn states:-

"I am P22030 CQMS McMurdo R.J., "A" Coy, PPCLI. At 1600 hrs on 21 May 44 I left my Coy area with Pte Dennis to draw rations at the Ration Point in Support Coy area. I drew my rations and when I looked for Pte Dennis he was not there. When I returned to my Coy area I reported to CSM Moore G., "A" Coy PPCLI at 1800 hrs the absence of Pte Dennis. I am well acquainted with F59627 Pte Dennis P.E., whom I recognize here as the accused and who has been Cook for "A" Coy for approximately a month and a half."

The accused declines to cross-examine this witness (RP 4(D)).

(Sgd)(R.J. McMurdo)CQMS

2nd WITNESS for PROSECUTION

P22339 Sgt McDonald H.E., having been duly sworn states:-

"I am P22337 Sgt McDonald H.E., Orderly Room Sgt, PPCLI. I herewith produce a certificate of surrender referring to F59627 Pte Dennis P.E. (The certificate having been read to the accused is attached as Exhibit "A")

(Sgd)(H.E. McDonald)Sgt

3rd WITNESS for PROSECUTION

1609004 L/Cpl Lewis F.W., 246 Provost Coy, att 111 Coy, CM Police.

"I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service not readily procurable, and a written statement of his evidence signed by him has been read to the accused and is attached as Exhibit "B".

(T. Dougall)Lieut
Officer Taking Summary

I do not require the attendance of this witness for the purpose of cross-examination.

(Sgd)(P.E. Dennis)
Signature of Accused

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." (RP 4(E)).

The accused declines to make any statement or give evidence on oath.

The accused does not call any witnesses for the defense.

I certify the following Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E) & (F) have been complied with.

(Sgd)(T. Dougall)Lieut
Officer Taking Summary

In the field
16 Jun 44

Army Form B.296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment (or as the case may be)
F59627	Pte	DENNIS, P.E.	R-ASC attd PPCLI

1. The following is a fair and true summary of the entries in the regimental or squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:

	Within last 12 months.		Since Enlistment.
For		Times	
For	AA Sec 15(1)	Times	5 times
For	AA Sec 40	Times	1 time
For		Times	
For		Times	
For		Times	

[redacted]

2. [redacted]

Previous convictions of the accused by a court martial or civil court summary awards under section 47 of the Army Act and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. [redacted]

[redacted]

4. The accused has been in confinement, awaiting trial on the present charges for Nil days, in civil custody, and 36 days days in military custody, making a total of 36 days days of which days were spent in hospital.

[redacted]

5. The present age of the accused according to his attestation paper is 29 years 225 days.

6. The date of his [redacted] attestation specified in his attestation paper is [redacted] days 1 Sep 39

7. [redacted]

8. [redacted]

9. The accused is entitled to reckon 4 Yrs. 300 days service for the purpose of determining his pension, etc.

10. The accused is in possession of and entitled to [redacted] Cdn Volunteer Service Medal & Clasp

11. [redacted]

[redacted]

bkd 6+D.

[illegible]LE OF CONVICTIONS BY A COURT MARTIAL OR CIVIL COURT, OF SUMMARY AWARDS UNDER SECTION 47 OF THE ARMY ACT AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED.

No. F59627 Rank Pte Name DENNIS, P.E. of RCASC Regiment(or as the case may be).

(INSTRUCTION - A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted).

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial.	Date and place of trial or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
	NIL			

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 18th day of JUNE 1944

(C.B. Ware)Lt Col
CO, PPCLI

In the rank of years
In the rank of years
In the rank of years

(INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly).

No. F59627 Name Dennis P.E. Sqn., Battery, or Company — Corps: CAC — Date of enlistment: 1 Sep 39 — G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed on completion of 6 mos service 1 May 40					
Field	5 Nov 40	Tpr	-	AA Sec 15(1). AWL 3 hrs, 50 mins, 5 Nov 40 AA Sec 15(1). AWL 10 hrs, 40 Mins, 6 Nov 40	Sgt Obriem Cpl Travis	7 days CB	8 Nov 40	Maj. L. Febire	Forf 2 days pay by FR&I 149(1)(a)
Field	13 Mar 41	Tpr	-	AA Sec 40. Unshaven on parade	Sgt Hentry	~~1 day's pay~~	5 Mar 41	Lt McGowan	Forf 1 days pay by FR&I 149(2)
Field	21 Mar 41	Tpr	-	AA Sec15(1) AWL 8 days, 22 hrs	Cpl Harkins	14 days pay	31 Mar 41	Maj Ardagh	Forf 14 days pay by FR&I 149(1)(a)
Field	15 May 41	Tpr	-	AA Sec 15(1) AWL 7 hrs, 30 mins	Sgt Jones	5 days CB	18 May 41	Capt Stroud	
Field	16 Dec 42	Tpr	-	AA Sec 15(1) AWL 1 hr	Cpl Dionne	1 days pay	16 Dec 42	Maj Stroud	Forf 1 days pay by FR&I 149(1)(a)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified to be a true copy from the Regt'l books in my custody.					
				(C.B. Ware) Lt Col CO, PWLI					

DELAY REPORT ON FGCM PROCEEDINGS
(To be signed personally by Commanding Officer)
and Confirming Officer)

ACCUSED F59627 Pte DENNIS P.E. UNIT RCASC att PPCLI

DATE OF OFFENCE 21 May 44 DATE OF ARREST 22 May 44

SUMMARY TAKEN 16 Jun 44 APPLICATION FOR FGCM 19 Jun 44

CONVENED _____ TRIAL _____ CONFIRMED _____

PROMULGATED _____

TOTAL DAYS FROM ARREST TO TRIAL (Excluding days not in Unit Custody day of arrest and day of trial) _____

REMARKS OF CO(Explanation of delay, etc.) The accused was arrested on 22 May 44 and was not despatched to Unit until 8 Jun 44. Summary was unable to be taken until 16 Jun 44. He was remanded for FGCM on 19 Jun 44.

(C.B. Ware)Lt Col
CO, PPCLI

REMARKS OF CONFIRMING OFFICER _____

4L-132

Pte Dennis R.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : L36327 Pte Dennis, R.W. Comn R.C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~In present under~~ sentence for ~~.....~~ beginning on (date) ~~.....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : to be imprisoned with Hard Labour for One (1) year and to be dis-charged with Ignominy from His Majesty's ~~Service~~ Canadian Service.

(Sgd) Ernest R McDougall Capt 28 Nov 44 (Sgd) [illegible] Brig President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Nil

(1. AA 57A. Delete if not used.)

Date 29 Nov 44 (Sgd) [illegible] Brig
Commanding 6 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L36327 Pte Dennis R.W.	2 Dec 44	Lt Beech Capt Adjt Cameron J.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 42-132

CPA606 (To face of AFA3) 40-P-A-G-(1)-(1)-(1) 3388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig B.H. Kingsley Comd 6 C I B dated 25 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L36327	Pte		Ray Walden	Dennis	Comm R C

PROCEEDINGS REVIEWED 25 Jan 45 [illegible] Capt REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS REVIEWED 19 Jan 45 [illegible] Maj D.J.A. Odn. Sec. GHQ 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 25 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14|127

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnin KOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1650 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the (Offr)~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to~~ Do you desire that [illegible] as interpreter ? Ans No
~~The Interpreter is sworn.(1)~~ ~~Do you object to~~ shorthand writer ? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Maj	K.W. Williamson	S Sigs R
Member	Capt	W.C. Pearson	Comm R C
Member	Lt.	R.A. Amelia	Fus M R
Judge-Advocate	Capt.	E. McDougall	10 Bde Adjt Can
Prosecutor	Capt.	F.W.A. Elcock	Comm R C
Defending Offr	Lt.	J.H. Ross	Comm R C

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused L36327 Pte Dennis, R.W. before arraignment make(s) (no) ~~a~~ plea(s) (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court, (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~ arraigned ~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol II Page 90

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)
President to accused : Do you wish to make a statement ? Ans. No Sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP 37(D) fn 6.*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) Add ~~Delete~~ paras to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeded by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 8.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, Def Offr will forward
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 82, purports, in so far awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 48, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 30F, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 46(1)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see leaflet on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. 36327 Private RAY WALDEN DENNIS, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 41

WHEN ON ACTIVE SERVICE
COMMITTING A CIVIL OFFENCE, THAT IS
TO SAY, STEALING,

in that he,
at about 1430 hours
at Willebroek, on 10 November 1944 stole one thousand francs (Belg), the property of Maria de Mesmaeker, 120 Tisselt-schesteenweg, Willebroek, N/Anvers.

SECOND CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, absented himself without leave from 0800 hours 7 November 1944 until apprehended by the Military Police at Willebroek at 1515 hours 10 November 1944.

Absent 3 days, 7 hours 15 mins.

In the Field
23 Nov 1944

Lt Col
C Thompson
(E.P. Thompson) - A/Lt-Col
Comd Camerons of C

To be tried by a Field General Court Martial.

(R.H. Keefler) Brig
Comd 6 Cdn Inf Bde

In the Field
25 Nov 44

Charges approved
[illegible]

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H36327	Pte.		RAY WALDEN	DENNIS	Can of C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 NOV 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.		(Must be named. RP 106.)	Unit.
MAJOR	K. A. WILLIAMS		S SASK R

MEMBERS.

Rank.		(Named or detailed. RP 106.)	Unit.
CAPT	W. C. PEARSON		Can of C.
LT	R. A. ASSELIN		FUS M.R.

WAITING MEMBER.

Rank.		(Named or detailed, if any. RP 106.)	Unit.
LT	R. W. McDONELEY		Can of C.

JUDGE-ADVOCATE.

Rank.		(Must be named, if any. RP 106.)	Unit.
CAPT	E. K. McDOUGALL		11 & 2 CDN INF DIV

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 25 NOV 44

Commanding 6 CDN INF BDE
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
KR (Can) Para 527

I certify that I have this morning examined No H-36327 Pte Dennis, R.W. of Camerons of C and in my opinion he is fit/unfit to undergo trial by court-martial.

Station In the Field

Date 25 Nov 44

G. D. Thal Capt.
Medical Officer

The Defending Officer makes the following plea in mitigation.

By the evidence that has been adduced before the Court, it is shown that this soldier was drunk when he committed this offence, but has definitely admitted his offence and pleaded guilty to the charges. I ask the Court to take into consideration the fact that he was drinking and show him leniency in that respect. That is all I have to say.

SUMMARY OF EVIDENCE A

In the case of L-36327 Private RAY WALDEN DENNIS, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs and the accused demands that the evidence be taken on oath.

FIRST WITNESS for the prosecution: Jules Pennewaert, la Bank de la Societe Generale de Belgigue, 64 Aug van Landegnemstraat, Willebroek, N/Anvers, having been duly sworn:

A written statement of this witness' evidence made on oath and signed by him before the accused is included in this summary (att as Exh "A") having regard to the theft of 1000 francs (Belg). The attendance of this witness cannot in my opinion, be readily procured.

H. P. Falloon Hqf

(H.P. Falloon) - Capt,
Offr detailed to take
the summary

SECOND WITNESS for the prosecution: Maria de Mesmaeker, 120 Tisseltschesteenweg, Willebroek, N/Anvers, having been duly sworn:

A written statement of this witness' evidence made on oath and signed by her before the accused is included in this summary (att as Exh "B") having regard to the theft of 1000 francs (Belg) The attendance of this witness cannot in my opinion, be readily procured.

H. P. Falloon Hqf

(H.P. Falloon) - Capt,
Offr detailed to take
the summary

THIRD WITNESS for the prosecution: 2/Lt Marian Pasieczny, HQ 1 Polish Div, EIA, having been duly sworn:

A written statement of this witness' evidence made on oath and signed by him before the accused is included in this summary (att as Exh "C") having regard to the apprehension of the accused. The attendance of this witness cannot in my opinion, be readily procured.

H. P. Falloon Hqf

(H.P. Falloon) - Capt,
Offr detailed to take
the summary

1

FOURTH WITNESS for the prosecution: H-8271 A/Sjt Salmonson, A.G., THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, having been duly sworn states:-

I am 17 Platoon Serjeant in D Company and on 7 November 1944 at 0800 hours L-36327 Private Dennis, R.W. was absent without leave from my platoon. He was still absent when the unit moved from Willebroek.

The accused declines to cross-examine.

A G Salmonson.
(H-8271 A/Sjt Salmonson, A.G.)

FIFTH WITNESS for the prosecution: H-20196 Sjt Kilborn, G.E., THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, having been duly sworn states:-

I am the Provost Serjeant with the Camerons of C and on 12 November 1944 acting on information received from the Canadian Provost at 11 CBRD, I went to Ghent to pick up L-36327 Private Dennis R.W. who was absent without leave from my unit. I brought him back and placed him in arrest. I also received from the Provost at Ghent a charge sheet (AFB 252) stating that the above soldier had been arrested at 1515 hours on 10 November 1944 in Willebroek.

The accused declines to cross examine.

G E Kilborn
(H-20196 Sjt Kilborn, G.E.)

The accused, having been duly cautioned in accordance with RP 4(e) says:

"I have nothing to say."

R W Dennis.
(H-36327 Pte Dennis, R.W.)

Certified that RP 4 have been complied with.

N P Fallon
(H.P. Fallon) - Capt,
Offr detailed to take the summary

In the Field
21 Nov 44.

LIST OF WITNESSES

In the case of H-36327 Private RAY WALDEN DENNIS, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Cdn Army (OS)

PROSECUTION

H-8271 A/Sjt Salmonson, A.G.	Camerons of C
H-20196 Sjt Kilborn, G.E.	Camerons of C

DEFENCE

Nil

6

LIST OF EXHIBITS

Exh "A"	Statement of Jules Pennewaert, la Bank de la Societe Generale de Belgigue, 64 Aug Van Landegnemstraat, Willebroek, N/Anvers
Exh "B"	Statement of Maria de Mesmaeker, 120 Tisseltschesteenweg, Willebroek, N/Anvers.
Exh "C"	Statement of 2/Lt Marian Pasieczny, HQ 1 Polish Div BLA.

STATEMENT BY ACCUSED

I, H-36327 Pte Dennis, R.W., certify that I have been given free-of-charge copy of documents, proceedings, etc, relating to my trial by Field General Court Martial.

I request the services of an offr to defend me at my trial by Field General Court Martial.

I desire the services of ..... Lt. J.N. Ross ..... if he is available.

R W Dennis

(H-36327 Pte Dennis, R.W.)

EXHIBIT "A"

1st witness: JULES DENNEWAERT
la Bank de la Société Générale de Belgique,
64, AUG VAN LANDEGHEMSTRAAT,
WILLEBROEK
Vanvers

Having been duly sworn states:
I am the bank managed
of the above bank. On the 10
Nov 44 at 1430 hours the soldiers,
who I recognize & see before me,
who was a little drunk,
accosted Mlle MARIA DE NESMAEKER,
who cried, that the soldiers
concerned had taken a 1000
Belgian franc note from her. I
then called in 2 (two) Polish
offs from the street who took
the soldiers away to the military
authorities.
Accused declines to cross examine
Signed

[signature]

18400 A hours

EXHIBIT "B"

2nd witness: MARIA DE NESMAEKER,
120, TISSELTSCHESTEENWEG,
WILLEBROEK
Vanvers

Having been duly sworn states:
On the 10 Nov 44 at about
1500 hours I was in la Bank de la
Société Générale de Belgique in WILLEBROEK

X who was drunk,

to bank some money, when the soldier, X who I recognize I see before me asked me to go out with him but before I could I wanted to bank my money which was a note form. While I was handing over the money the soldier snatched a 1000 ft note from me I then cried out that a soldier had taken a note from me, whereupon the manager came over to see what had happened — I told him and he went out to the street to get military help. He came back soon with 2 (two) Polish Offrs who took him away. The Offrs took the 1000 ft note from the soldier before he left the bank. The note which was stolen, I received, again, ~~[illegible]~~ the day before yesterday and it is now in the bank. I, myself, forgive the soldier, although he stole the note from me.

Question by the accused

How bad was I drunk?

Answer

He was very drunk

Signed
M. De Mesmaeker

181240 A HOURS.

EXHIBIT "C"

3rd witness: 2/LT MARIAN PASIECZNY.
HQ 1 POLISH DIV
B.L.A.

Having been duly sworn states:

On the 10 Nov 44 at about 1415 hours I was walking near the BANK de la Societe Generale de Belgique in Willebroek with W/O S. ANDRZEJEWSKI. Suddenly a civilian man came out of the bank and asked me ~~to~~ if I was an Offr I said I was and he asked me to help him get back a 1000 A.fr note which had been stolen from a girl by a soldier who I recognize and see before me who he indicated on the street outside the bank. I then tried to get the soldier, who was drunk to give back the note but he would not. We then forcibly took him to the military Police. On the way the soldier, after being asked many times by myself,

gave me a 1000 B ft note;
which I gave to the military
police when I handed him
over at the Town Hall

Accused declines to cross examine

Signed

[illegible]

201225 A [illegible]

NoH36327 Name Dennis, R.W. Sqn., Battery, or Company D Coy Corps CIC Date of enlistment 12 Apr 43 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /S136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. C.A. Nixon, Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
1st sheet destroyed 12 Oct 43 on completetion of six months service Entries - Nil Drunkenness - Nil CA Nixon, M									
Canada	17 Nov 43	Pte		AA Sec 40, conduct to the prejudice of good order and mil discip line in that he became unfit for duty by reason of previous indulgence in alcoholic stimulants	Sjt J.A. Wells	14 days det	19 Nov 43	Lt-Col R.G.L. Parker	Forf 14 days FR&I
Canada	16 Nov 43	Pte		(1) AA Sec 40 Conduct to the prejudice of good order and mil discip line, in that he was in possession of property belonging to Lt C.W. Pearson, and Lt J.S. Jodoin. (2) AA Sec 15(1) Absent without leave from 1930 hrs 12 Dec 43 until 2145 hrs 13 Dec 43 Absent 1 day 2 hrs 15 mins.	Sjt Murray	28 days det	15 Dec 43	Lt-Col WE Gillespie	Forf 2days pay FR&I

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 Feb 44	Pte		AA Sec 11 Neglecting to obey a C routine order, in that he in the town of Aldershot was out after 2200 hrs without authority	CU Doc'y	2 days pay FR&I 149(2)	7 Mar 44	Lt-Col J.H. Mortersill	
Field	15 Mar 44	Pte		AA Sec 15(1) absent without leave from 2300 hrs 15 Mar 44 until 0600 hrs 16 Mar 44 Absent 7 hrs	Cpl Gibson S.	10 days det	16 Mar 44	Maj V Scott	Forf 1 days pay. FR & I
Field	30 Mar 44	Pte		AA Sec 15(1) absent without leave from 1325 hrs 30 Mar 44 until 1330 hrs 30 Mar 44	Sjt Thomas S.W.	14 days CB	31 Mar 44	Lt-Col D.G. Machauchlar	
Field	15 Apr 44	Pte		AA Sec 6(2) breaking & entering Dome Dance Hall at 2220 hrs 14 Apr 44	Doc'y	28 days Fd punishment	17 Apr 44	Maj V Scott	
Field	1 JUn 44	Pte		AA Sec 15(1) Absent without leave from 0600 hrs 1 Jun 44 until 2250 6 Jun 44 Absent 5 days 16 hrs 50 mins	Sjt Morris Sjt Wynder	Forf 28 days pay	7 Jun 44	Lt-Col DG Machauchlar	

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2965)

No. | Name | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fins | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17 Jun 44	Pte		AA Sec 15(1) AWL from 0100 hrs 17 Jun 44 to 2235 hrs 19 Jun 44 absent 2 days 21 hrs 35 mins	L/Sjt Clough Cpl OGrady Cpl Richardson	14 days pay and 14 days CB	21 Jun 44	Lt-Col DG Machauchlan	forf 3 days pay F&I
Field	30 Jun 44	Pte		AA Sec 15(1) AWL from 2115 hrs 30 Jun 44 to 2220 hrs 6 Jul 44 Absent 1 day 1 hr 5 mins	Cpl Gibson Sjt Sharbou	forf 28 days pay	3 Jul 44	Maj V Scott	forf 2 days pay F&I
Field	18 Jul 44	Pte		(1) AA Sec 9(2) did leave coy area at 1650 hrs 18 Jul 44 when ordered by L/Cpl Pepper P.C. not to do so	Lt MEJ Lefroy L/Cpl Pepper	forf 28 days pay	19 Jul 44	Lt-Col DG MacLauchlan	
Field				(2) AA Sec 15(1) AWL from 1650 hrs 18 Jul 44 to 1820 hrs 18 Jul 44 Absent 1 hr 30 mins					

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15 Sep 44	Pte		WOAS AWL from 0800 hrs 15 Sep 44 until 0800 hrs 16 Sep 44 Absent 1 day AA Sec 15(1)	BSM Dryden C.W.	1 days forf pay FR&L 149(a)	16 Sep 44	V.H. Goad Capt	Forf 1 days pay FR&I 149(1)(a)
Field	21 Sep 44	Pte		WOAS AWL from 0800 hrs 21 Sep 44 until 1830 hrs 24 Sep 44 Absent 3 days 10 hrs 30 mins AA Sec 15(1)	BSM Dryden V.W. Sjt Waddell, TF	Admonished	25 Sep 44	V.H. Goad Capt	Forf 4 days pay FR&I 149 (1)(a)
Field	12 Aug 44	Pte		WOAS AWL from 0700 hrs 12 Aug 44 until 1630 hrs 12 Aug 44 Absent 9 hrs 30 mins AA Sec 15(1)	Sjt Waddell Cpl Fold Capt MacDonald	Admonished	26 Sep 44	V.H. Goad Capt	Forf 1 days pay FR&I 149(1)(a)
Field	10 Oct 44	Pte		WOAS AWL from 0900 hrs 10 Oct 44 to 0800 hrs 18 Oct 44 Absent 16 days 23 hrs AA Sec 15(1)	Sjt Gardener BSM Dryden	Forf 10 days pay	18 Oct 44	Capt V.H. Goad	Forf 18 days pay total forf 27 days pay

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY CUSTODY

(L.F. Beech) - Capt
Adjt Camerons of C

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF THE ACCUSED

No. N-36327 Rank Pte Name Dennis, R.W. Unit Cameron of C

Age 24 yrs 6 mths Married or Single Single No of dependents One

Date of attestation 12 Apr 43

Number od days in close arrest awaiting trial 16

Civil ..... Military 16 Hospital ..... Total 16

Dates of appointments, promotions etc (if any) .....

In the Field

15 Nov 44
Date

L.P. Beech Capt
Offr IC Records
Camerons of C
Unit

MFM 365 has been indented for.

KK-116
GNR DENNIS Y

D-118400 Gnr DENNIS, Yvon
1 CARU

R.R.118

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this FIRST day of OCTOBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "C" GROUP, CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~

*~~Three Officers to form the Court~~

*~~A Field Officer as President~~

~~for the following reasons, namely:~~

*Omit if not applicable.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	HQ CRU

Members.

Rank.	Name.	Regiment.
CAPTAIN	C.D. MUNRO, RCA	3 CARU
LIEUT	A.A. PAHL, RCA	1 CARU
LIEUT	F.C. BLATCHFORD, RCA (Waiting Member)	2 CARU

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Signed [signature] Brigadier,

*Must be signed personally by the Officer actually in command at the time; and all alterations in the composition of the Court to be initialled by him.

Commanding "C" Gp. Cdn Rft Units.

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-118400 Gnr DENNIS, Yvon (RCA) 1 CARU	FIRST CHARGE A.A.Sec.15(1)	Guilty except that ~~my absence~~ absent ~~continues until 2 am~~ 15 Aug 43.	Guilty	Confirmed [illegible]
	SECOND CHARGE A.A.Sec.24(2)	Guilty	Guilty	
		~~Sentenced to undergo~~ Detention for a period of 60 days with the ~~privileges~~ stoppages ~~may~~ will be restored and the sum of ~~£4-7-4½~~ ~~£0-16-6~~ ~~£0-16-6~~ in respect of the loss of Kit £5-16-6½ HHP.		
		# Ref 43. HHP		

See Charge Sheet attached.

~~Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
~~Answer (to be recorded on separate sheet if necessary):—~~

(Signed) [illegible] Brigadier, (Signed) [illegible] Maj
Commanding 4th Gp, Cdn Rft Units, — President.
Convening Officer (a)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

Signed this 4th day of October 1943.

[illegible] Maj
President of the Court Martial.

*See footnote (2) on page 702 M.M.L. 1929.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 6th day of October 1943.

[illegible] Brigadier,
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 7 Oct 43. (Signed) [illegible] COL.
CO - 1 C.A.R.U.

Promulgated and extracts taken in the case of D118400 Gnr DENNIS YVON
(Dated) 13 Oct 43. (Signed) [illegible] COL.
CO - 1 C.A.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

THE Accused, D-118400 Gunner Yvon DENNIS, Royal Canadian Artillery, on the strength of "P" Training Wing, No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

When on Active Service.

1st CHARGE. A.A. SEC. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

in the field, did absent himself without leave from 2300 hours 14 August 1943 until surrendering to the Civil Police at Richmond at about 2130 hours 21 Sep 43.
(Absent 37 days 22 hours 30 minutes)

WHEN ON ACTIVE SERVICE.

2nd CHARGE. A.A. SEC. 24 (2)

LOSING BY NEGLECT PUBLIC PROPERTY ISSUED TO HIM FOR HIS USE.

in that he,

in the field, on 29 September 1943, was deficient the articles here under listed, which had been issued to him for his use.

Article	No	Unexpired Wear Value		
Trousers Battle Dress	1	1	0	9
Blouse Battle Dress	1	1	0	11
Anklets Web	1		2	7
Boots ankle	1	1	12	3
Drawers Cello	2		3	1
Shirts, angelo drab	2		13	9
Socks woollen prs	3		3	9
Badges cap	1			3½
Braces	1		1	12
Knife clasp	1		3	11
Vests gym	2		2	3
Towels hand	2		1	5
Haversack respirator	1		4	3
Outfits anti dim	1			9½
Ointment A/G	2		1	9
Eyeshields A/G	6		3	9
Total Unexpired Wear Value		5	16	6½

Bordon, Hants.,
30 September 1943.

W.A. Townsley.
(W.A. TOWNSLEY) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.

To be tried by Field General Court Martial.

J.H. Jennings Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
1 Oct 43.

Arthur J. Pettapiece, Maj
President

Medical Officers' Certificate
K.R. (Can) Para 557

D118400

I certify that I have this morning examined No Tnr Dennis Y.
(Rank) (name)

of I.C.A.R.U. and in my opinion he is fit to undergo

trial by Court Martial.

Station FIELD.

Date 4-10-43.

Sgd. C.W. Stephens Capt.
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Liebig Barracks, Enda, Hayti.
ON THE 4th DAY OF October 1943

The accused D1844 Gnr. Dennis J. ....Unit 1 C.A.R.U. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. S. Pettapiece .....Unit H.Q. C.R.U. ...

Members Capt. C. S. Munro .....Unit 3 C.A.R.U. ...

Lt. A. A. Pare .....Unit 1 C.A.R.U. ...

The officers under instruction are duly sworn:-

(see attached list) .....Unit .....

.....Unit .....

Prosecutor Capt. F. H. Kelly ....Unit 1 C.A.R.U. ....

Defending Officer Lt. J. M. Eastman ..Unit 1 C.A.R.U. ...

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with. The Prosecutor consenting to the qualified plea of "Guilty" on the 1st charge.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~
~~(b) Calls witnesses as to character.~~
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER. attached hereto.

1st Witness for Prosecution pursuant to R.P. 37

A Hqt. McFadden, W.L. Reg. No. C-97 having been duly sworn, states - I wish to correct my statement made at the Summary of Evidence. It was 2200 hrs. 15 Aug 43, that I first noticed the accused was missing.

No cross-examination,

Arthur S. Pettapiece
Major

F.R. Cressey	Capt	1 CARU
J. Toller	Lieut	1 CARU
J. Crutcher	Lieut	1 CARU
L. Diller	Lieut.	1. C.A.R.U.
H.L. Donald	Lieut	1 CARU
A.L. Maclean	Capt.	1 CBOW
W.H.O. McLaren	Lieut	1 CBOW.
R.H. Beck	Capt	1 ~~CBO~~ CIRU ATT
		1 CBOW

Officers under instruction.

A.L.P.

~~Sir~~: Mr. President and Members of the Court.

The court, by merely looking at this man can see that he is no weakling, but is determined, capable & self-reliant.

No Wonder! At the age of 14 Gnr. Dennis went to work to help support his mother and invalid father. At the time of his enlistment in June 1941. he was a machine Repairman earning $25.00 per week. He had held this job for 4 years. Hardly an indication of unreliability.

He came to England with the 14th Field Regiment in July 1941. and was with them until hospitalized by a broken leg in Nov. 1941. His record with the Regt. is good. and without crime.

He spent almost a year in hospital - from Nov. 1941 until Oct. 1942. Sufficient in itself to slightly sour a keen, energetic young man of 20.

But Gnr Dennis came out - still eager for action. Imagine then his disappointment on finding himself - though apparently fit - categorized B2.
He sought to have his category raised - and failed.
He sought to transfer to the Pioneer Corps - hoping for greater activity there - and failed.
He sought, for the same reason, a transfer to the Forestry Corps - and failed.
Suffering from depression & seeking relief from the prosaic monotony of the training centre. he went A.W.L.
Eventually he gave himself up voluntarily & took his punishment.

Each time he has absented himself he has voluntarily surrendered. His surrender has not been dictated by lack of money - for each time he has found employment. During this

absence, for example, he was working 14 hours a day, earning 32 pence an hour.

He is not lazy. He wants to work. But he is not suited to his present environment. He sincerely believes that given congenial employment he could settle down.

I submit therefore that Gnr. Dennis, if suitably placed, has the energy & ability to become a useful, productive and reliable member of the Canadian army.

He does not seek mitigation of punishment. He does respectfully request that, upon the completion of his sentence, the court direct his transfer to a unit, such as the Base Ordnance workshop where he can use his abilities and thus feel useful - this provided he is unable, because of category, to return to the field.

Respectfully submitted
J. M. Eastman Lieut.

J Dennis

SUMMARY OF EVIDENCE in the case of D-118400 Gnr DENNIS, Y., Royal Canadian Artillery, on the strength of "P" Training Wing, No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

First Witness.

C-97 Bdr McFadden, W.L., of "D" Battery, No. 1 C.A.R.U., having been duly sworn states:

I am C-97 Bdr McFadden, W.L., of "D" Battery, No. 1 C.A.R.U. On 14 Aug 43 at 2300 hours, I called the roll at tattoo. D-118400 Gnr Dennis, Y. , did not answer to his name and was absent from his bed and room. I so reported him to the Battery Orderly Officer.

The Accused declined to cross-examine this witness.

W L McFadden
C-97 Bdr McFadden, W.L.

Second Witness.

B-6001 BQMS Harris, C.S., of No. 1 C.A.R.U., having been duly sworn states:

I am B-6001 BQMS Harris, C.S., of "P" Wing H.Q., No. 1 C.A.R.U. On the 29 Sep 43, I checked the completedkit of D-118400 Gnr Dennis, Y., against the normal issue and found him deficient kit to the value of £5-16-6½ unexpired wear value, as per attached list which I now submit, and which is marked Exhibit C.

The Accused declined to cross-examine this witness.

C S Harris
B-6001 BQMS Harris, C.S.

Attached hereto and marked Exhibit "A", is a certificate on Army Form C-1617, relating to the accused and stating that he surrendered to the Civil Police at Richmond at 2130 hrs 21 Sep 43. Attached hereto and marked Exhibit "B", is a certificate under A.A. Sec 163 (1)(j) relating to the accused and stating he surrendered to P.S. C.I.D. Dyas, of the Richmond Civil Police at 2130 hours 21 Sep 43.

Caution to the Accused.

"Do you wish to make any statement or to give evidence upon Oath? You are notobliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused declined to make a statement.

Certified that R.P. 4 (c), (d), (e), (f) and (g) have been complied with;

That this SUMMARY OF EVIDENCE, consisting of one page and three exhibits was taken down before me in the presence and hearing of the Accused.

Bordon, Hants.,
29 September 1943.

F.H. Kelley
(F.H. kelley) Capt., R.C.A.
Officer detailed to take this Summary.

Arthur S. Pettyquis,
Major

I CERTIFY that the man whose personal description is given below surrendered himself to* B.C.I.D. Oyas at Hill St. Richmond at (hour) 9-30 p.m. on the 21st day of September as being No. D118400 (Rank and Name) Private Yvon DENIS a deserter (or absentee without leave) from 15-8-43 and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "to" to be inserted the name and rank of the police officer concerned.

Age 21 Height 5 Feet 4 Inches

Complexion dark Hair dark brown

Eyes brown

Marks Scar under chin

In uniform or plain clothes plain clothes

Probable Date and Place of Attestation	27th June 1941. Montreal
Probable Date of Desertion or beginning of absence, and from what place	15-8-43. Borden

Exhibit "A" [illegible]

[illegible] 86

Signature of Officer of Police in charge of Richmond Station

21st September 1943. Date of Signature

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j).

I, ... (W. Fern), Capt. . D.A.P.M. & C. ?.H.Q. . . . . certify that

Reg. No. D.118400. Rank . Gnr. . . . Name . Denis, Y. . . . . .

Regiment . No. 1 C.A.R.D.. D Bty. . . . . .

Unit . . . . . .

Stationed at . . . . . .

Surrendered himself to No P.S. . Rank C.I.D. Name Dyas. . . . . .

of the . . . . . Richmond Civil Police. . . . . .

on the 21st. day of September . . . . . 1943 , at 2130 . . . . hours

. . . . . AS AN ABSENTEE WITHOUT LEAVE . . . . . .

At the time of his surrender he was wearing (xxxxxxxxxxxxxxxxx or (civilian clothes)'

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

(Strike out part inapplicable)'

(W. Fern) D.A.P.M., C. M. H. Q.

Capt.,

London
21 Sept. 43.

Exhibit "B"
J. McCallum Capt.

1840.20. Gm Dennis 9. Wing Stores Sept. 29 43.

Anklets. Wet.	1		3. 0½	2. 7.
Trousers. B.D.	1.		1. 7. 8	1. 0. 9.
Blouse. B.D.	1.		1. 7. 11.	1. 0. 11.
Boots. Ankle.	2.	@ 1.16.	2. 3. 0.	1. 12. 3.
Drawers, Cells.	2.	@ 2.0½.	4. 1.	3. 1.
Shirts. Angola Drab.	2.	@ 9.2.	18. 4.	13. 9.
Socks. Woollen. pr.	3.	@ 1.8.	5. 0	3. 9.
Badges. Cap.	1.		4½	3½
Braces.	1		1. 6	1. 1½
Knives, clasp.	1.		5. 2½	3. 11
Vest. Gym.	2.	@ 1.6	3. 0.	2. 3.
Towels. Hand.	3	@ 0.11½	1. 11	1. 5.
Haversack, Respirator.	1.		5. 8.	4. 3.
Outfits. Anti-Dim	1.		1. 2½	1½
Ointment, A.G.	2	@ 1.2.	2. 4.	1. 9.
Eyeshields, A.G.	6.	@ 9½	4. 9	3. 9.
			£ 7. 15. 4	£ 5. 16. 6½

I certify that I have checked the Art. of the M/m. in his presence against Normal Issue as laid down, and found him deficient in the amount of £ 7.15.4. Vocabulary Price and £ 5.16.6½ Unexpired Wear Value.

C Harris Bowl
B Cook

Exhibit "C"
J. Kelley Capt.

No. D-118400 Name DENIS Yvon Sqn., Battery, or Company 1 CARU Corps R.C.A. Date of enlistment 27-6-41 G.C. Badges Service or Proficiency Pay N/A M.F.M. 5 (A.F.B. 122) 175M—7-41 (1210-30) H.Q. 1772-38-1602

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. T.M. Lanthier Lieut Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12 Jul 42	Gnr		WOAS Conduct to the prejudice of good order and military discipline in that he did create a disturbance in the Convalescent Surgical Ward at approx 2230 hrs 12 Jul 42 AA WOAS A.A. Sec 15 (1)	L/Sgt R. Manning Cpl F. Smith Sec 40	Ffts 10 days pay A.A. Sec 46(2)(d)	13 Jul 42	(H.G. Young) Colonel OC No 8 Gen Hosp	Ffts 10 days pay FR&I 149(2) Total Fftr 10 days pay
Field	15 Nov 42	Gnr			Bdr Downs Bdr Serres	Ffts 2 Days pay A.A. Sec 46(2)(d)	16 Nov 42	(G.T. Inch) Lt-col	Total Fftr 3 days pay
Field	30 Nov 42	Gnr		WOAS AWL from 0800 hrs 30 No 42 until 1230 hrs 2 Dec 42 (Absent 2 days 4 hrs 30 min) A.A. Sec 15(1)	Sgt West Bdr Serres	4 day F.P. Forfeits 4 days pay	4 Dec 42	(A. Fort) Major	Total Fftr 7 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Dec 42	Gnr		WDAS AWL from 1000 hrs 20 Dec 42 to 1030 hrs 30 Dec 42 (Absent 10 days 30 min) A.A. Sec 15 (1)	Sgt Leeson Lieut J. Cambell Officer CPC	28 days F.P. 28 days pay FR&I 149(1)3	2 Jan 43	(T.H.Muagrave) Colonel	Forfs 11 days pay FR&I 149(1)a
Field	11-2-43	Gnr		A.A. 15(1) W.O.A.S. AWL from 1900 hrs 17 Jan 43 until surrendering to Civil Police at Kingston at 0045 hrs 11 Feb 43 (Absent 24 days 5 hrs 45 mins)	Gnr Fincher S/Sjt Cocker Sjt Baird Gnr Levis	90 days detn	19-2-43	F.G.C.M.	Ffts 25 days pay FR&I 149(1)(a) AWL Ffts 8 days pay FR&I 149(1)(c) for time in close arrest
Released from the DETENTION BARRACK H Downs Apr 27 1943 earned under "Rules for Detention Barracks and Military Prisons 22 days Commandants Initials ?????					Sentence having expired.		Remission		Ffts 90 days pay FR&I 149(1)(b) Detn Total Fftr 183 days pay

D-118400 No. Name DENIS, Y. Sqn., Battery, or Company Corps R.C.A. Date of enlistment 27-6-41 G.C. Badges Service or Proficiency Pay N/A

M.F.M. 6 (A.F.B. 122) 11SM—7-41 (1215-20) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposing with trial	By whom awarded	Remarks
Field	23-5-43	Gnr		A.A. 15(1) WOAS AWL 1200 hrs 23-5-43 to 1445 hrs 24-5-43 (Absent 1 day 2 hrs 45 mins)	L/Sjt Saltmer, S. Documentary	4 days forf of pay A.A. 46(2)(d)	25-5-43	Colonel T.H. Musgrave	Ffts 2 days pay FR&I 149(1)(a) Ffts 4 days pay FR&I 149(2) Total Forf 6 days pay
Field	28 Jun 43	Gnr		WOAS AWL from 2300 hrs 28 Jun 43 until 1645 hrs 18 Jul 43 (Absent 19 days 17 hrs 45 mins)	Sjt West L/Sjt Serres Documentary	28 days F.P. 28 days pay	19 Jul 43	(H.G.S. Franks) Major	Total Fftre 48 days pay

4 Oct 43

CERTIFIED TRUE COPY / ~~30 Sep 43~~

(F.H. Kelly) Capt., R.C.A.

Officer having custody of Original Document

M.F.B. 353
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-118400	Gunner	DENNIS, Yvon	No 1 Cdn Arty Reinf Unit.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15 (1)	5 times	5	times
For	A.A. Sec 40	0 times	1	times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted.~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ / Army Act and dispensations with trial under ~~A.A. 73~~ / A.A. 73 are set out in the Schedule annexed to this statement.

~~3. The accused is not under sentence at the present time.~~ The Accused is not under sentence at the present time.

~~The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 12 days in ~~Air Force~~ / military custody, making a total of 13 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 3/12 yrs.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 27 Jun 41.

7. The service which the accused is allowed to reckon towards discharge is 2 3/12 yrs

8. The accused is entitled to reckon 2 3/12 yrs service for the purpose of determining his pension, etc.

~~9. The accused is in possession of or entitled to no air force decoration, or air force record for his possession of or entitled to: State any air force decoration or record~~

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion

In the rank of ..... years

In the rank of ..... years

In the rank of ..... years

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D-118400 Rank Gunner Name DENNIS, Yvon of No 1 C.A.R.U. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	19 Feb 43	A.A. Sec 15 (1)	90 days	22 days.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 Oct 1943 day of Sept 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(K.J.C. Mickey) Capt Records Officer
No. 1 Cdn Arty Reinf Unit.

Arthur S. Pettyjohn, Major

LIST OF WITNESSES.

PROSECUTION

1. C-97 Bdr McFadden, W.L. — No. 1 C.A.R.U.
2/ B-6001 SQMS Harris, C.S. — No. 1 C.A.R.U.

DEFENCE

NIL.

LIST OF EXHIBITS.

1. Certificate of Surrender on Army Form O-1617
2. Certificate under the Army Act Section 163 (1) (j)
3. Certificate of deficiencies of kit.

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14 (B).

I, D-118400 Gnr Dennis, Y., of No. 1 C.A.R.U., desire to have an Officer appointed by the Convening Officer to represent me at my trial by Court Martial.

Y. Dennis

D-118400 Gnr Dennis, Y.

CHARGE SHEET.

The Accused, D-118400 Gunner Yvon DENNIS, Royal Canadian Artillery, on the strength of "P" Training Wing, No 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

When on Active Service.

1st. Charge. A. . Sec. 15 (1) ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, did absent himself without leave from 2300 hours 14 August 1943 until surrendering to the Civil Police at Richmond at about 2130 hours 21 Sep 43.
(Absent 37 days 22 hours 30 minutes)

WHEN ON ACTIVE SERVICE,

2nd Charge. A.A. Sec. 24 (2) LOSING BY NEGLECT PUBLIC PROPERTY ISSUED TO HIM FOR HIS USE

in that he,

in the field, on 29 September 1943, was deficient the articles here under listed, which had been issued to him for his use.

Article	No	Vocab Price.		
Trousers Battle Dress	1	1	0	9
Blouse Battle Dress	1	1	0	11
Anklets web	1		2	7
Boots ankle	2	1	12	3
Drawers Cello	2		3	1
Shirts, angolo drab	2		13	9
Socks woollen prs	3		3	9
Badges cap	1			3½
Braces	1		1	1½
Knife clasp	1		3	11
Vests gym	2		2	3
Towels hand	2		1	5
Haversack respirator	1		4	3
Outfits anti dim	1			8½
Ointment A/G	2		1	9
Eyeshields A/G	6		3	9
Total Vocabular Price		5	16	6½

Borden, Hants.,
30 September 1943.

(W.A. Townsley) Colonel,
Commanding Officer,
No. 1 Canadian Artillery Reinforcement Unit.

To be tried by Field General Court Martial,

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Borden, Hants.
1 Oct 43.

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

342
~~C. 166~~ 36 Gm. Kennison d. g

O. H. M. S.

M. F. B. 270
[illegible] 12-40 ([illegible])
R.Q. 1772-[illegible]

Army Form A.3.

Correspondence to be PINNED here.

PROCEEDINGS REVIEWED

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 18th. day of December, 19 41.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Corps Area (Surrey), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

*[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	W.H. Gillespie	7 Cdn A Fd Regt

Members.

Rank.	Name.	Regiment.
Capt.	M.Y. McLean	7 Cdn A Tk Regt.
Lieut.	D.C. Barker	7 Cdn A Tk Regt.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,

Commanding C.C.M.A. Cdn Corps
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C 16636 Gnr. Dennison, D.G. 5 Cdn Med Regt.	A.A. Sec 11 See Charge Sheet annexed.	Guilty	Guilty 14 Days Det.	I confirm finding and sentence HH

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A).):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H. Stark Brigadier
Commanding C.C.M.A. Cdn Corps.
Confirming Officer (d)

(Signed) W.H. Gillespie Major
1 Cdn A Tk Regt RCA
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twenty second day of December, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*3. ~~The interpreter~~
*4. ~~The officers under instruction~~
5. The Court reporter
were duly sworn.

* Omit if not applicable.

Signed this 22nd day of December 1941.

W.H. Gillespie Major
President of the Court Martial.

C. Certificate in case of death sentence.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (a) on page 762 M.M.L. 1940.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~I direct that the soldier named in the margin be kept under~~ ~~until he be released by competent authority.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commute or remit, or, having such authority, recommends suspension.

Signed this 24nd day of December 1941.

H. Stark Brigadier
C.C.M.A. Confirming Officer Cdn Corps.

Promulgated and extracts taken in the case of C16636 Gnr Dennison D.G.

(a) (Dated) 28 Dec 41 (Signed) H.G. Hamilton Lieut RCA
Adjt. 5 Cdn Medical Regt. RCA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

5 Canadian Medium Regiment, R.C.A.

W.H. Gillespie Major President 22 Dec 41.

Medical Certificate

C16636 Gnr. Dennison, D.G.

1. I hereby certify that the marginally noted soldier is fit to undergo trial by F.G.C.M.

(J. Kussner) Capt., R.C.A.M.C.,
Medical Officer, 5th Cdn. Medium Regt., R.C.A.

5CMR/5-4

KRS

5TH CANADIAN MEDIUM REGIMENT R.C.A.

13 Dec 41

H.Q. M.A. CANADIAN CORPS
Received
15 DEC 1941
5-4-2 hrs

To: H.Q., M.A.,
Cdn. Corps.

APPLICATION FOR A FIELD GENERAL COURT MARTIAL

Sir:

1. I have the honour to sumit one charge against C 16636, Gnr. Dennison, D. G. of the regiment under my command and request you will obtain the sanction of the convening officer that a Field General Court Martial may be assembled for his trial in the field.

2. The case was investigated by:
Lt. Col. A. Bruce Matthews
Major F. LeP. T. Clifford
Lieut. A. M. Boulton

3. The accused is now in the custody of the 5th Canadian Medium Regiment, R.C.A. His general character is good.

4. I enclose the following documents:
(a) Charge sheet in duplicate.
(b) Summary of evidence, original and two copies.
(c) Original exhibits "A" "B" and "C".
(d) List of witnesses for the prosecution and the defence.
(e) List of exhibits.
(f) Statement as to character, army form B 296.
(g) Field conduct sheets of accused MFM 6.
(h) Statement by accused as to whether or not he desires to have an officer assigned by the convening officer to represent him at the trial. (R.P. 14 (b))
(i) Prosecutor: Lieut. A. M. Boulton R.C.A., Adjutant 5 Canadian Medium Regiment R.C.A.

Station - field.

(A. Bruce Matthews) Lt. Col. R.C.A.
Commanding 5 Canadian Medium Regiment R.C.A.

MEDICAL OFFICER'S REPORT

I certify that C 16636, Gnr. Dennison, D. G. is fit to undergo trial by Court Martial.,

13 Dec 41.

(J. Kussner) Capt. R.C.A.M.C.
M.O. 5 Canadian Medium Regiment R.C.A.

W H Gillespie major Pres

CHARGE SHEET

The accused, C 16636, Gnr. Dennison, D. G., 23rd Cdn. Med. Bty., 5 Cdn. Med. Regt. R.C.A., a soldier of the Canadian Army (A.F.) is charged with:

FIRST CHARGE
ARMY ACT
SEC 11

While on active service, neglecting to obey Regimental Security Standing Orders, dated 3 Oct 41 and 23rd Bty. order #185, dated 8 Nov 41 in that he at Fairmile Camp, Surrey on 13 Nov 41 wrote and posted a letter in which he disclosed the location of his and other units and impending troop movements.

Station - Field

Date - 13 Dec 41

A B Matthews

(A. Bruce Matthews) Lt. Col. R.C.A.
Commanding 5 Canadian Medium Regiment R.C.A.

To be Tried by Field General Court Martial

R J Hoad

Brigadier,
C.C.M.A. Cdn Corps.

A H Gillespie
Major i/c Pros

SUMMARY OF EVIDENCE IN THE CASE OF C16636,
GNR. DENNISON D.G., 23 CMD. MED. BTY.,
5 CND. MED. REGT. R.C.A.

FIRST WITNESS FOR
THE PROSECUTION

B 21154, L/Sjt. Hosking A. H., 23rd Cdn. Med. Bty., 5 Cdn. Med. Regt. R.C.A.

L/Sjt. Hosking having been duly sworn, states:
I have examined the handwriting of the letter (exhibit "A") and am satisfied that it is the handwriting of C16636, Gnr. Dennison, D. G. whose handwriting is known to me. Exhibit "B" is a copy of the Regimental Security Standing Orders in force on 13 Nov 41 and immediately prior thereto. On 8 Nov 41 the following order appeared in 23rd Bty. Orders under no. 165:

> "All ranks are again reminded that no indication of the location of this or other units may be given either directly or [illegible] in letters or Christmas cards."

A H Hosking
B 21154, L/Sjt. Hosking, A. H.

The accused declines to cross examine this witness.

Exhibit "C" - Censorship submission, dated 20 Nov 41.

The accused declines to call any witnesses at the present time.

The accused having been duly cautioned under Rule of Procedure 4 (c) elects to give evidence under oath:

I have been on intimate terms with the person to whom the letter, exhibit "A" was addressed, for the past 6½ years. I had no ulterior motive in writing these statements. I did so knowing that my correspondence would be subject to censorship and thinking that anything objectionable would be deleted by the examiners. Knowing the character of the addressee of the letter. I am confident that there was not the slightest chance of her misusing any information which the examiners allowed to pass uncensored.

D G Dennison
C16636, Gnr. Dennison, D. G.

Taken down by me in the presence and hearing of the accused, this 13th day of December, 1941 at R.H.Q., 5 Canadian Medium Regiment, R.C.A.

A Bruce Matthews

(A. Bruce Matthews) Lt. Col. R.C.A.
Commanding 5 Canadian Medium Regiment R.C.A.

CANADIAN LEGION

WAR SERVICES

Fairmile Camp,
Thursday Nile,
Nov. 13. 1941

Evelyn Dearest,

Gosh its been raining almost incessantly, day & nite, for over a week, just like the weather we had this time last year when we were hauling rubble from London every day to make roads in our camp in the bush at Horsley, & we finally had to give it up for a bad job. you should see this camp Dear, its positively in a deplorable condition. It was certainly an unwise location for a regiment of artillery, our equipment is so heavy. It's had a sort of scheme planned for yesterday and then we tried to move the guns and they got so badly mired we sent all ~~morning~~ day just getting them out of the soup!

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where I'll try and get it. They have a sort of lending library here in camp but the books are all terribly old dirty things that women's institutions & so on have contributed, you know the variety.

"Pain under your pinney" - hm-m-m, wonder what that means?--

What is winterberry colour Dear? that sounds (& looks?) like a nice coat you sketched. That hat you have on in the garden at Victoria looks like the same one with the loop in front that you had when I left home?

Well Deacie I must wind this up - gosh what to do about Xmas cards, I just feel I don't want to be bothered getting any at all

Lili 'Angel
I love you
Dong.

Poor Vi
that's too bad.

CANADIAN LEGION

WAR SERVICES 1941

So now I guess they'll decide to build platforms for the guns and tracks and then we won't be able to move them at all till the rainy season is over and then of course the winter is on too. Yeah you know its marvellous the way the German troops can overcome these obstacles and keep their armies moving ahead all the time in spite of the rain. Some day they calculates. If they could have seen us struggling to keep our guns etc. from going out of sight right here in camp yesterday they would have had plenty of reason to smile.

Yes to matter of course the conditions understood for walking.

I'm just answering your letter as I come to them.

So that's one reason you feel self, conscious in a woollen sweater Dearie? - ha! did I ever say you were too fat under one? Dearie: Dear ==!

And another cyst in the same eye! darn.

Dearie I wonder if you'll be visiting the Erskine church on the corner of Wright & Roacer valles at Mas time, and will it be as pretty as it was that time you and I went!

Yes Dear the leaves don't die out in such a galaxy of colours here, like they do at home.

I've heard of that book "The Sun is My Undoing". if I see it "any-

3.

CANADIAN LEGION

WAR SERVICES 1941

One of the lads here in the hut got a huge birth-day cake from home to-day, it must have been at least 14 inches across, and he cut it up and divided it among about 8 of us, so you can imagine how big a chunk we each had. Holy sonde I never ate so much rich cake at one time before and that was before suppes. I even feel a we bit queer in my tummy and the others say the same. Incidentally this chap is a French Canadian & his cake had "Bonne Fête" on it, and candles wrapped up with it - he didn't bother sticking them in & lighting them tho.

the location. Dearie I imagine if you do any strolling thru the park there you'd have a few recollections - darling - - - !! Have you by any chance called on Mrs. Elliot at 292 Wright - was that not her name? You'd also be familiar with the stores on Rancesvalles.

Yes I've heard of that dog Ane Kirk. I've seen pictures of him in the Star I think. it's a good publicity idea isn't it? I asked you to tell me if there was anything else in tartan material that you would like me to send you whenever I go on leave but you didn't say anything about it Dear - by the way I'm afraid I'm not holding good sequence in this letter but

CANADIAN LEGION

WAR SERVICES 1941

Well Smethurst, since I wrote you a week ago to-day, or was it a week ago tomorrow morning - I was on telephone duty all night anyway - since then I've had 4 letters and a birthday card from you, as follows:

104 - Oct. 8
105 - " 9
106 - " 17
card - " 15
} Nos. 9

107 - Oct. 20 - Nos. 11

I'll mention once more that 94, 98 and 99 must have been lost, so with those exceptions I'm all caught up.

I haven't much news of my own, so I can dispense with that in a hurry and answer all

to see anything that looks like this sketch I'll get it for you. Meanwhile I'll send him a cheque to buy Xmas gifts with like I did last year and I'll try to think of something to hear him send you. ~~Actually~~ Actually, I don't like the idea of sending things ~~of any nature~~ from here except when we leave, just casually as it were.

Yes Dear I realize you just offered it as a suggestion but I wish you had made more than one suggestion.

I hope you had enough of that tartan material for the pleated skirt; and glad the slippers fit.

I can easily understand the lay-out of your rooms Dear from your diagram. and also

5

CANADIAN LEGION

WAR SERVICES 1941

your letters afterwards. Oh!
Friday evening I decided to
go over to Horsley and for some
unknown reason left here
before supper, with the result
that when I got there about
5 o'clock I was starved so I
went straight to the old mess,
and you can imagine my
delight to find they were having
a banquet, followed by a sort
of concert or "smoker". Well
of course, being one of the "old
boys" so to speak, I felt quite
justified in staying and got
together with Frank, George &
the others. Cosh Dear what a
spread - just about as good as
the meal we had there last Mas.

How dare it Dearie David you had give me a more practical suggestion for a xmas present. Not that I wouldn't like to get something like that to send you Darling but I mean - well in the first place I can't really understand what your drawing is intended to represent and in the second I couldn't get anything in china very conveniently because I haven't access to stores where they would be apt to have it, and in the third I wouldn't be a good judge of things like that. Even if I were to go up to London on a Saturday afternoon I'd be completely lost shopping for china. I'll certainly promise you this tho Dear - if at any time I do happen

CANADIAN LEGION

WAR SERVICES 1941

There were a lot of faces new to me - the men who came to take our place when we left Horsley a month ago. There was a battle of beer for everybody as there usually is at a smoker. I think the banquet was intended to be in honour of the fact the battery - in fact the whole 1st Sust. Regiment is upsetting to move down to the south coast to take over defence duties from the English troops. It's a desirable place and they aren't looking forward to the winter there with much enthusiasm. I don't know how soon exactly exactly when they are leaving Horsley but soon.

~~[illegible]~~ it" to you but it
wasn't mine of course
You for your letters - thanks
Dearie for the sweet card. it
was a few days late but that
must be expected; the parcel
came in good time anyway.
So my £20 was censored?
I've heard some of the others say-
ing their letters have been opened
too lately, well they didn't find
much to black-out in it anyway.
I'm glad Dear that you found
your new place not so bad as
you thought at first:
- oh by the way it was funny
the censors blacked-out the
word "Guildford" because I
was mistaken anyway. it was
Woking where Mr. Lunn was
cremated. Do you suppose they
were just correcting me? ha:

CANADIAN LEGION

WAR SERVICES

1941

There were 2 or 3 musicians and there were some old army songs & jokes & speeches & so on & the usual variety of entertainment, crude but there were lots of laughs.

Saturday afternoon some of us went down to Kingston on skates and went to a show - "40,000 Horsemen" not bad but not good either.

Sunday it was too rather a day to go out so just lay around and slept all day & evening.

Monday nite Don Robinson and I went up to London and went to the Paramount ball room, and spent all nite dancing around the nite clubs,

wrote the ex-girl-friend a real hot letter. You know we always see the Star Weekly & someone always has one sent to him, & we often see pictures of Canadian troops over here, in various activities, both military and social, you never know who is apt to be taking candid snaps to send back to the Canadian papers, and it must often occur that girls and wives back home are shocked to see their boy-friends or husbands making puppy love to ~~some~~ English girls over here. Not so good! We had a Star Weekly here a while ago with a picture of us the day Mr. King "reviewed" us, & wasn't it the pictures had several of the boys could be recognized. I would have cut the picture out and sent

CANADIAN LEGION

WAR SERVICES 1941

there is always something going on in such places. floor shows + so on, and we came home on the morning train - stayed home Friday nite and last evening the same chap and I went down to Eaton's to see "Underground" a real good propaganda picture. ~~with~~ also Father Takes a Wife.

So this pic about brings me up to date - but here's a funny little incident I want to tell you about - or is - incidents (and actually not so funny) One of the lads in this hut - a Toronto boy - happened to pick up the rotogravure section of a Star Weekly that one of the others had,

and as he was glancing thro
it he noticed a fall that looked
familiar to him, and darned
if it wasn't his own girl friend
. she lives in Owen Sound - and
here she was promenading along
the lake shore, arm - in - arm
with a Polish soldier, and looking
as ~~contented~~ sickeningly happy about it!
It said something underneath
it about some Polish troops who
had organized up that way
and how friendly they were treated
by the local population.
Now if that wasn't irony
what was it? Josh Mac was
mad! well naturally he would
be, to see his own girl friend in
company with a Pole. He stuck
the pillow up on the door here
with a knife then it, and tried
all the humour in it but not
Mac. It certainly was down and

14

And I'm not complaining
only stating facts for after
all we are lucky!
What! a couple only? — your not
letting Jack get ahead of you are
you? Marie ... I'm afraid I am!
[illegible] projector [illegible]
[illegible] Marie!!! [illegible] you?
[illegible] wouldn't you like to know? Marie!!! [illegible] you?
[illegible] Yes [illegible] for a chat with
wouldn't give
you [illegible] Love Evelyn

tsk: tsk:

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C.A. (A.F.) Exhibit A.

W H Gillespie
Major
Pres.

This is exhibit "A" referred to in the summary of evidence in the case of C 106 36 Gus Lamison L.S. taken by me on 13 Dec 41

L. W. Hunter
Lieut.

Miss Evelyn Blessinger,
143 Indian Road,
Toronto. Ontario.
Canada.

HEADQUARTERS
19 DEC 1941
CCMA

5 Cdn. Medium Regt. RCA,
Canadian Army (Overseas)
W A L

This is exhibit "B" referred to in the summary of evidence in the case of C16636 Gnr. Dennison N.G. taken by me on 13 Dec 41 Arthur Boulton Lt 3 Oct 41.

JF

WAR CDN. MEDIUM REGT., R.C.A.

APPENDIX "A"

A H Gillespie Major Pres

UNIT SECURITY STANDING ORDERS

1. All ranks will exercise constant care to prevent leakage of information through indiscreet talk in public places or with strangers, whether in uniform or not. Disclosure, even among friends or while on leave in another part of the country, of impending movements of themselves, their units or other units, is forbidden.

2. The Regimental Orderly Office will act as Unit Security Officer. This officer will be responsible for imparting and explaining to all ranks their share in Security Work and their responsibility for the rest of the armed forces.

3. Those left in charge of Headquarters and Battery Offices will ensure that all Secret, Security and Confidential Documents are kept in a separate box from other fyles which should be kept locked and the keys kept in the possession of an officer or N.C.O.

4. Letters, parcels etc. must not be sent to any member of the Unit bearing a close postal address. Anyone receiving such will take steps to prevent a reoccurrence.

5. It is forbidden to give the Unit location, or that of any other Unit over the telephone.

6. All ranks must be in possession of proper military identification at all times. Officers - AFB 2606 - C.R's. - Paybooks.

7. Those owning cameras will on no occasion take pictures of military equipment, fortifications, naval or air force equipment, etc. Personnel wishing to send snapshots home should consult an officer to eliminate any doubt.

8. All ranks will at once report any incident of an unusual or suspicious nature which comes to their attention.

9. Personnel employed in the Unit Offices should, where they have access to confidential information, take great care to keep this to themselves. All useless documents containing military information should be burned by fire under supervision preferably of an officer. This particularly applies to drafts and carbon copies of orders.

10. All ranks performing guard duties should be conversant with their duties and should be familiar with the type of civilian and military passes on issue.

Arthur Boulton Lieut

for (A. Bruce Matthews) Lt. Col., R.C.A.,
Cmdg. 5th Canadian Medium Regiment, R.C.A.

(80129) 41352/171 600m 2/41 M&C Ltd. 706 W H Gillespie major Ress. 20 NOV 1941

POSTAL & TELEGRAPH CENSORSHIP. SUBMISSION No. CM/1/66.

P.C.72

Terminal Mail ~~Air~~ Surface

This is exhibit "C" referred to in the summary of evidence in the case of [illegible] taken by me on 13 Dec 41 [illegible]

Letter from "DOUG"
5, CANADIAN MEDIUM HEFT.
(FAIRMILE CAMP)
P.P.O. 453.

Address ~~or postmark~~

Date of letter ~~or postmark~~ NOV. 13.

To MISS EVELYN BUSSINGER
143, INDIAN ROAD,
TORONTO,
ONTARIO
CANADA.

Language ENGLISH.

ORIGINAL LETTER:

Submitted X Photographed

Retained Released

Returned to Sender

SUBMITTED TO:

Orig. to P.C.(H)

Seen by: Naval Adviser Air Adviser M.I.12

SUBJECT
(Include necessary references to Watch Lists, with Authority requiring the Watch)

Canadian soldier alleges that the Camp is in a deplorable condition and unfit for an Artillery Regiment.

Letter also Contains numerous indiscretions.
Scrap of paper enclosed.

Extracts.

ADDRESS FAIRMILE CAMP.

Just like the weather we had this time last year when we were hauling rubble from LONDON every day to make roads in our CAMP in the bush at HORSLEY..... You should see this CAMP.... its positively in a deplorable condition. It was certainly an unwise location for a regiment of artillery, our equipment is so heavy. We had a sort of scheme planned for yesterday and when we tried to move the guns and they got so badly mired we spent all day just getting them out of the soup. So now guess they'll decide to build platforms for the guns

P.T.O.

Operating Unit	Section	Examiner	D.A.C.	Date
Field Censors (Home)	2	1946	G.A.E. pp. D.E.S.	19.11.41.

[80129] 41352/171 600m 2/41 M&C Ltd. 706

W H Gillespie major Res.

20 NOV 1941

POSTAL & TELEGRAPH CENSORSHIP. SUBMISSION No. CH/A/66.

P.C.72

Terminal Mail ~~Air~~ Surface

This is exhibit "C" referred to in the summary of evidence in the case of C 6636 [illegible] when by me on 13 Dec 41 [illegible]

Letter from "DOUG"
5, CANADIAN MEDIUM DEPT.
(FAIRBILL CAMP)
F.P.O. 453.

Address ~~or postmark~~

Date of letter ~~or postmark~~ NOV 13.

To MISS EVELYN BUSSINGER
143, INDIAN ROAD,
TORONTO,
ONTARIO
CANADA.

Language ENGLISH.

ORIGINAL LETTER:

Submitted X Photographed

Retained Released

Returned to Sender

SUBMITTED TO:

Orig. to F.S.(R)

Seen by: Naval Adviser Air Adviser M.I.12

SUBJECT
(Include necessary references to Watch Lists, with Authority requiring the Watch)

Canadian Soldier alleges that the Camp is in a deplorable condition and unfit for an Artillery Regiment.

Letter also contains numerous indiscretions.

Scrap of paper enclosed.

Extracts.

ADDRESS FAIRBILL CAMP.

Just like the weather we had this time last year when we were hauling rubble from LONDON every day to make roads in our CAMP in the bush at HORSLEY..... You should see this CAMP.... its positively in a deplorable condition. It was certainly an unwise location for a regiment of artillery, our equipment is so heavy. We had a sort of scheme planned for yesterday and when we tried to move the guns and they got so badly mired we spent all day just getting them out of the soup. So now guns they'll decide to build platforms for the guns

P.T.O.

Operating Unit	Section	Examiner	D.A.C.	Date
Field Censors (Home)	2	1946	G.B.E. pp. D.M.W.	19.11.41.

and trenches, and then we wont be able to move them out till the rainy season is over, and then of course the winter is bad too. Gosh. you know it is marvellous the way the GERMAN troops can overcome these obstacles and keep their armies moving ahead all the time in spite of the resistance they encounter If they could have seen us struggling to keep our guns etc from going right out of sight here in CAMP yesterday, they would have had plenty of reason to sneer. Not to mention of course, the conditions under foot for walking.....

.....

The banquet was intented to be in honour of the fact the battery, in fact the whole lot MOD: REGIMENT is expecting to move down to the South coast to take over defence duties from the [illegible] troops It's a desolate place and they arent looking forward to the winter there with much enthusiasm. I dont know exactly when they are leaving [illegible] but soon.

FOR MINISTRIES ONLY
Recommendation for Disposal of Letter and Reason

FOR CENSORSHIP INTERNAL ACTION

Letter Condemned..... Returned to Sender..... Released.....

COUNTER NUMBER 545811

HOUR 11.40

OPERATOR'S INITIALS E. M.

RELIEVING OPERATOR

LIST OF EXHIBITS

Exhibit "A" - letter dated 13 Nov 41.

"B" - Security Standing Orders, dated 3 Oct 41.

"C" - censorship submission, dated 20 Nov 41.

LIST OF WITNESSES

For the prosecution: B 21154, L/Sjt. Hosking, A. H., 23rd Cdn. Med. Bty., 5 Cdn. Med. Regt. R.C.A.

For the defence: None.

WHQ major

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C 16636	Gnr.	Dennison, D. G.	5 Canadian Medium Regiment R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Disobeying an order	times	1 times.
For Drunkeness	1 times	1 times.
For Out of bounds	2 times	2 times.
For Losing clothing	1 times	1 times.
For Absent from duty	1 times	1 times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act and dispensations with trial under para. 673 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence of imprisonment for the term of~~

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and no days in military custody, making a total of no days, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 26 years.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 13 Sep 1939

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ Service.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining the pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (~~and is in possession of or entitled to (state any military decoration or award)~~).

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer held the regimental rank of~~

12. (~~In the case of an officer.~~) ~~The accused holds in the army the rank of~~ dated ~~and in his regiment (or corps or department) the rank of~~ dated

(71846) WILDMAN'S 75,000 12/40 A.A.F.W.1st Gp.408

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C 16636 Rank Gnr. Name Dennison D. G. of 5 Cdn. Med. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of Dec 41

(A. Bruce Matthews) Lt. Col. R.C.A.
Commanding 5 Canadian Medium Regiment R.C.A.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of **N.A.** years .....

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraph inserted accordingly.)

This a certified true copy of original M.F.M.6.

No. C/16636 Name Dennison D.G. Sqn. Battery or Company 23rd Med Corps Bty.R.C.A. Date of enlistment 13/9/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1. Signature O.C. Company, etc. Character

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1703) H.Q. 1772-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
E.Horsley	17/10 40.	Gnr.		Sec.40.A.A.WOAS. Conduct to the prejudice etc,Disobeying an order.	A/Bdr Caldwell L/Bdr Dodds L/Bdr Bone	5 days C.B.	18/10/40	Major Walker	
E.Horsley	16/1/41	Gnr.	1	Sec.19 A.A. WOAS. "Drunkenness"	Sjt Brown L/Sjt Marley	Admonished	20/1/41	Lt/Col Johnson.	[illegible]
				(2). Sec.15(3)A.A. WOAS "out of bounds"	Sjt Brown	7 days C.B. Forfeits 3 days pay.	"		
				(3) Sec.24.A.A. WOAS.Losing by neglect his clothing and necessaries to the value of £3-16-10	Documentary	Make good loss of kit.			

(P.T.O.)

Place	Date of offence	Arm	Cause of [illegible]	Offence	Name of Witnesses	Punishment awarded	Date of award or of order [illegible]	By whom awarded	Remarks
.Horsley	4/10/ 41.	Gnr.		Sec.15(3) Found beyond the limits fixed without a written pass.	Documentary	7 days C.B.	8/10/41	Major F.Lep. T.Clifford	
airmile Camp.	22/11/ 41.	"		Sec.15(1) A.A. WOA . AWL,in that he was absent approx 20 mins from a duty.	Capt.Dunphy	7 days C.B.	24/11/41	Major F.Lep. T.Clifford.	

Certified a true copy

[illegible]

Adjutant, 5 Cdn. Medium Regt. RCA

TRIAL OF - C16636 Gnr. Dennison D.G., 5th Cdn. Med.Regt.

Prosecuter.

Lieut. A. M. Boulton

Defending Officer

Lieut. J.L. Etherington

The convening order was read by the President and the accused arraigned on the charge.
The accused pleaded guilty.
The accused No. C16636 - Gnr. Dennison D.G., made no statement.

The defending counsel made the following statement in mitigation.

The accused has a case of unusual type, a test case to bring out the importance of security to officers and other ranks of the Canadian Forces.
The letter in question was the 136th letter written to the accused's fiance, whom he has known for six years. The accused has been careless without ulterior motive. The information given was of no importance to the enemy. The accused was one unfortunate man unlucky enough to have had his letter opened. The reference to the 1st Medium was to convey news of mutual friends. The accused did not think that the reference to Kingston and Esher was a breach of security. He has not mentioned the name of his unit anywhere in his letter. The accused in the letter is trying to refute any suggestion that the Canadian Forces live a cosy life. The accused was under the impression that all letters were censored and anything objectionable deleted by the censors. The accused has learned his lesson and I intend to bring character witnesses before the Court.
I submit that the Court, in considering punishment of accused, should take into account that his breach was through carlessness and that detention could not make him any more securely minded.
I respectfully ask the Court to award the accused as low a sentence as allowed by the Army Act.

Character witnesses were then called.

First Witness

Lieut. A. Melanson 23rd Bty., 5th Med. Regt. having been duly sworn states;
I am an officer of the accused's battery. I have known the accused since July 1940 and have always found him obedient, doing a good job, clean and well educated but a little foolhardy. He has the qualities of a good soldier. He has shown enough ability to be considered for promotion. He is an R.T. operator in battery headquarters, and a very good one.

Second Witness

Lieut. C. W. Tapley 23rd Bty., 5th Med.Regt., having been duly sworn states:
I am an officer of the accused's battery. I have known the accused for 10 months and have worked with the accused for 2 months in the 1st Med. The accused came to the 5th Med. in the same troop as myself from the 1st Med. His character is very good and he was the first man I recommended for promotion. He is one of the best signallers, a willing worker and his general bearing is very good.

Third Witness

B21059 - Troop Sgt. Major Fletcher N.S., having been duly sworn states:

I have known the accused since Feb. 1940 and have always been in the same batteries where the accused was under my command.

His character is very good, he is clean, cheerful and willing. He has always been an R.T. signaller and has been recommended for promotion in that line.

Fourth Witness

B21154- L/Sgt. Hosking A.H., having been duly sworn states:

I am N.C.O. i/c 23rd Bty. Signallers. I have known the accused since Feb. 1940. Up to six or seven months ago I knew him by sight, since then he has been under me in the signal section.

He is at present storeman in the signal stores, which job calls for a responsible man. The accused has been recommended for promotion and is a very good soldier.

The Prosecutor having been duly sworn presents statement as to character and particulars of the accused, A.F.E. 296 and a certified true copy of A.F.B. 122

Wm Allspice major
President

PP.7
PTE DENNISON F.R

PP.7
PTE DENNISON F.R

PP-7

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 6th day of September, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 11 Cdn Inf Bde. 5 Cdn Armd Div., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [redacted]

*([redacted]

*([redacted]

[redacted]

JUDGE ADVOCATE - Captain G.M. Morrison
ADJA 5 Cdn Armd Div

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W I Kemp	Perth Regt

Members.

Rank.	Name.	Regiment.
Capt	T H White	Perth Regt
A/Capt	J C P Lessard	Irish R C
	WAITING MEMBER	
Lieut	M R Lownds	C B Highrs

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (H Sharp) Brigadier
Commanding 11 Cdn Inf Bde
Convening Officer.

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B79674 Pte Frank Reginald DENNISON The Irish Regt of Can. 5 Cdn Armd Div.	First Charge A.A. Sec 12 (1)(a) (see charge sheet att)	Not Guilty	Guilty of absence without leave 17 July 43 to 25 Aug 43	Confirmed HS
	Second Charge Sec 40. A.A. (see charge sheet att)	Guilty	Guilty	Confirmed HS
	Third Charge Sec 40. A.A. (see charge sheet att)	Guilty	Guilty	Confirmed HS
	Fourth Charge Sec 40. A.A. (see charge sheet att)	Guilty	Guilty	Confirmed HS
			180 days detention and stoppage of pay in the sum of L-0-10-2 costs of apprehension [illegible] 7 Sep 43	Confirmed HS

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) H Sharp (H Sharp) Brigadier
Commanding 11 Cdn Inf Bde
Convening Officer (e)

(Signed) [illegible] Perth R.
President
G Williamson Capt. Judge Advocate

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

President

CHARGE SHEET

3

The accused, B79674 Pte Frank Reginald DENNISON, The Irish Regiment of Canada, CA, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec. 12 (1) (a)
Army Act

WHEN ON ACTIVE SERVICE, IS CHARGED WITH DESERTION

in that he,

In the Field, at 1800 hrs 17 Jul 43, absented himself without leave from his Unit until apprehended at Hyde Park, London, England, at 1415 hrs 25 Aug 43.

Absent 38 days 20 hrs 15 mins
Cost of Apprehension 10 shillings 2 pence

SECOND CHARGE
Sec. 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the Field, on 25 Aug 43 was in possession of a document, purporting to be a genuine pass well knowing that it was not genuine.

THIRD CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the Field, on 25 Aug 43 was wearing Royal Canadian Engineer flashes, to which he was not entitled to wear.

FOURTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

In the Field, on 25 Aug 43 was in possession of an MBM 1 to which he was not entitled.

R C Clark

R C Clark, Lt-Col
The Irish Regiment of Canada, CA

In the Field
1 Sep 43

Comd

To be tried by Field General Court-Martial

H Sharp

(H Sharp) Brigadier
Comd 11 Cdn Inf Bde

In the Field
6 Sep 43

7.9.43 5

Reg. No. B. 79674

Name Pte. Henderson F.

Company B.

The m/n man is ~~to be given~~ Fit to be tried by Court Martial

R. W. Boyden
Capt.
Medical Officer

[illegible]

Record of Proceedings of a Field General Court Martial

Held in the Field in England on 7 September, 1943, to try

B79674 Pte Frank Reginald DENNISON, The Irish Regt of Canada, 5 Cdn Armd Div.

PRESIDENT	Major W.I. Kemp	Perth Regt
MEMBERS	Captain T.H. White	Perth Regt
	A/Captain J.C.P. Lessard	Irish Regt of Canada
JUDGE ADVOCATE	Captain G.M. Morrison	ADJA 5 Cdn Armd Div
OFFICER UNDER INSTRUCTION	Lieut. L. Lessard	Att Irish Regt of Canada
PROSECUTING OFFICER	Captain J.E. Tyler	Irish Regt of Canada
DEFENDING OFFICER	Lieut. D.A. Smith	Irish Regt of Canada

The President produces the Convening Order, Charge Sheet and Summary of Evidence.

The President, in closed court, reads the Convening Order and the Charge Sheet to the Members, and the Court satisfy themselves that it is properly convened and constituted, that the accused is amenable to Military Law, and that each charge discloses an offence.

The accused is brought before the Court and at 1400 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under K.R.(Can) 557 that the accused has this day been examined and is fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

President to accused

Q. 1 Do you object to A57385 Sgt B.W. Henheffer, CMSC, HQ 5 Cdn Armd Div, acting as shorthand writer?

A. 1 No, sir.

The shorthand writer is duly sworn.

The names of the President and Members of the Court are read to the accused and they severally answer to their names.

President to accused

Q. 2 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A. 2 No, sir.

The President, Members, Judge Advocate and Officer under Instruction are duly sworn.

The Charge Sheet is signed by the President.

The Prosecuting Officer informs the Court that the accused has not elected trial by Court Martial.

Q. 7 Would you tell the Court in your own words what you know concerning this charge of desertion against the accused?

A. 7 At London, 25 August 1943, I was on motorcycle patrol in Hyde Park with L/Cpl Williams and saw the accused. I saw his designation of the Royal Canadian Engineers. I stopped him and asked for his pass and he produced a pass which has been attached to my evidence.

Q. 8 I show you a pass. Is this the same pass he produced?
A. 8 Yes, sir.

The pass is produced to the Court, read, marked Exhibit "A", signed by the President and attached to the proceedings.

Q. 9 Are these the type of patches he was wearing?
A. 9 Yes, sir.

Pair of RCE patches produced to the Court, noted, marked Exhibit "B", and attached to the proceedings.

Q. 10 Will you continue with your story?
A. 10 Not being satisfied with the pass and on further questioning he admitted the pass was false and that he was six weeks absent. I arrested him and took him to Hyde Park police station where he was searched and found to be in possession of a blank MBM 1.

Q. 11 Is this the MBM 1 you found in his possession?
A. 11 Yes, sir.

Q. 12 Were there any entries in it?
A. 12 No, sir.

Blank MBM1 produced to the Court, noted, marked Exhibit "C", signed by the President and attached to the proceedings.

Q. 13 What did you then do with the accused?
A. 13 He was then turned over to the Cdn Provost escort.

Cross Examination by the Defending officer:

Q. 14 When you accosted the accused in Hyde Park, did you ask him for his own MBM 1?
A. 14 Not at the time I asked him for his pass.

Q. 15 Did he produce his MBM 1 when you asked him?
A. 15 Yes, sir.

Q. 16 You are satisfied it was his own?
A. 16 Yes, sir.

Q. 17 At the time of arrest, did the accused give you any intimation that he had no intention of returning to his unit?
A. 17 That I could not say, sir.

Re-examination by the Prosecuting officer

Q. 18 What type of head dress was he wearing at that time?
A. 18 Field service cap.

Q. 19 There was definitely no mistaking the patches he was wearing on his shoulder?
A. 19 No, sir.

By the Court

Q. 20 What kind of cap badge was he wearing?
A. 20 None at all, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

CORRECTION

This document has been rephotographed to assure legibility

Provisional

CHARGE SHEET

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Comd

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(H Sharp) Brigadier
Comd 11 Cdn Inf Bde

In the Field
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Reg. No. B. 79674

Name Pte. Henderson F.

Company B

The m/n man is ~~to be given~~ Fit to be tried by Court martial

R. W. Boyden
Capt.
Medical Officer

[illegible]

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MEMBERS	Captain T.H. White	Perth Regt
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The President, in closed court, reads the Convening Order and the Charge Sheet to the Members, and the Court satisfy themselves that it is properly convened and constituted, that the accused is amenable to Military Law, and that each charge discloses an offence.

The accused is brought before the Court and at 1400 hours, the trial commences.

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President to accused

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A. 1 No, sir.

The shorthand writer is duly sworn.

The names of the President and Members of the Court are read to the accused and they severally answer to their names.

President to accused

Q. 2 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A. 2 No, sir.

The President, Members, Judge Advocate and Officer under Instruction are duly sworn.

The Charge Sheet is signed by the President.

The Prosecuting Officer informs the Court that the accused has not elected trial by Court Martial.

until 0800 hrs.

R PIQUET.

1 N.C.O. to be detailed by Duty Company, and all Hut Orderlies.
\o/ Tour of duties 24 hrs, commencing at 1800 hrs.

RADES.

As per Part I Order #233.

DENTS TO ROYAL CANADIAN ORDNANCE CORPS. - Camp Daily Order #1160.

In future all indents submitted to Ordnance for approval and tion will be passed as under:

Divisional Troops - 5 Copies
District Troops - 4 Copies

This is necessitated as indents which cannot be completed by mp Ordnance are forwarded to District Ordnance for completion.

UMS CABLE & REELS CABLE - Camp Daily Order #1156.

In accordance with instructions received from N.D.H.Q. all pty Drums Cable and Reels Cable both comercial and service pattern, ld on Units Ledger charge, are to be returned to Ordnance Depot rediately.

In future, Drums and Reels cable are to be returned to Ordnance pot as soon as they become empty.

This matter should be treated as a most urgent service.

TENTION BARRACKS - ADMISSIONS. - (District Order #1726 .

Officers Commanding Units will take the necessary action to

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A. 1 No, sir.

The shorthand writer is duly sworn.

The names of the President and Members of the Court are read to the accused and they severally answer to their names.

President to accused

Q. 2 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

A. 2 No, sir.

The President, Members, Judge Advocate and Officer under Instruction are duly sworn.

The Charge Sheet is signed by the President.

The Prosecuting Officer informs the Court that the accused has not elected trial by Court Martial.

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty. He pleads as follows:

First Charge - Not Guilty

Second Charge - Guilty

Third Charge - Guilty

Fourth Charge - Guilty

The President complies with R.P. 35(B) in respect of the Guilty pleas by ascertaining that the accused understands the nature of the charges and his plea thereto, explaining the difference in procedure by the plea and advising him to withdraw his plea if he thinks the accused ought to plead Not Guilty thereto.

President to accused

Q. 3 Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

A. 3 No, sir.

P R O S E C U T I O N

The Prosecuting Officer makes the following Opening Address:

"By calling on the Prosecution witnesses, I will prove that the accused left the unit at 1800 hours 17 July with the intention of not returning to his unit. One of the witnesses will show that the cost of apprehension for this man was £0-10-2."

First Witness, B78512 CSM S.R. NEILLY, Irish Regt of Canada, having been duly sworn is examined by the Prosecuting Officer:

Q. 4 Would you tell us in your own words what you know concerning the charges of desertion against the accused?

A. 4 On 17 July in the afternoon, B Coy were on a swim parade. The accused was absent from that parade. Shortly after the parade had gone I asked him why he was not on parade. He stated that he had fallen asleep. I told him to report to the Coy Orderly Sgt for duty at 1800 hours. The Orderly Sgt informed me that he did not report for duty that time. I then told the NCOs if they saw the accused to warn him to report to his billets and go on duty. He did not report to the orderly sgt and did not report to the guard room and time that evening. I did not see the accused again until he was brought back by the Military Police.

Cross Examination by the Defending Officer:

Q. 5 The 17th of July was a Saturday, was it not?

A. 5 Yes, sir.

Q. 6 Can you swear that he was warned for this swim parade?

A. 6 Yes, sir, all the Coy was warned for that parade.

No Re-examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Second Witness 1119160 L/Cpl A.E. MORTON, C.M.P., having been duly sworn is examined by the Prosecuting Officer:

Q. 7 Would you tell the Court in your own words what you know concerning this charge of desertion against the accused?

A. 7 At London, 25 August 1943, I was on motorcycle patrol in Hyde Park with L/Cpl Williams and saw the accused. I saw his designation of the Royal Canadian Engineers. I stopped him and asked for his pass and he produced a pass which has been attached to my evidence.

Q. 8 I show you a pass. Is this the same pass he produced?
A. 8 Yes, sir.

The pass is produced to the Court, read, marked Exhibit "A", signed by the President and attached to the proceedings.

Q. 9 Are these the type of patches he was wearing?
A. 9 Yes, sir.

Pair of RCE patches produced to the Court, noted, marked Exhibit "B", and attached to the proceedings.

Q. 10 Will you continue with your story?
A. 10 Not being satisfied with the pass and on further questioning he admitted the pass was false and that he was six weeks absent. I arrested him and took him to Hyde Park police station where he was searched and found to be in possession of a blank MBM 1.

Q. 11 Is this the MBM 1 you found in his possession?
A. 11 Yes, sir.

Q. 12 Were there any entries in it?
A. 12 No, sir.

Blank MBM1 produced to the Court, noted, marked Exhibit "C", signed by the President and attached to the proceedings.

Q. 13 What did you then do with the accused?
A. 13 He was then turned over to the Cdn Provost escort.

Cross Examination by the Defending officer:

Q. 14 When you accosted the accused in Hyde Park, did you ask him for his own MBM 1?
A. 14 Not at the time I asked him for his pass.

Q. 15 Did he produce his MBM 1 when you asked him?
A. 15 Yes, sir.

Q. 16 You are satisfied it was his own?
A. 16 Yes, sir.

Q. 17 At the time of arrest, did the accused give you any intimation that he had no intention of returning to his unit?
A. 17 That I could not say, sir.

Re-examination by the Prosecuting Officer

Q. 18 What type of head dress was he wearing at that time?
A. 18 Field service cap.

Q. 19 There was definitely no mistaking the patches he was wearing on his shoulder?
A. 19 No, sir.

By the Court

Q. 20 What kind of cap badge was he wearing?
A. 20 None at all, sir.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Third Witness, 5835585 L/Cpl F. Williams, C.M.P., having been duly sworn is examined by the Prosecuting Officer:

Q. 21 Would you tell us in your own words, everything you know concerning this charge of desertion against the accused?

A. 21 At London on 25 August 43 at 1415 hours I was on motor-cycle patrol in Hyde Park in company of L/Cpl Morton. I saw the accused soldier whom I recognize as the accused and L/Cpl Morton asked to see his pass. He produced a pass.

Q. 22 Is this the pass he produced? (Exhibit A).

A. 22 Yes, sir, that is the pass.

Q. 23 Will you continue with your story?

A. 23 He produced this pass and told us that he was one day absent. I suspected the pass to be false. He said "I might as well tell you I am about 6 weeks AWL". He was wearing flashes of the RCE.

Q. 24 Are these the patches he was wearing? (Exhibit B).

A. 24 Yes, sir. He was then arrested and conducted to Hyde Park police station and upon being searched he was found to be in possession of a blank MBM 1.

Q. 25 Is this the type of pay book he was in possession of? (Exhibit C).

A. 25 Yes, sir, he was then detained in Hyde Park police station to await the arrival of Cdn Provost escort.

Q. 26 Were there any entries in this blank pay book?

A. 26 I did not notice any, sir.

Q. 27 Other than the RCE flashes, was there anything else on the man which might designate his unit?

A. 27 No, I do not think there was.

Cross Examination by the Defending Officer

Q. 28 At the time the accused was arrested in Hyde Park, can you say he gave you the impression he did not intend to return to his unit?

A. 28 I think he said he was going to return to his unit.

Q. 29 When he produced the pass before you looked at it, did he say he was a day overdue?

A. 29 Yes, sir.

Q. 30 And then he admitted he was six weeks absent?

A. 30 Yes, sir.

No re-examination.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P. 83(B).

The witness withdraws.

Fourth Witness, Lieut. J.M. Reid, Acting Adjt Irish Regt of Canada, having been duly sworn is examined by the Prosecuting Officer:

Q. 31 In your own words would you give us what evidence you have regarding this charge of desertion against the accused?

A. 31 The evidence I have is that the accused was AWL. To the best of my knowledge he was stopped in Hyde Park in London by the Provost and caught in that manner.

Q. 32 I show you a document. Can you identify it?

A. 32 Yes, sir, this is the Expense Voucher regarding the costs of apprehension of the accused.

Expense Voucher produced to the Court, read, marked Exhibit "D", signed by the President and attached to the proceedings.

Cross Examination by the Defending Officer

Q. 33 Was a Court of Inquiry held regarding the absence of the accused?
A. 33 Yes, sir.

Q. 34 Are the findings available?
A. 34 Yes, sir at the Orderly Room.

No re-examination.

By the Judge Advocate

Q. 34 Do you know of any reason why the accused should be wearing RCE flashes?
A. 34 No, sir, I do not.

Q. 35 Where was the unit located at the time the accused went absent?
A. 35 King's Lynn.

Q. 36 Were any leaves granted in the unit at that time?
A. 36 No, sir.

Q. 37 Then if anyone wearing uniform and head dress of the Irish Regt would be questioned if away from the unit?
A. 37 Yes, sir.

Q. 38 Would that not be a reason for the accused wearing the flashes of the RCE?
A. 38 It might be.

Q. 39 Were any compassionate leaves granted in that area?
A. 39 I believe there was permission for that but none were given.

Q. 40 It had been authorized by higher authority?
A. 40 I believe it had been, but I am not certain.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with R.P.83(B).

The witness withdraws.

The Prosecution is closed.

The accused is informed that he may, if he wishes, give evidence but if he does so he will be liable to cross examination or that he may if he wishes, make an unsworn statement upon which he cannot be cross examined.

President to accused

Q. 41 Do you apply to give evidence yourself as a witness?
A. 41 No, sir.

Q. 42 Do you intend to call any other witness in your defence?
A. 42 No, sir.

The closing address of the Prosecuting Officer is recorded on a separate sheet, marked "X" and attached hereto.

The closing address of the Defending Officer is recorded on a separate sheet, marked "Y" and attached hereto.

In the opinion of the Court and the Judge Advocate it is not necessary for the Judge Advocate to sum up.

The Court is closed to consider the finding.

The finding of the Court is recorded on page 2 of APA 3.

The Court being re-opened, the accused is again brought before it.

The President announces "The finding of the Court being subject to confirmation will be promulgated later".

The charges to which the accused pleaded Guilty are read to him.

The findings of the Court are recorded on page 2 of AFA 3.

President to accused

Q. 43 Do you desire to make any statement of the circumstances in reference to the charges to which you have pleaded Guilty?

A. 43 No, sir.

The Summary of Evidence is read aloud, in the presence of the accused, signed by the President and attached to the proceedings.

President to accused

Q. 44 Do you wish to make any statement in mitigation of punishment?

A. 44 No, sir.

Q. 45 Do you wish to give evidence yourself or to call any witnesses as to character?

A. 45 No, sir.

Statement of Character and Service and Field Conduct Sheet, signed in the manner required by A.A.163(1)(h) and purporting to refer to the accused by his number, rank, name and Corps are produced to the Court, read, signed by the President and attached hereto.

President to accused

Q. 46 Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment?

A. 46 Yes, sir.

The Defending Officer makes the following plea:

"The only thing I can see which would influence this case is that the regt was involved in a number of exercises and the accused went absent. He had just returned from an exercise that day and a Coy bath parade was called in the afternoon. The accused slept in and as he had a lady friend in town, did not show up or return to the unit lines at the time stated. Later in the evening he returned to barracks but we have no evidence to show it. In the morning he went to London. There he managed to get along as soldiers do in London and at no time had the intention of not returning to his unit when he was picked up and told the provost that he was absent. In view of that and in view of the fact that no passes were given in King's Lynn, there may be something in his favour and I ask that you take this into consideration."

The President announces:

"The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated."

The Court is closed to consider the sentence.

The sentence is recorded, dated and signed by the President on page 2 of AFA 3.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 7th day of September, 1943.

Guillaumey Captain
Judge Advocate

"Y"

ADDRESS BY THE PROSECUTING OFFICER

I have attempted to point out through the evidence of CSM Neilly that the accused was warned for duty at 1800 hours 17 July and was not again see until he was returned to the unit by the military police. From the evidence of the military police who apprehended the accused, there are a good many indications to show that the accused did not intend to return to his unit.

First of all he was wearing flashes of another unit and secondly he was in possession of a forged pass which as a matter more or less in conjunction with the flashes. His head dress had been changed. I feel that all these things point out that the man was trying to disguise his unit, equip himself with forged passes and thereby carry on indefinitely. When he was searched, he was found to have in his possession a blank paybook and with this there would be a wide scope for him to get away anything. It is possible that the man could have shown himself a RSM and thereby made himself much less liable to accosting by the military police and could have walked the streets of London for some months without being picked up.

These things point out that the man had no intention of returning to his unit until such time as he was arrested by the Corps of Military Police and returned to his unit.

Another thing this absence was for almost 39 days which is another indication that he had financial resources to carry on. If he had financial resources to carry on for 39 days, I feel he could have carried on indefinitely. I think it is quite conclusive that he left his unit with the intention of not returning.

Gunn.

ADDRESS BY THE DEFENDING OFFICER

The criterion between desertion and AWL is intention. That means that the intention for desertion must be for the soldier to intend to desert his unit or to military service, or to escape from some important military service.

There has been no evidence to show that the accused had any of these intentions. The Prosecution has shown that he was wearing flashes of the RCE, that he was wearing a head dress other than that of his own unit and he was carrying a pass which was not official. In my opinion that points out merely that the accused was AWL and was using these means to stay away. He was taking a holiday. His unit was in East Anglia on special training. Had he appeared in London wearing his own head dress and flashes, he would have been picked up immediately. He did not attempt to make any entries in the pay book. All these things point out he was merely taking an illegal holiday.

The Prosecution brought out the point of 39 days absence. The length of the absence is not at all important. A man might be a deserter if only away for five hours if he had the intention of deserting. The Prosecution has not proven in any way that the accused had the intention of deserting.

At the time of the offence, the unit was in King's Lynn. The accused had been warned for a swim parade. He slept through that and that came out in the evidence of CSM Neilly. The evidence is that he was absent from 1800 hours and used the various means described to have a holiday.

When arrested by the Corps of Military Police, he did not create any impression that he had the intention of not returning to his unit. One witness went so far as to say that he thought the accused said he was going to return to his unit. He produced his own paybook and handed over the blank one. He admitted that the pass was false and that he was AWL for 6 weeks. There is no evidence to show that he had no intention of returning to his unit. The mere fact that he was wearing military uniform in London bears out that he was not deserting. The only thing he can be found guilty of is AWL and certainly not desertion.

EXHIBIT "A"

[illegible]

If a calling-out of the whole Army Reserve is ordered every soldier on p[illegible] must return immediately to his unit without waiting for instructions.

No. 65 Regiment 11TH FIELD COMPANY R.C.E.

PASS

Army Form B295
(In pads of 100)

No. B 79674 (Rank) PTE (Name) DENNISON

has permission to be absent from his †quarters/duty, from 1200 HRS

14/8/43 to 1200 HRS. 21/8/43

for the purpose of proceeding to* LONDON

(Station) FIELD

(Date) 14/8/43

[signature]
Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

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Wt. 29424/909 25m. 10/41 D.P.W. 81-7903



19

ON HIS MAJESTY'S SERVICE

FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

EXHIBIT "B"

C.M.H.Q. 40/1
40/P & S/52 (3076)

DALS
ON

8 SEP 1943

6 CON ARMD DIV.

S. ARTY.

SOLDIERS SERVICE

AND

PAY BOOK

EXHIBIT "C"

EXHIBIT "D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

23

Reg. No. 879674 Rank Pte Name Stevenson F.R. Unit Irish Regt

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars ½ Portion	Amount		
26 Aug 43	Escorts return fare from LONDON To Winchester		5-	1
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Winchester		5	1
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		10	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

CMHQ 1000-55
40/P & S-483

SUMMARY OF EVIDENCE

In the case of B79674 Pte Dennison F R

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B79674 Pte Dennison F R, The Irish Regiment of Canada, CA, a soldier of the Canadian Army placed on Active Service.

CHARGES -

Desertion

Absenting Himself Without Leave (Alternative)

Improper Possession of a pass, purporting to be a genuine pass, well knowing that it was not genuine.

Was wearing Royal Canadian Engineer Flashes, to which he was not entitled to wear.

Was in possession of an MBM 1 to which he was not entitled.

First Witness

B78512 CSM Neilly S R, The Irish Regiment of Canada, CA having been duly sworn, states as follows:

"I am B78512 CSM Neilly S R,- On Saturday 17 Jul 43 Pte Dennison did not report for swim parade with the Company I asked him why and he made some excuse about being at the signal barracks. I ordered him to report to the Coy Orderly Sgt at 1800 hrs that day for duty. He did not appear at this time. I then told any of the NCOs who might see Dennison on the street to tell him to report back to barracks. Late that evening, Sgt Elliott K asked me if Dennison had reported back, as he had seen him on the street and told him that he was to go back to barracks. On enquiring at the Guard Room I found that Dennison had Not reported back. To the best of my knowledge he has not been with the Company since that time.

The accuseddeclined to cross-examine the witness

S R Neilly
apsm

Second Witness

1119160 L/Cpl Morton A E C.M.P. having been duly sworn, states as follows:

"At London 25 Aug 43, at 1415 hrs, I was on motorcycle patrol in Hyde Park in company with L/Cpl Williams C.M.P. where I saw the accused soldier whom I noticed was wearing designations of the Royal Canadian Engineers. I asked him for his pass and he produced the pass as exhibit "A" He said "I am a day absent" Not being satisfied with the pass, on further questioning the accused admitted the pass was false, and that he was 6 weeks absent. I arrested and conducted him to Hyde Park Police Station where he was searched and was found to be in possession of the MBM 1 Exhibit "C" He was then handed over to the Canadian Provost.

The accused declined to cross-examine the witness

E Morton L/Cpl
C.M. Police.

31

THIRD WITNESS

5835585 L/Cpl Williams F, C.M.P. having been duly sworn, states as follows:

"At London on 25 Aug 43, at 1415 hrs. I was on motorcycle patrol at Hyde Park accompanied by L/Cpl Morton E, C.M.P. I saw the accused soldier and L/Cpl Morton asked to see his pass, he produced one and said "I am a day absent" The pass I examined and suspected it to be false. Upon further questioning he said "I am six weeks absent" He was wearing designations of the Royal Canadian Engineers, He was arrested and conducted to Hyde Park Police Station where upon being searched he was found to be in possession of a blank MBM 1. He was handed over to the Canadian Provost Corps.

The accused declined to cross-examine the witness

F. A. Williams L/Cpl
C.M.P.

FOURTH WITNESS

B78797 CQMS Foden S R, The Irish Regiment of Canada, having been duly sworn states as follows:

"On finding Pte Dennison absent 20 Jul 43, I checked his kit and found the following articles deficient:

	Vocabulary Price	Value of unexpired wear
1 suit battle dress serge	£2-5-7	£1-14-0
2 pr boots (ankle)	£2-3-0	£1-13-0
1 pr braces	1-3½	1-0
1 tin boot polish	2½	2½
1 shaving brush	1-4	1-0
1 comb	-2	-2
1 first field dressing	1-1	-10
1 housewife	2-3	1-9
1 jacket sweater	6-9	5-2
1 clasp knife	5-2½	3-3
1 suit denim overalls	12-7	9-6
1 razor set	1-10½	1-6
2 shirts, under, cotton	3-0	2-3
1 drawers, under, cotton	2-0½	1-6
1 cape anti-gas	£1-3-6½	18-0
1 haversack	10-5	8-0
2 straps, shoulder	6-8	5-0
1 strap, web-supporting	1-1	-9½
1 badges cap	-9	-9
	£23-8-3	£16-7-6

On his return to theUnit I checked his kit again and found the follewing articles still deficient:

1 Badge Cap	9	9
1 pr boots ankle	£1-1-6	£0-17-0
1 pr braces	1-3½	1-0
1 first field dressing	1-1	-10
1 jacket sweater	6-9	5-2
1 suit denim- overalls	12-7	9-6
1 shirt undercotton	1-6	1-1
	£2-15-5½	£1-15-4

The accused declined to cross-examine the witness

S. R. Foden CQMS

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FIFTH WITNESS

Lieut J M Reid, The Irish Regiment of Canada, having been duly sworn states as follows:

"I am Lieut J M Reid Intelligence Officer and Assistant Adjutant of the Irish Regiment of Canada. I hereby produce as Exhibit "D" Form CMHQ 1000:55 Expense Voucher in accordance with KRO(Can) signed by Capt W Fern, DAPM London Area, showing the expense incurred in apprehending & returning Pte Dennison to his Unit which amounted to 10 shillings 2 pence."

The accused declined to cross-examine the witness

J M Reid

The accused was warned as follows:

Do you wish to make any statement, or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused: "I have nothing to say at this time."

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence of the accused in the field this 31 day of August, 1943

J E Tyler

J E Tyler, Capt
TheIrish Regiment of Canada, CA

Trial of No B79674 Pte Dennison, Frank, Reginald
The Irish Regiment of Canada, CA

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List of Exhibits for the Prosecution

Exhibit "A" Pass , purported to be signed by an officer in the 11th Field Company, R.C.E.

Exhibit "B" Designations of the Royal Canadian Engineers

Exhibit "C" Blank MBM 1

Exhibit "D" Form CMH& 1000:55 Expense Voucher

Dated IN THE FIELD this 31st day of August, 1943

J E TYLER, Captain & Adjutant
The Irish Regiment of Canada, CA

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I [redacted]79674 Private Frank, Reginald, DENNISON, desire to have an officer assigned to represent me at my trial by Field General Court Martial.

31 August 1943

M.F.M. 6
(A.F. B.122)
40/P & /5136 (2665)

No. B79674 Name Dennison F R | Sqn., Battery, or Company | Corps 943/1 | Date of enlistment 20/12/40 | O.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed-20 June, 40. Date of last entry - Nil date of last drunk - Nil									
Mulgrave N.S.	19/7 42	Pte		A.A.15(1) AWL from 2200 hrs.19-7-42.until 2200 hrs.20-7-42 (1 day)	Sgt Maybee	5 days C.B.	21-7-42	Capt.J.H. Broughall	Forf. 1 days pay FR&I 149
Mulgrave N.S.	25/7 42	Pte		A.A. 40 Conduct to the prejudice of good order and military discipline(Created a disturbance in Men's Mess Hall-Fist Fight)	Lt.Jones Capt Boyden				
Debert N.S.	20/8 42	9 Pte		A.A.40 Conduct to the prejudice of good order and military discipline(Disorderly conduct on train)	Pte Neilson	6 days C.B.	25-9-42	Capt J H Broughall	
				A.A.15(1) AWL from 2200 hrs 21-9-42 until 2200 hrs 22-9-42	Documentary Evidence	7 days C.B.	25-9-42	Major J H Broughall	Forf. 7 days pay FR&I 149

M.F.M. 6
(A.F. B.122)
40/P & /5136 (2665)

No. B79674 Name Dennison F R | Sqn., Battery, or Company | Corps 943/1 | Date of enlistment 20/12/40 | O.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18/5 43	Pte		Cont'd NCO of the Military Police that he was on leave until 0600 hrs 19-5-43, being fully aware that he had broken open arrest and at the time was AWL.	See other sheet				

Certified true copy of original MFM 6

J E Tyler, Capt & Adjt
The Irish Regiment of Canada, CA

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4/2 43	Pte		A.A.9(2)Disobeyed a lawful command by a superior officer.	Sgt Himphen L/Cpl Gorman	14 days F.P.	5-2-43	Lt-Col R C Clark	Forf.14 days pay FR&I 149
Field	21/1 43	Pte		A.A.8(2)Using insubordinate language to a superior officer A.A.9(2) Disobeying a lawful command by a superior officer	L/Cpl Ellis	7 days F.P.	21-1-43	Lt-Col Conrad	Forf. 7 days pay FR&I 149
Field	24/4 43	Pte		A.A.15(1)AWL from 2300 hrs.24-4 43 until 0600 hrs 26-4-43	L/Cpl Ellis L/Cpl Gorman Sgt Elliott	7 days CB Forf	27-4-43	Major J H Broughall	Forf. 2 days pay FR&I 149
Field	8-5 43	Pte		A.A.15(1)AWL from 2359 hrs 8-5-43 until 1545 hrs 9-5-43	Sgt Fitzgerald	7 days pay			
Field	9/5	Pte		A.A.15(1)AWL from whilst under open arrest from 1800hrs 9-5-43 until apprehended at 0115 hrs 16-5-43.(6 days 7 hrs 15 min) Cost of apprehension £1-4-5	Sgt Elliott Pte Lockhart Documentary Evidence	14 days C.B. Forf. 21 days pay A.A.46 Pay cost of apprehension £1-4-5	26-5-43	Lt-Col R.C.Clark	Forf. 8 days pay, under FR&I 149
Field	18/5 43	Pte		A.A.40 Conduct to the prejudice of good order and military discipline (falsely declared to an	Documentary Evidence				

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

M.F.B. 355
30M—11-41 (2271)
H.Q. 1772-39-620
A.F.B. 206

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STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B79674	Pte	Dennison, F R	The Irish Regt of Can CA

1. The following is a fair and true summary of the entries in the [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.W.L. 4 times	A.W.L. 5 times
For	Conduct to the Prejudice 2 times	Conduct to the Prejudice 3 times
For	Disobeying a lawful comd 2 times	Disobeying a lawful comd, 2 times
For	Using insubordinate language 1 times	Using insubordinate language 1 times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 4 1/2 days in military custody, making a total of 4 1/2 days in custody, of which Nil days were spent in hospital. 10 days in unit custody

5. The present age of the accused according to his [redacted] attestation paper is 25 years 6 months

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 20 Dec 41

7. [redacted]

8. [redacted]

9. The accused is [redacted] entitled to no [redacted] military decoration, [redacted] military

[redacted]

10. [redacted]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of .....

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Unit

Name..... of..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 31st day of August 1945. J E Tyler, Capt & Adjt The Irish Regt of Can

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

The Irish Regiment of Canada, CA

41

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of Sep 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court and judge advocate
2. The witnesses and shorthand writer

*Omit if not applicable.

M.A. ~~*(3. The Interpreter)~~

*(4. The officers under instruction)

were duly sworn.

Signed this 7th day of Sep 1943.

Gruelowson Capt judge advocate

M. Theupmig

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

M.A. Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ HS

Signed this 13th day of Sept. 1943.

H Sharp LTG

Confirming Officer. COMMANDER INF BDE

Promulgated and extracts taken in the case of B 79674 Pte Dennison F R

(a) (Dated) 14 Sep 1943 (Signed) [illegible] Adjt Dresh Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 50,000 2-43 A. & E. W. Ltd. Gp. [illegible]
[illegible] 100,000 5-43 " "

O. H. M. S.

9. P.

te. Denomme, A.

M. F. B. 270

129-P

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Second day of October, 19 42

Whereas it appears to me, the undersigned, an officer in Command of 6th Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

~~I am unable to appoint~~
~~(1) Three Officers to form the Court.)~~
~~(2) A Field Officer as President.)~~
~~(3) Three Officers having more than one year's service.)~~

~~for the following reasons, namely~~

In my opinion military exigencies, namely the dispersion of units and difficulties of communication and other difficulties render it inexpedient to observe the provisions of those rules inconsistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annexed Schedule

PROCEEDINGS REVIEWED

President.

Rank.	Name.	Regiment.
Major	G.R. Matthews	S Sask R

Members.

Rank.	Name.	Regiment.
Capt.	A. Morin	Fus M R
Lieut.	W.W.Willson	Camerons of C
WAITING MEMBER Lieut.	H.K. Robertson	Can. Scottish R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (W.A.Young) Brig
Commanding 6 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D 62981 Pte. Denomme, A., Fus M R	First Charge When on active service absenting himself without leave, in that he, In the Field, at about 2300 hrs, 15 Aug 42, absented himself without leave, until he reported at about 1145 hrs, 5 Sep 42. (20 days, 12 hours, 45 mins) A.A.Sec. 15(1) Second Charge When on active service, absenting himself without leave, in that he, In the Field, at about 2100 hrs, 16 Sep 42, while in close custody, absented himself without leave, until he was apprehended at 0900 hrs, 22 Sep 42 (5 days, 12 hours) (A.A.Sec. 15(1) Third Charge While on active service, when in confinement, escaping in that he, In the Field, at about 2100 hrs, 16 Sep 42, broke out Camp Dentention while awaiting a Field General Court Martial.	guilty guilty guilty	guilty guilty guilty To undergo detention for period of one year.	I confirm but remit. Three months H. A. Young H. A. YOUNG BRIGADIER 7 OCT 1942

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H. A. Young Brig (H. A. Young) Commanding 6 Cdn Inf Bde Convening Officer (e)

(Signed) G. D. Matthews Major President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of Oct, 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(3. The interpreter) - number of court
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 6 day of October 1942.

G. D. Matthews Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the~~ margin be not com~~mitted to prison until further orders~~.)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 7th day of Oct 1942

H. A. Young Brig
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 8 Oct 42 (Signed) [signature] Lt. A/Adjt.

Promulgated and extracts taken in the case of

(Dated) 8 Oct 42 (Signed) D. J. Leach capt. for S.C. 6 C.I.B.

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, D-62981 Pte ~~Denomme A.~~ ALBERT DENOMME, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. Sec. 15 (1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
in that he,

in the Field, at about 2300 hours, 15 Aug 42, absented himself without leave, until he reported at about 1145 hours, 5 Sep 42.

TOTAL ABSENCE: 20 days, 12 hours, 45 minutes.

SECOND CHARGE
A.A. Sec. 15 (1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE
in that he,

in the Field, at about 2100 hours, 16 Sep 42, while in close custody, absented himself without leave, until he was apprehended at 0900 hours, 22 Sep 42.

TOTAL ABSENCE: 5 days, 12 hours.

THIRD CHARGE
A.A. Sec. 22 WHILE ON ACTIVE SERVICE, WHEN IN CONFINEMENT, ESCAPING,
in that he,

in the Field, at about 2100 hours, 16 Sep 42, broke out Camp Detention while awaiting a Field General Court Martial.

Oct. 1, 42

J.G. Sauvreau, Lt-Col.
Commanding
Les Fusiliers Mont-Royal,
Canadian Army Overseas.

To be tried by F.G.C.M.

(H.A. Young) Brig
Comd 6 Cdn Inf Bde
Oct 5, 42

Maj
President

MEDICAL INSPECTION

G.P. Matthews Major
President

FUSILIERS MONT ROYAL, C.A.(O)

I hereby certify that I have examined Regt'l No. D:62981 .....Rank Pte

Name Rimmond H. this morning and that I have found him mentally and physically FIT to undergo trial by F.O.C.M.

Place In the field

Date 6 October 1943

HT.

Jean de Saint Victor Capt ..RCAMC
Medical Officer

G. R. Matthews Major
President

Proceedings of a Field General Court Martial held at Fus. M. R. on the 6 day of October 1942 by order of Brig. H. A. Young, Commanding 6th Cdn Inf Bde, dated the second day of October 1942.

President. Major G. R. Matthews, S. Sask. R.

Members. Capt. A. Morin, Fus. M. R.

Lieut. N. W. Wilson, Camerons of Canada

Trial of No D 62981 Pte. Denomme, A. Les. Fusiliers Mont-Royal,

The order convening the Court, the charge-sheet and the Summary of evidence were laid before the Court and Rules of Procedure 22 & 23 complied with.

The accused was brought before the Court.

Prosecutor - Capt. L. G. Boissonnault, Fus. M. R.

Defending Officer - Capt. P. Benoit, Fus. M. R.

At 0940 hrs. the trial commences.
The order convening the Court is read and signed by president.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answered to their names.

Question by President to the Accused: Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer: No Sir.

The President, and members were duly sworn.

The Waiting member was sworn as an officer under instruction.

The Charge Sheet was read to accused and accused arreigned upon each charge.

Are you guilty or not guilty of the first charge against, which you have heard read?

Answer: Guilty Sir

Are You guilty or not guilty of the second charge against you, which you have heard read?

Answer. Guilty Sir.

Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer: Guilty Sir

The accused having pleaded Guilty to all three charges, the provisions of Rule of Procedure 35 (B) were complied with.

G. R. Matthews Major
President

The abstract of evidence read and attached to proceedings signed by President.

Prosecutor - Capt. L. G. Boissonnault is duly sworn.

Question by President.
Have you any evidence to produce as to the character and particulars of service of the accused?

Answer: Yes Sir. (Produces Substitute for A.F.B. 296 and certified copy of M.F.M. 6.)

Question by President. Is the accused the person named in the statement which you have heard read? Answer Yes Sir.

Question. Have you compared the contents of the above statement with the regimental books? Answer Yes Sir.

Question. Arethey true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes Sir.

Accused does not wish to cross-examin.

Question to accused. Do you wish to address the Court or make a statement in mitigation of punishment

Defending officer speaks for accused.

Pleads the accused was browned off. Had had bad news from home. Mother was ill. Accused left camp, got drinking and failed to return. Heard of Dieppe raid and returned on his own. Record in past not bad and requests that Court take this into consideration.

The Court Closes for the consideration of Sentence.

SENTENCE

The Court sentence the accused to undergo detention for a period of

One year.

(Substitute for A.F.B. 296)
or M.F.R. 335

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No D62981 NAME DENOMME ALBERT UNIT Fus.M.R.

AGE 27 MARRIED OR SINGLE Single No. OF DEPENDENTS

DATE OF ATTESTATION 18 July 40

No. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL NIL MILITARY 14 HOSPITAL NIL TOTAL 14

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK IN ANY

N/A

A CERTIFIED TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)

[signature] Unit.
H. 14 | 44
Fus M.R

Dated at Fus. M.R.

This 6 day of Oct 1942

(To be dated and signed as of date of trial).

[signature]
President

NoD/62981 Name Denomme. A. Sqn., Battery or Company "C" Corps F.M.R. Date of enlistment 23-7-40 G.C. Badges: Service or Proficiency Pay: Character

Date of last entry in Company Conduct Sheet 8-1-42 No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. 2 Signature O.C. Company, etc.:

MFM 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Witley	22-6-41	Pte		Charged with "W.O.A.S. Absenting Himself without leave, was absent from tatoo Roll Call at 2230hrs 22-6-41 till 2315hrs 22-6-41 Time 45 Minutes A.A. Sec. 15	D61103 Sgt DUSSEAULT, H	1 days' CB	23-6-41	S.Marchand Lieut. 21/c	
Witley	14-7-41	Pte		ABSENTING HIMSELF WITHOUT LEAVE 0800 hrs 14/7/41 to 1600 hrs 14/7/41 A.A. Sec. 15(1)	D62346 Cpl RICHARD, E.	5 days'CB	16/7/41	H.N.Langlois Major	
Witley	2/8/41	pte		W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE FROM 2300 hrs 2/8/41 until 2300 hrs 3/8/41. Time 24 hours WOAS CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY					

D/62981

No. 62981 Name Denomme. A. Sqn., Battery or Company "C" Corps F.M.R. C.A.(O) Date of enlistment July 23/40 Badges: Service or Proficiency Pay: Character

Date of last entry in Company Conduct Sheet No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. 3 Signature O.C. Company, etc.:

MFM 6 (A.F.B. 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	31-5-42	Pte	Nil	A.A.Sec 15 (1) AWL from his patrol duty from 1700hrs31-5-42 till 2200hrs 31-5-42 and had to be replaced (5 hours) A.A. Sec 40 Conduct to the prejudice act.using improper language towards a superior Officer	PSM Belanger.P.	14 days Field Punishment with forf of Pay	P.V. Morin. Major		Forf 1 Day Pay Under 153 (b)

Certified true Copy

2/8/42

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under stoppages, date trial	By whom awarded	Remarks
				DISCIPLINE while on duty as line piquet left his post without permission 3/8/41	D62456 Sgt DERREPENTIGNY, R. D61986 Cpl POULIN, A.A.	14 days CB	5/8/41	Major HN Langlois	1 days pay
WITLEY	18/8/41	pte		WOAS CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE failed to fall in on a fatigue party and at the same time used improper language towards N.C.O. i/c at approximately 0815 hrs 18/8/41 A.A. Sec 40.	D62321 Sgt Brouillette D61243 Cpl Demers, T.	14 days Detention	18/8/41	F.S. Matthewson Lt.Col D.S.O.	
Newhaven	9/3/42	pte		A.W.L. from 2359 hrs 8 Mar 42 until 0009 hrs 9 Mar 42 A.A.15(1)	Cpl Dube G	1 day's Pay forfeited 5 days' pay.	11/3/42	Lt.-Col GRENIER, F.	

CERTIFY TRUE COPY.....

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under stoppages, date trial	By whom awarded	Remarks

FORM 98 (Unlined)

EAST SUSSEX CONSTABULARY.

Exhibit "A"

From Sgt. B.Woodall, No. 11 Lewes

To The Supt. of Police, Lewes

23rd September 1942.

Re:- CANADIAN SOLDIERS IN PRIVATE DWELLING HOUSE

I beg to report that at 9.30 a.m. on Tuesday, the 22nd September 1942, in company with Sgt. D. HENZIE of the R.C.M.P. and other members of the Provost Corps, I went to No. 4, Baxter Road, Lewes, where upon entering the gateway I saw a Canadian soldier just leaving the house. I stopped him, and asked him if he was living there and he replied "No." I then called Sgt. Henzie, who then got into conversation with him. On entering the house, I saw another Canadian soldier sitting in the scullery repairing the tyre of a bicycle, and another soldier making his way to the back door. Subsequently Corporal R. BEAUCAGE, No. D.63320, F.M.R. Pte. E.A. LACQUEMENT, No. H.411492, R. Winnipeg Rifles, and Pte. A. DENOMME. No. D.62981, F.M.R. were arrested and conveyed to the Lewes Police charged as deserters.

While at the house I saw the occupier, Mrs. Annie BARNETT, aged 53 years, with Vera BARNETT, aged 19 years, Doris BARNETT, aged 22 years, both daughters of Mrs. Barnett, and a young child, the mother of whom Miss Eva JEFFREY was not in at the time. Miss Jeffrey is the daughter of Mrs. Barnett's sister. All four of the womenfolk live at No. 4 Baxter Road with an uncle Arthur Jeffrey, an old cattle drover, well-known in Lewes.

As a result of my enquiries, I ascertained that the soldiers

B. Woodall Sgt.

in question all visited the house during the evenings, and had called there at an early hour in the mornings to wash, and prepare themselves for the day's duty, at least this is what the soldiers gave Mrs. Barnett to understand. Corporal BEAUCARE has been visiting the house almost daily since about three days prior to the 'Dieppe Maid,' but the other two have only been there during the past 10 days.

I am inclined to believe Mrs. Barnett's story, inasmuch that the house is very small, and there would hardly be sufficient accommodation for more then one man, and he would have to sleep on an old sofa in the sittingroom which is already well packed with furniture and rubbish.

The house is in a filthy condition, and at the time I visited it, a large table was still covered with the remains of several days' food, and dirty crockery ware.

Each of the three girls have no doubt encouraged these soldiers there during their spare time, and one vera Barnett goes so far as to say that she is engaged to Corporal Beaucare.

At the Police Station, I have spoken to each of these soldiers in turn, and I gather that they have in turn spent nights there on the sofa, no doubt for a certain purpose, but during the day time they have each borrowed the girls' cycles and cycled to a farm at Barcombe where they have been working on the land, returning each evening, and leaving after dark, and finding sleeping out space on the hills or on straw stacks or sheds in the district.

I visited the house again later in the morning, and searched the ground flior with Mrs. Barnett's permission, but apart from the three cycles already mentioned, I could find no trace, of any material in which to prefer a charge. I am satisfied that the 3 cycles belong to the girls.

(Signed) B. Woodall. Sgt. No. 11.

ABSTRACT OF EVIDENCE
in the Field General Court Martial, of
D-62981 Pte Denomme, A., Les Fusiliers Mont-Royal
Canadian Army Overseas, in pursuance to R.P. 76.

Take notice that at the trial of the above mentioned soldier:-

a) D62012 Cpl Lapointe E, Les Fusiliers Mont-Royal, will be called as a witness to give evidence on the following points:

i) That he was on duty on the 15 Aug 42, when he was the first one to notice the absence of the accused.

ii) That he was on duty on the 5 Sep 42, when the accused reported at 1245 hrs.

iii) That he, as Duty Corporal, at once notified the C.S.M. "C" Coy on these facts.

The accused was duly warned in accordance with R.P. 4 (e) but declines to make a statement and reserves his defence. Compliance with R.P. 4(d) and (e) certified.

(J.G. Gauvreau)Lt-col
Commanding
Les Fusiliers Mont-Royal
Canadian Army Overseas.

In the Field
This 25th day of September 1942.

To/ This Honourable Court,
D-62981 Pte Denomme, A.,
Captain L.G. Boisonnault, prosecuting officer.

ABSTRACT OF EVIDENCE (ADDITIONAL)
in the Field General Court Martial of
D-62981 Pte DENOMME A., Les Fusiliers Mont-Royal,
Canadian Army Overseas, in pursuance to R.P. 76.

- -

Take notice that at the trial of the above mentioned soldier:-

a) D-62862 Pte LEVEILLE E., Les Fusiliers Mont-Royal, will be called as a witness to give evidence on the following points:
i) That he was on guard-duty at about 2100 hours, on 16 Sep 42, when he was the first on to notice the escape, from Camp Detention , of the accused.
ii) That he at once notified the Corporal of the guard on these facts.

b) D-61612 Cpl. OUIMET C., Les Fusiliers Mont-Royal, will be called as a witnes to give evidence on the following points:
i) That he was reported at about 2100 hours, on 16 Sep 42, the escape, from Camp Detention, of the accused.
ii) That he, as Corporal of the Guard, gave the alert to the Regmtl. Military Police, as to the escape of the accused.

c) D-61398 Sgt. LEFEBVRE E., Les Fusiliers Mont-Royal, R.M.P. Sergeant, will be called as a witness to give evidence on the following points:
i) That he, as R.M.P. Sergeant, was reported at about 2100 hours, 16 Sep 42, the escape, from Camp Detention, of the accused and the action he has taken to that respect.
ii) That at about 0900 hours, 22 Sep 42, he was handed the accused by the Civilian Police who had apprehended him.

The accused was duly warned in accordance with R.P. 4(a) but declines to make a statement and reserves his defence.
Compliance with R.P. 4(d) and (e) certified.

J.G. Gauvreau, Lt-Col.
Commanding
Les Fusiliers Mont-Royal,
Canadian Army Overseas.

In the Field,
This 25th day of September 1942.

To/ This Honourable Court,
D- 62981 Private Denomme, A.,
Captain L.G. Boissonnault, prosecuting officer.

LIST OF WITNESSES (ADDITIONAL)

In the case of D-62981 Private DENOMME A., Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

PROSECUTION

Captain L.G. BOISSONNAULT , prosecuting officer, Les Fusiliers Mont-Royal.

D-62862 Pte LEVEILLE E.,	LES FUSILIERS MONT-ROYAL
D-61612 Cpl OUIMET C.,	LES FUSILIERS MONT-ROYAL
D-61398 Sgt LEFEBVRE E.,	LES FUSILIERS MONT-ROYAL

DEFENCE

NIL

LIST OF EXHIBITS

Exhibit "A"-----Certificate of apprehension

STATEMENT BY ACCUSED

I,D-62981 Private DENOMME A., Les Fusiliers Mont-Royal, desires to have an Officer assigned to represent me at my trial by Field General Court Martial.
I desire the services of Capt. Pierre Benoit, Les Fusiliers Mont-Royal, if he is available.

This is to certify that I have been given free of charge copy of the proceedings, documents, etc., relating to my trial by Field General Court Martial.

D.62981 A. Denomme .....Pte.

In the Field, 26th day of September 1942.

VVV-131

L/CPL DENOMMEE A J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B/86789 L/Cpl Alcide Joseph DENOMME, 8 Cdn Inf Bde Coy, RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn b.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which NO days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Forfeiture of 60 Days Ordinary Pay.

(Sgd) ..... Judge-Advocate, if any. Date awarded. Aug 23-44 (Sgd) H C Pattison Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders. (1) ~~(Sgd) .....~~ (1. See AA 57A. Delete if not used.)

(Sgd) D.C. Spry Maj-Gen

Date 28 Aug 44 Commanding 3 Can Inf Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B 86789 L/Cpl Alcide J Denomme 31 Aug 44 H C Pattison Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 18 SEP 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 5 VVV-131

FIELD GENERAL COURT-MARTIAL

Convened by Order of Major-Gen D C SPRY, DSO Comd 3 Cdn Div dated 22 AUG 44

PROCEEDINGS REVIEWED D J A G Date 11 Sep 44 21 Army Gp Cdn. Sec. G.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B/86789	L/Cpl	Alcide Joseph	DENOMME	8 Cdn Inf Bde Coy, RCASC

PROCEEDINGS REVIEWED

J.C.J. Rutherglen Capt 15 Sept 44

PROCEEDINGS OF TRIAL.

Held at the Drawing Office, D.R. Branch C.M.H.Q. on (date(s)) 22 Aug 44

in the Fd in (country) France

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/80

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 109, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 11 a.m. hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter? Ans .....~~ ~~The interpreter is sworn.(1)~~ Do you object to B/86262 Pte. SIMINGTON L.S. as shorthand writer? Ans NO. The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H C Pattison	9 Cdn Inf Bde Coy, RCASC
Member	Capt	P Petrie Actg	7 Cdn Inf Bde Coy, RCASC
Member	Lieut	J E Parsons Actg	8 Cdn Inf Bde Wksp, RCEME
Judge-Advocate			
Prosecutor	LIEUT.	J.W. WHITE	8 Cdn Inf Bde Coy RCASC
Defending Offr	CAPT.	F.G. WELLARD	8 Cdn Inf Bde Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cam Offr.) 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused B/86789 L/Cpl DENOMME, A.J. before arraignment make(s) (no) (~~a~~) plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB form and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative* (RP 37(A)). *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 37(B).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 38(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3.

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (a) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91-92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 88-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution will not be sworn or subject to cross-examination; and anything you say will not be used making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans _____ (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 4 para 2; MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). Part 1 of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings(s) of Guilty in Part 1 of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President (1). (1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with the plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by usual paras D4 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY are read to him (them) again, and the trial is continued inclusive of Record Forms D on p 3 before proceeding with C2.(1)

(1. RP 37(A) (2).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Forms E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (~~full~~ opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the~~ charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is (are) allowed on the ~~charge(s) and that, accordingly, the trial will proceed on the~~ charge(s) is disallowed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, ~~or do neither~~ ? Ans YES ON OATH. Do you intend to call witnesses on your behalf ? Ans YES. 1 OF FACT 1 TO CHARACTER

(1. RP 155. 2. RP 40(A), see 80(D). Are they witnesses as to character only ? 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened. 2. RP 44(6).)

(1. RP 43, 117(A). See Notes in Part I of Schedule.)

D8. ~~The President announces the finding(s) of~~ and of Not Guilty, and states to the accused ~~that the finding(s) of the Court on the~~ ~~Or, The President announces that the proceedings are accordingly terminated.~~ Part I of the Schedule, ~~is~~ (are) closed and is to be released forthwith. ~~And that the proceedings are accordingly terminated.~~ Part I of the Schedule, ~~is~~ (are) closed and signed.(2) ~~are pieces of Guilty outstanding and dealt with under Record Form B or C.~~

(1. AA 54(3) (4), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character or~~ Ans _____

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)

(1. AFB 353 or AFB 296. 2. MFM 4. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 2 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans A/O.

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part 1 of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments (and dates in AA 41, 44 and its proviso, is to be awarded to cover all charges or all charges therein on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(6), KR Con 356, 532, 543-544, Overseas RO 3578, 3327, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 43(5), MML p 132. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(f), KR Con 564. 2. RP 50. As to release from service by Confirming Offr see KR Con 562. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

N.G.

C H A R G E S H E E T

The accused B86789 L/Cpl. Alcide Joseph Denomme 8 Canadian Infantry Brigade Company Royal Canadian Army Service Corps, a soldier of the Canadian Army is charged with

when on active service

First Charge Sec 17 A A

Drunkenness

in that he, in the field, on the 9 August 1944 at approximately 1730 hours having been previously warned that he was on one hour's notice to move was drunk.

Alternative Second Charge Sec 40 A A

Conduct to the prejudice of good order and military discipline

in that he in the field on the 9th day of August 1944 having been previously warned that he was on one hour's notice to move and under vital operational circumstances, did imbibe of intoxicating beverage thereby rendering himself liable to over indulgence and subsequent inefficiency in handling a W.D. vehicle

(A. W. Peters) Major
Officer Commanding
8 Cdn Inf Bde Coy RCASC

To be tried by Field General Court Martial.

D. C. Spry

In the field
11 Aug 44

(D C SPRY) Major-Gen
GOC 3 Cdn Inf Div

A.C.P

CFA95 (In lieu of AFA3)
40/PAS/1697 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B/86789	L/Cpl		Alcide Joseph DENOMME		
			8 Cdn Inf Bde Coy, RCASC		

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Aug 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H C Pattison	9 Cdn Inf Bde Coy, RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F Petrie	7 Cdn Inf Bde Coy, RCASC
Lieut	J H Parsons	8 Cdn Inf Bde Wksp, RCEME

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in France (Country.)

D.C. Spry (Signed personally. RP 105 fn 2.) (Rank.)

(D C SPRY) Major-Gen

Date 22 Aug 44

Commanding 3 Cdn Inf Div

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Certified that the undermentioned other rank has been examined this date and found fit to undergo trial by Court Martial.

B86789 L/Cpl. Denomme, A.J.

Field
23 Aug 44

.....

Proceedings in the case of B86789 L/Cpl. Denomme, A.J.

Members of the Court	President	Major H.C. Pattison
	Members	Capt. F. Petry
		Lieut. J.E. Parsons

Court convened at 1130 hrs. 23 Aug 44. Accused paraded in. Convening order read. No objections to the members of the Court were made. All members and other personnel were sworn in. Charges were read.

The Court asked "How do you plead, guilty or not guilty?"

Not guilty, sir.

Opening Address for the Prosecution:

Sir, Members of the Court, I wish to state the substance of the charges against the accused and the nature and general effect of the evidence, which I propose to adduce in support of

(1) Personnel where not charged under the usual "Being unfit for duty, because of previous indulgence in alcoholic stimulants".

(a) As in some cases it was considered they were fit for duty.

(b) Previous indulgence implies "the morning after or hangover".

(2) These men knowing the importance of the operation, realizing surely that they must have full control of all their facilities, took a drink and they left themselves open to over-indulgence under vital operational circumstances, and subsequent inefficiency in the handling of a W.D. Vehicle which simply means being unfit for duty.

First Witness for the prosecution called. Lieut. A.F. Goff having been duly sworn states:

I am the Platoon Commander of No. 4 Platoon. We were attached to the Royal Winnipeg Rifles for a troop lift. We were to lift the Royal Winnipeg Rifles from the Rest Centre to the Forward Assembly area. At approximately 1300 hrs. on the 8 Aug we started this move. Due to circumstances at the front it was never completed and we stopped at an intermediate point. We arrived there at about 1700 hrs and I was instructed from Battalion Headquarters that we would be on one hour's notice to move. There was about 15 or 20 minutes the troops were left on the vehicles and the order came through that we would be on one hour's notice to move. At this time the platoon was splitted up into sections. Sections of 3 or 4 were then sent to the various companies and were attached directly to them. We remained there all the 8 August and we were still left on this one hour notice all day.

Witness not cross-examined.

Second Witness for the prosecution called. Sgt. MacGregor having been duly sworn states:

The evidence that he gave at the time of the Summary of Evidence was read to him to refresh his memory.

Cross-examined by the Prosecution:

Q. What was his appearance at the time?
A. Very unsteady, sir, and not able to stand and fell around the lorry at the time.
Q. Did you smell liquor on his breath?
A. Yes, sir.

Q. When you spoke to L/Cpl. Denomme, did he hear you?
A. I told L/Cpl. Denomme that he was under arrest and he said "Very Good".

Q. Was he clear in his speech?
A. No, he sounded thick in his speech.

Q. In your statement you stated that he was unable to drive his lorry. Was he unable to drive his lorry due to his unsteadiness?
A. He was unable to drive his lorry due to his unsteadiness.

Cross-examined by the defence:
Q. Where was L/Cpl. Denomme when you placed him under arrest?
A. By his lorry.
Q. Did he drive his lorry after you placed him under arrest?
A. No, sir.

Questioned by the Court
Q. Due to L/Cpl. Denomme's condition was it necessary for you to put a replacement driver on his vehicle?
A. Yes, sir.
Q. Did L/Cpl. Denomme lose the use of his limbs?
A. No, sir, he was still able to stand up.

Statement by the Accused. Accused having been duly sworn states: I was working around my lorry when the sergeant from the infantry came over and asked me if I would like to have a drink. I figured that it was a drink of tea but he did not say what it was. I went over and there was a bunch of the boys around and they were drinking beer and gave me a mug of beer. I called the rest of the boys over. I had 3 mugs of beer and went back over to my lorry and had some beer over there. It had been issued and I had another mug of it and was fooling around the truck. Sgt. MacGregor came up and said that I was under arrest for being drunk. So I told my spare driver he would have to drive the truck which he did. I got in the spare driver's seat and came into camp.

R.P. 83 has been complied with.

Cross-examined by the Defence:
Q. How may drinks of beer di you have?
A. Four drinks.

Q. What kind of a day was it?
A. A hot day, sir.

Q. Did you feel any ill effects.
A. None except that it was warm.

Q. Did you feel a dizziness?
A. No, sir.

Q. Were you conscious of any unsteadiness?
A. A bunch of the boys were fooling around together.

Q. Do you feel if you had been called upon you could have driven your vehicle as capably as ever?
A. Yes, sir.

Q. L/Cpl. Denomme, you stated that a sergeant from the Infantry came over and asked you if you wished a drink. You stated that you had no information what it was. Did you check what the drink was?
A. No, sir.

Q. Did Sgt. MacGregor order you not to drive your lorry?
A. No, sir, he just placed me under arrest.

Questioned by the Court:
Q. Did your spare driver take over your lorry at your orders or Sgt. MacGregor's orders.
A. No, sir, it was at my order that he took over the vehicle.

Did Sgt. MacGregor order you not to drive the vehicle?
A. No, sir.

Q. L/Cpl. Denomme, you stated when you went back to the lines you had another drink of beer. Where did it come from?
A. It came from our orderly room, sir.

Q. Was an issue make to the section?
A. Every section got some.

Q. Did you have any more than the others?
A. I do not know, sir. We had a jerrican amongst the section. There are 13 men in a section.

Cross-examined by the Prosecution:
Q. L/Cpl. Denomme, you stated that an issue of beer was made from the Orderly Room Lorry. How didyou know this beer was issued from the Orderly Room?
A. They were talking about it and I asked them where they got it and they said that it came from the Orderly Room

Q. You actually never saw it issued from the Orderly Room lorry then.
A. No, sir, I was not down to theOrderly Room lorry.

Sgt. MacGregor recalled and questioned by the Court:
Q. Did L/Cpl. Denomme's spare driver take over his vehicle at L/Cpl. Denomme's request or at your order.
A. I ordered him to, sir.

Q. Did you give this order in the hearing of L/Cpl. Denomme?
A. Yes, sir

Q. Was he in such a condition that he did not hear you give the order?
A. He was right there but I do not doubt that he did not hear me.

Q. It was definitely your orders.
A. Yes, sir.

First Witness for the Defence: L/Cpl. Funnell having been duly sworn States:
Cross-examined by the Defence:
Q. On the 9th August, L/Cpl. Funnell, you were with your platoon which was doing troop lift for the Royal Winnipeg Rifles.
A. Yes, sir.

Q. Was L/Cpl. Denomme under your observation at the time that the platoon was supposed to move?
A. Yes, sir, I saw him 3 or 4 times through the day.

Q. Did anything appear out of the ordinary with him.
A. No, sir.

Q. Did you notice any unsteadines in his gait or condition of his speech?
A. No, sir.

Q. Were you aware that L/Cpl. Denomme had been drinking some beer?
A. I heard some of the boys say that he was drunk but I saw him through the day and he was not drunk when I saw him. I also saw him just before the convoy pulled out and he was sitting in the spare driver's seat in his truck. The spare driver was driving his truck and I called to him and asked him if he was too lazy to drive his own truck. He just laughed, sir.

Q. Then as far as you could see L/Cpl. Denomme was not in a drunken condition?
A. No, sir.

Cross-examined by the Prosecution:
Q. Did you actually speak to L/Cpl. Denomme around 1700 hrs.?
A. Yes, sir.

Q. Did you smell his breath?
A. No, sir. He was sitting in his truck across from my truck.

Q. At that time he was in the spare driver's seat, is that correct?
A. Yes, sir

Q. Did you inquire why he was not driving his own lorry?
A. Yes, sir. He just laughed at me

Q. In other words, L/Cpl. Funnell, you did not received a direct reply as to why he was not driving his lorry.
A. Yes, sir.

Q. You neglected to find out why?
A. I said it more in a joke and he just laughed back.

Q. Did you see L/Cpl. Denomme after you returned to your Company's lines?
A. No, sir.

Q. When you saw him in his vehicle, was he sitting up?
A. Yes, sir.

Q. Did you have a drink during the day?
A. No, sir. None of my section had any because the Section Corporal and myself decided to lock it up until we got back to camp.

Sgt. MacGregor called as a character witness.

Defence said "Sgt. MacGregor, you are called as a character witness for L/Cpl. Denomme and nothing has been added to the case. I believe you agreed to do this".

Statement by Sgt. Macgregor:
L/Cpl. Denomme came to No. 4 Platoon one year ago January. I found him to be a very willing and efficient man. He was later promoted on these grounds. Since that time L/Cpl. Denomme has has some of the most difficult jobs that I have had to pass on. He has always carried them out in a very efficient manner. I might add this is the first time that I have seen him drink, let alone being under the influence of liquor. In my opinion someone gave it to him. That is all, sir.

There was no summary by either the prosecution or the defence.

The Court cleared for the members to come to a decision.

L/Cpl. Denomme paraded back in.

President of the Court States:

L/Cpl. Denome, you have been charged under Sec 19 of the Army Act and pleaded not guilty. On the evidence submitted by the prosecution you have been found by the Court GUILTY.

MFM 6 (AFB 122) (P&S/136 (3430))

No B86789 Name Denomme, A.J. Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 30-1-42 | GC Badges | Service or Proficiency Pay Na

Date of last entry in Company Conduct Sheet Na | No and date of last drunk Na | Period not reckoning towards freedom from extra fine Na | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Original sheet destroyed 4 Jun 42 on completion of 6 mos service no entries					
				Second sheet destroyed 4 Dec 43 on completion of 2 yrs service no entries					
				Awarded the Canadian Volunteer Service Medal and Clasp wef 15 Jan 44					
				Certified true copy [signature]		H.L. Pattison Ex B.			

MFM 6 (AFB 122) (P&S/136 (3430))

No B86789 Name Denomme, A.J. Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 30 Jan 42 | GC Badges | Service or Proficiency Pay Na

Date of last entry in Company Conduct Sheet Na | No and date of last drunk Na | Period not reckoning towards freedom from extra fine Na | Sheet No 3 | Signature OC Company, etc | Character

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				Awarded the Canadian Volunteer Service Medal and Clasp wef 15 Jan 44					
				Certified true copy [signature]					

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B86789	L/Cpl.	Denomme, A.J.	8 Cdn Inf Bde Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Nil times.
For Nil times.
For Nil times.
For Nil times.

Date of first entry in Field Conduct Sheet Nil

Date of last entry in Field Conduct Sheet Nil

2. ~~Previous convictions of the accused [illegible]~~

*3. ~~The accused [illegible]~~ day

beginning ~~[illegible]~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 2½ days in military custody, *i.e.*, ½ day days in open arrest, 2 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of his attestation is 30 Jan 42

7. The service which the accused is allowed to reckon is 2 yrs, 195 days

8. The accused is in possession of: Canadian Volunteer Service Medal and Clasp

State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of L/Cpl	30 Oct 43
In the ~~[illegible]~~	
In the ~~[illegible]~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.46/6/566 100,000 4/42 A. & E. W. Ltd. Gp.698 Forms/B.296(War)/57
21115) W.L.22/6/1673 90,000 8/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of August 1944

Officer Commanding
8 Cdn Inf Bde Coy RCASC

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B86789	L/Cpl.	Denomme, A.J.	8 Cdn Inf Bde Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Nil times.

For Nil times.

For Nil times.

For Nil times.

Date of first entry in Field Conduct Sheet Nil

Date of last entry in Field Conduct Sheet Nil

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule hereto.

*3. The accused is at the present time is under sentence for

beginning on the day of

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 2½ days in military custody, *i.e.*, ½ days in open arrest, 2 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs

6. The date of his attestation is 30 Jan 42

7. The service which the accused is allowed to reckon is 2 yrs. 195 days

8. The accused is in possession of 1 Cdn Volunteer Service Medal and Clasp

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of L/Cpl.	30 Oct 43
In the war substantive rank of	
In the [illegible] rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.6670/608 150,000 4/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22459) W.L.29284/1873 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of AUG 44

Officer Commanding
8 Cdn Inf Bde Coy RCASC

Summary of Evidence in the case of B86789 L/Cpl. Denomme, A.J. 8 Canadian Infantry Brigade Company Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

First Witness for the prosecution — Lieut. A.F. Goff, Officer Commanding No. 4 Platoon, 8 Canadian Infantry Brigade Company Royal Canadian Army Service Corps having been duly sworn states:

I am employed as Platoon Commander of No. 4 Pl. This Platoon was attached to Royal Winnipeg Rifles on 7 Aug 44 for transporting troops to carry out a move from the rest area to a forward assembly point. Due to circumstances the move was only partially completed and the T.C.Vs were held up at an intermediate point awaiting further instructions. At approximately 1700 hrs. 8 Aug 44 we were placed on one hour notice to move. I passed this information on to Sgt. McGregor who, in turn, informed the Section N.C.Os.

The accused declines to cross-examine the witness.

A. F. Goff Lt

(A. F. Goff)

Second Witness for the prosecution — K79200 Sgt. McGregor, D., Platoon Sgt. of No. 4 Platoon, 8 Canadian Infantry Brigade Company Royal Canadian Army Service Corps having been duly sworn states:

At approximately 1730 hrs. 9 Aug 44 I was checking the Platoon under Lieut. Goff's instructions and found L/Cpl. Denomme in a very unsteady condition due to drink and unable to drive his lorry. I placed L/Cpl. Denomme under arrest.

The accused declines to cross-examine the witness.

D. McGregor Sgt

(D. McGregor)

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) reserves his defence.

Certified that Rule of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 10th day of August 1944 in the field.

J. W. White

(J. W. White) Lieut.
Officer Taking Summary

At my forthcoming trial by Field General Court Martial I wish to have Capt. F.G. Wellard, 8 Cdn Inf Bde Coy RCASC to defend me.

...A.J. Denomme.....
B86789 L/Cpl. Denomme, A.J.

PPR17

GNR DE NOMMEE J·H·R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-104909 Gnr Joseph Henri Roger DENOMMEE, RCA, 11 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 581	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which NIL days were spent in hospital.(1)

(open arrest)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo sixteen days detention.

16 June 44 (Sgd) H G Clennett Maj.

(Sgd) ..... Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

(Sgd) G Strangeways

Date 19 June 44 Commanding (G Francoeur) Brig Comd 2 Can Armd Bde Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
M 104909 Gnr Joseph Henri Roger Denommee	20 Jun 44	J Fairclough Capt adjo

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Vol 1 2 CBRG - 8 - 84 at CMHQ IN AB 160 PPP 11

CPA66 (To time of AFA45) 40/P & S (5) 6/43 (1) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 15 JUN 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or temporary rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M-104909	Gnr	Joseph Henri Roger	DENOMMEE	RCA, 11 CBR Bn

PROCEEDINGS REVIEWED 27 Jun 44 M Williamshall Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q. ENGLAND

RECEIVED 27 JUN 1944 JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 27 JUN 44 Cdg. Sec. GHQ 2nd Echelon Comd 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ..... on (date(s)) 16 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for notes and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1615 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the Coy.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Prosecutor sworn. (1) Do you object to ..... as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, ~~Members, JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	M G CLENNETT	West NSR, 11 CBR Bn
Member	Capt	W H Rejall	11 Cdn Armd Regt 12 CBR Bn
Member	Lieut	A Sabin	2 Hamilton Regt 11 CBR Bn
Judge-Advocate			
Prosecutor	Lieut	R L Goodenough	Essex Scottish 11 CBR Bn
Defending Offr	Major	J H B Courtney	RCR 11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 & 2.)

A8. The accused M104909 Gnr Denommee, JH R before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 120(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made to support or oppose, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~ arraigned ~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) ~~There is no amendment to be made to the Charge Sheet.~~ The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re-closes and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(C), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused: Do you wish to make a statement? Ans 2/0.(4)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused a statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12(4) and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 92, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans 2/0
(*1. If evidence has already been given by accused or other witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans yes (by defending officer).(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 62(2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M/G Clerk m/a Pres

CHARGE SHEET

The accused, M-104909, Gnr. JOSEPH HENRI ROGER G. DONOMMÉE, RCA, attached to HQ Coy., 11 CBR Bn., a soldier of the Canadian Army Overseas, placed on Active Service, is charged with:

CHARGE: WHEN ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE

A A Sec 15(1)

in that he

In the Field at 0630 hours, on 4 June 44, did absent himself without leave from 11 CBR Bn., until 0945 hours, 4 June 44. (Total Absence, 3 hours, 15 mins.)

In the Field
8 June, 1944

.....
(G. H. Logie, A/Lt.-Col.)
Commanding Officer, 11 CBR Bn.
C.A.(O).

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
15 Jun 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-104909	Gnr		Joseph Henri Roger	DENOMMEE	RCA, 11 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 15 JUN 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

Major (Rank.)	M G CLENNETT (*Must be named. RP 106.*)	West NSR,	11 CBR Bn (Unit.)

MEMBERS.

Capt	to be detailed by OC 12 CBR Bn	12 CBR Bn
Lieut (Rank.)	to be detailed by OC 11 CBR Bn (*Named or detailed. RP 106.*)	11 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	to be detailed by OC 12 CBR Bn (*Named or detailed, if any. RP 106.*)	12 CBR Bn (Unit.)
~~JUDGE ADVOCATE~~		
(Rank.)	(*Must be named, if any. RP 106.*)	(Unit.)

On Active Service in the Fd

in ENGLAND
(Country.)

Date 15 JUN 44

G Francoeur Brigadier
(*Signed personally. RP 105 fn 2.*) (Rank.)

(G Francoeur)
Commanding 2 CDN BASE RPT GP
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (*For use (in lieu of AFA3) see P & C 6/1801 (1951).*)

(*See overleaf for oaths and notes for use on trial.*)

mjl

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify, that I have this day examined M 104909 (No.)

Gnr. Denommé J. A.R. (Name) and in my opinion he is
(Rank)

fit to undergo trial by Court-Martial.

Station field

Date. 16 6 44

Medical Officer (Sgd)
(unit) 11 CBRBN

The accused points out an error in the spelling of his name.

The Court being satisfied that the name of the accused is JOSEPH HENRI ROGER DÉNOMMÉE and not as stated in the charge sheet amend the charge sheet accordingly.

Plea for mitigation in the case of

M-104909 Eng Donommee J H

Mr President, members of the Court, from the MFB 355, of the accused you will see that he has been serving in the Canadian Army for a period of 1 yr 6½ mos.

His present age is 22 yrs 8¾ mos.

During his army career he has only one small entry on his conduct sheet.

The MFB 355, however does not paint a true picture of the service he has rendered to his country since the beginning of hostilities.

He joined the M/N in 1940 as a stoker and made several trips across the sub infested waters of the North Atlantic on a ship carrying vital supplies to the shores of, at that time, a sorely pressed Britain. As point in fact, he travelled on a munition ship.

Later on in the war he was signed on a troop ship carrying our troops to some of the far flung battle fronts of Africa, India, China.

While on this later job, his ship was dive bombed by the honorable sons of Nippon. The accused was wounded and his ship was lost. As a survivor he was landed at Singapore and there went through most of the siege for that important bastion.

Exhibit A

Summary of Evidence
IN THE CASE OF

M-104909, Gnr. JOSEPH HENRI ROGER DONOMMEE, RCA, attached to HQ Coy., 11 CBR Bn., a soldier of the Canadian Army Overseas.

CHARGE: WHEN ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE
Army Act, Sec. 15(1).

THE COMMANDING OFFICER HAS DIRECTED THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS: R-42502, Sgt. Cogger, Howard James, HQ Coy., 11 CBR Bn., C.A.(O), having been duly sworn states:

"On 4 June, I was RQS, 11 CBR Bn., and it is my duty to rouse the P.E. staff at reveille. On making my rounds at approximately 0630 hours, I found Gnr. Donommee, J. H. R. absent. I checked the lines but could not find him. After attending breakfast parade, I checked with the Sgt's Mess kitchen and found that he had not reported for duty, that morning. At 0945 hours 4 June 44, he reported to me sober and properly dressed. That was the first time I saw him that morning."

H. J. Cogger
(Howard James, Cogger, Sgt.)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

QUESTION TO THE ACCUSED:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

ANSWER OF THE ACCUSED:

"No, Sir."

J. H. R. Donommee
(Joseph Henri R. Donommee, Gnr.)
HQ, Coy., 11 CBR Bn., C.A.(O).

I CERTIFY THAT RULES OF PROCEDURE 4 (c) (d) (e) (f) & (g) have been complied with.
This Summary of Evidence of one page has been taken down by me in long-hand in the presence and hearing of the accused in the field at 11 CBR Bn., this 5th day of June, 1944.

P. L. Goodenough
(P. L. Goodenough, Lieut.)
Essex Scottish, 52 Coy., 11 CBR Bn.
Officer detailed to take Summary.

In the Field
5th June, 44

Exhibit C mf

~~MFM~~ 6

(AFB 122)
40/PAS/136 (3488)

M-104909 No

Name Donomme, Joseph Roger Henri

Sqn, Battery, or Company

Corps RCA

Date of enlistment 27/11 42

GC Badges

Service or Proficiency Pay na

Date of last entry in Company Conduct Sheet na

No and date of last drunk na

Period not reckoning towards freedom from extra fine na

Sheet No One

Signature OC Company, etc J. Wilson J. Thomson, Major.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field				SHEET DESTROYED 9 Aug 47. DATE OF LAST ENTRY 26 Nov. 42. CASES OF DRUNKENNESS NIL					
Field	7 Mar 44	Gnr		AA Sec 15(1) WOAS, AWL, in that he at 1870 hours, 7 Mar 44, did absent himself from duty in the Officers Mess.	L.Bdr. McLeod K C	7 days CB	8 Mar 44	Maj. WM Carlyle	

Certified a true copy from our regimental documents

[illegible] Capt Adjt
11 C&R Bn

(PTO)

Exhibit B
mf

M.F.B. 355
22M—5-41 (572-5)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M-104909	Gnr.	JOSEPH HENRI ROGER DONOMMEE,	RCA, 11 CBR Bn.

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AA Sec 15(1) AWL	1 times	AA Sec 15(1) AWL	1 times
For		times		times
For		times		times
For		times		times

[redacted]

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or.

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges for NIL days in civil custody, and O.A. 12 days in military custody, making a total of OA 12 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 22 yrs, 8½mos.

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 27 Nov. 42.

7. The service which the accused is allowed to reckon towards discharge is 1 yr, 6½mos.

8. [redacted]

9. The accused is in possession of [redacted] military decoration, [redacted]). State any [redacted] military decoration [redacted] CVSM and Clasp.

10. [redacted]

11. [illegible]

12. [illegible]

Note.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

[illegible]

Note.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of June 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

F. M. Pardee Capt.

(F. M. Pardee, Capt. & Adjt.)

4-98

TPR D'ENTREMONT B.A.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Third day of March, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~
~~(three Officers to form the Court~~
~~a Field Officer as President.)~~

for the following ~~reasons, namely~~:—

* Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G.A. Welsh	1st A.Tk Regt

Members.

Rank.	Name.	Regiment.
Capt.	J.W. R. LeBlonde,	Sask L.I. (MG)
Lieut	J. Bergoin	3 Fd Coy RCE

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.D. Graham Brigadier
(H.D. Graham)
Commanding 1 Cdn Inf Bde.
Convening Officer.

Capt.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F40229 Tpr D'ENTREMONT Benoit, Augustine 4 Cdn Recce Regt (4 P.L.D.G.)	FIRST CHARGE A.A. Sec 15 (4)	Not Guilty	Not Guilty.	Finding and sentence confirmed HG
	SECOND CHARGE A.A. Sec 40	Not Guilty	Guilty.	6/3/43
	THIRD CHARGE A.A. Sec 40	Not Guilty	Guilty. Sixty (60) days detention. 6 Mar 1943. G.A. Welsh Major.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A).) — "Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— (1) No. (2) No (3) No.

(Signed) H.D. Graham Brigadier (Signed) G.A. Welsh Major
(H.D. Graham) Commanding 1 Cdn Inf Bde Confirming Officer (d) (G.A. Welsh) 1st Cdn A.Tk Regt. President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

Capt.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the sixth day of March 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Capt.
*(4. ~~The officers under instruction~~) Capt.

* Omit if not applicable.

were duly sworn.

Signed this 6th day of March 1943.
G.A. Welsh Major.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (d) on page 762 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.) Nil

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension.

Signed this 8 day of Mar 1943
H.D. Graham Brigadier
(H.D. Graham)
Comd., 1 Cdn Inf Bde. *Confirming Officer.*

Promulgated and extracts taken in the case of F40229 Tpr D'Entremont B.A.

(a) (Dated) 10 March 43 (Signed) W.J. Johnston Capt + Adjt
4 CDN. RECCE. REGT. A (P.L.D.G.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Rec. No. 39042-1246 Plan 2-43 W. & Co., Ltd. Qtr. 743-2

CHARGE SHEET

F 40229 Tpr Benoit, Augustine, D'ENTREMONT, of the 4 Cdn Recce Regt (4 P.L.D.G.) a soldier of the Canadian Army (Overseas) is charged with, whilst on Active Service:

1st Charge
A.A. Sec
18(4)

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

in the Field, on or about 24 Feb 43, at HASTINGS stole a cigarette lighter, the property of A 49737 Tpr Brusseau, G. J., 4 Cdn Recce Regt (4 P.L.D.G.), a person subject to Military Law.

2nd Charge
A.A.Sec
40
(Alternative Charge)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, on or about 24 Feb 43, at HASTINGS was improperly in possession of a cigarette lighter, the property of A 49737 Tpr Brusseau, G. J.

3rd Charge
A.A. Sec
40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, at HASTINGS, on or about the 24 Feb 43, sold a cigarette lighter to F 40149 L/Cpl Oakley, L. H., 4 Cdn Recce Regt (4 P.L.D.G.) well knowing it not to be his own property.

In the Field
1 Mar 43

(F. D. Adams) Lt.-Col.,
C.O., 4 Cdn Recce Regt (4 P.L.D.G.)

To be tried by Field General Court Martial.

In the Field
3 Mar 43

(H.D. Graham) ..... Brigadier
C.M.G., 1 Cdn Inf Bde, Cdn Army (O)

A.

MEDICAL OFFICERS CERTIFICATE
K.R. (Can) Para 557

I CERTIFY THAT I have this morning examined

No. F 40229 Tpr D'Entremont, B. A.

of the 4 Cdn ~~Recce~~ Regt (4 P.L.D.G.) and in my opinion

he is fit/~~unfit~~ to undergo trial by Court Martial.

.....
Medical Offr

In the Field
6 Mar 43

Gaff.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at Field on the 6th day of March 1943 by order of H. D. Graham, Brig. Commanding 1 Cdn. Inf. Bde. dated the 3rd day of March 1943.

President. Gaffelch major 1 Cdn. A/Tk. Regt. R.C.A.

Members. J. W. R. LeBlanc Capt. Sask. L.I. M.G.

J. Burgin Lieut. 3 Fd. Coy. R.C.E.

, Judge Advocate.

Trial of* F 40229 D'Entremont B.A.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N.A. is not available to serve owing to Gaff.

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut E. S. Thorne.

Counsel‡ or defending officer† Lieut H. H. Powell.

At 10 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No objection raised.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—8-41 (1313)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Nil

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

Gaph.

C

*Instruction.
(See R. P. 39 (A))

Proceedings on Plea of Not Guilty

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

The prosecutor makes an opening address [~~hands in a written address, which is read, marked~~ , ~~signed by the President, and attached to the proceedings~~].

Gaph. The prosecutor proceeds to call witnesses, See yellow pages att'd for record of evidence

First witness for prosecution. K. 53244 Sergt Pattison W.

being duly sworn, is examined by the prosecutor. ~~and testifying~~ follows. 2 am Tp. Sergt of 9 Tp. C. Sqdn. 4 Pos Regt 4 P.L.D.R. At about 1430 hrs 22 Feb. 43, Tpr. Brusseau reported the loss of a Ronson Cigarette lighter and described it. I held a Tp. kit inspection, but the lighter was not found. On the following morning, I reported the case to Sergt Kelly, the Pronost Sergt, and as a result of this I took Tpr Brusseau to L/C Oakley of the Rgt Police who produced a lighter which Brusseau identified as his. I asked D'Entremont in the presence of L/C. Fraser if he had sold a lighter to Oakley or any other member of the unit within the last few days, and D'Entremont said he had not.

R.P. 85B. Complied with.

A. 49737. Tpr. Brusseau. D.J. being duly sworn testified as follows. 2 am in 9 Tp. C. Sqdn. On 23 Feb before going out on late pass, I changed my clothes and put the lighter in my tunic pocket, the tunic hanging near my bed. On my return at 2.00 hrs to billets the lighter was still in my tunic pocket. ~~Lated not look at it again until Feb 26, when the lighter was~~

C2

Missing. I then reported the loss to Sergt Pattison and described it to him. The lighter was produced in court and identified by the witness. The defending officer established by cross questioning this witness that he had not been in the vehicle park since returning from the exercise "Present", and that he had not left the lighter in the vehicle.

R.P. 85B. complied with.

F. 4149. L/C Oakley L.H. being duly sworn testified that he was a member of the Regt. Police of the 4th Rec Regt., and that on the night of the 23rd or 24th of Feb, he bought a Roman lighter from D'Entremont for ten shillings. I had the lighter for some days, and on the morning of the 27th, Sergt Pattison asked me if I had bought a lighter. I said yes. He then asked to see it, I showed it to him in the presence of Brunsean, and turned it over to Pattison.

R.P. 85B. complied with.

C. 30675 L/Corp Fraser J.A. being duly sworn states, I am a L/Corp. C Sqdn. I was present on the morning of the 27th when Sergt Pattison questioned D'Entremont about selling a lighter to Oakley or any other member of the unit. D'Entremont replied that he had not sold a lighter to anyone.

R.P. 85B complied with.

A. 3529 Sergt Kelly J.H. being duly sworn testified that he was the Provost Sergt, 4 Rec Regt, and that Sergt Pattison had described to him a missing lighter, and I directed him to L/Corp. Oakley as I had seen him using it and recognized it from the description.

R.P. 85B. complied with.

~~F. 40229. Tpr. D'Entremont B.A. being duly sworn testified that while on guard he found a lighter in the vehicle park. He carried it for several days, and sold it to L/C. Oakley for 10 shillings. He admitted denying selling it when questioned by Sergt Pattison, to avoid trouble. He claimed to have found it on the afternoon of Monday 22 Feb, and got permission from the guard Commander to go to the canteen for a few minutes that evening, where he purchased some lighter fluid. Cross examination revealed that civilians had access to the car park, which is used as an air raid shelter. He claimed that he first heard the lighter was missing on Friday at 1600 hrs, and did not report that he had found a lighter. He did not remember being in Brunsean's room that week.~~

B. 89939 Corp Snyder J.B. being duly sworn testified that he was O.C. guard from 0730 hrs 22 Feb until 0430 hrs 23 Feb, and at approximately 1900 hrs gave Tpr D'Entremont permission to go to the Canteen for a few minutes.

R.P. 85B complied with

Prosecution 61 (1)

First Witness - K53244, Pattison, W.,

I am tp sgt, no 9 tp, C sqn, 4 Recce Regt (4PLDG). At about 1430 hrs, 26 Feb 43, Tpr Brousseau, a member of 9 tp reported to me the loss of a Ronson cigarette lighter. Tpr Brousseau gave me a description of the lighter. A small size Ronson lighter, with a dark leather cover, with a piece of the leather missing on one side of the lighter. There is a small ball on the face of the lighter with a regimental badge had been [illegible]. I called a [illegible] insp. and the lighter was not found. The following morn 27 Feb 43, I went to provost sgt., Sgt Kelly, and told him of the case. As a result of this conversation, I took Tpr Brousseau with me to L/cpl Oakley, of provost who produced a lighter which Tpr Brousseau identified as his. I went back to our billets and in the presence of L/cpl Frazer, ask Tpr D'Entremont if he had sold the lighter to L/cpl Oakley or any other member of unit within last few days. Tpr D'Entremont said he had not.

Prosecution Q. Did Brousseau describe lighter to Oakley

A. No.

Q. Where are D'Entremont's quarters in relation to Bro.

A. In same billet two floors above Brousseau.

Q. Any regulation which would forbid men quartering on one floor being on other floors

A. No.

Defending offr

Q. When you returned from exercise PRESENT, 22 Feb, was D'Entremont put on guard.

A. I don't remember, C sqn provided the guard

(tumble)

Court

Q - What is tour of duty

A - Tour of duty 1700 hrs - 1700 hrs

Q - When on guard do they return to billets

A - Yes, to shave etc

Q - Is time checked

A - permission of gd comd.

Q - What is reasonable time allowance

A - 1/2 hr R.P. 85B complied with

Second Witness A49737 Tpr Brousseau, G. J

I am in Cayn 9 tp,. On 23 Feb 43, as we returned from ranges, I had a late pass, I dressed and put lighter inside my tunic and went out When I came back, I looked inside my tunic pocket, to see if my lighter was there It was still in my possession (2200 hrs) I hung up my battledress and not looking at it until 26 Feb 43 when I went to get my lighter to have it refilled, I found it had disappeared I then reported it to Sgt Pattison

Description of lighter - legend solder on disc, [illegible] which an ASC badge had been soldered. On disc Facing identity disc on lower left side, leather casing has been punctured.

(Exhibit A)

Prosecutor Q - Is this your lighter

A - yes

Q when you reported was anything done

A - yes tp. Pet insp.

Q - did you locate lighter in Pattison

A - yes

Q did you send R.P.'s

A - yes, on 27 Feb 43

Q - what happened then

A - identified lighter from L/Cpl Oakley.

Q - after took battledress turns off, did you wear it again prior to loss of lighter

A - no

Q - It was hanging in billets?

A - yes sir

63 [illegible] (3)

3) Defence

Q- Be disappointed in summary of evidence

Q- identification of your lighter - L. Pattison

A- yes, I described it only as a Ronson lighter

Q- ~~So~~ you made a mistake in summary?

A- yes, sir.

Q- what are your duties

A- gunner's spare driver in R. car

Q- Did you return to get pk after exercise

A- no

Q- was your lighter left in the vehicle, and knocked out in the garage

A- I definitely had the lighter with me. on Tues night 23 Feb

Prosecutor Q- Were you in the garage after exercise before end of week.

A- On Friday, out on the road, we did maintenance I was not in the garage

RP 85B complied with

Third Witness - F4149 L/cpl Oakley L.H.

I am in R.P., 4 Cdn Recce, On 23 or 24 Feb Tpr. D'Entremont came up to me and said she was broke and would like to sell this lighter for which I gave him 10s. Description of lighter - same as Brousseau's. I had this lighter for three or four days and on morning of 23 day of Feb., Sgt Pattison asked me if I had bought a lighter. I said yes, He then asked me to show him the lighter which I did in the presence of Tpr. Brousseau. I turned the lighter over to Sgt Pattison. - I am not sure whether present sgt saw the lighter, but I told him I had bought one the day after doing so.

Defence Q- Tell circumstances of buying

A- We went to Anchor Inn and D'Entremont offered me the lighter. I gave him 5s + 3 pkgs cigarettes I did not ask him about the lighter or he did not tell me about it. (I am not sure about conversation)

Q- do you know accused

A- very well for 3 yrs

RP 85B complied with

(trouble)

(4)

Fourth Witness 64 ~~[illegible]~~ C30675 Hyal Fraser, J.A.

I am a Hyal 9 tp, C. sqn. I was present when

On morning 27 Feb 43 Sgt. Pattison

questioned accused about selling lighter to Oakley or another member of [illegible]. O'Entamont replied that he had not. I was present at a kit inspection, I am positive that everyone in my section knew what was being searched for

RP 85B complied with

Fifth Witness A3529 Sgt. Kelly J.H.

I am present sgt. of 4 Recce. Regt.

Q- Did sgt. Pattison give you a description of lighter

A yes

Q- What took place on that occasion.

A- Sgt Pattison gave me the description and I directed him to L/cpl Oakley.

Q- Did you recognize the lighter + how did you ~~tell him~~ know where it was

A - I had seen it in use and recognized it from the description. RP 85B complied with

Defence

D

The prosecution is closed.

RPD 40 1 and footnote 2 complied with.

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes

Question. Do you intend to call any other witness in your defence?

Answer. No

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

~~[Hands in a written address which is read, marked signed by the President and attached to the proceedings.]~~

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

D2

Instruction.
The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

F. 40229. Tpr. D'Entremont B.A., the accused, after being warned in accordance with R.P. 40. stated that he wished to testify under oath in his own defence. After being duly sworn, testified as follows, that while on guard at approximately 1630 hrs Monday 22 Feb, he found a lighter in the vehicle park. He carried it for several days, and then sold it to L/C Oakley for ten shillings. He admitted denying selling it when questioned by Sergt Patterson to avoid trouble. That evening he got permission from the guard commander to go to the canteen, where he purchased some lighter fluid. Cross examination revealed that civilians had access to the car park which is used as an air raid shelter. He claimed that he had heard that the lighter was missing at 1600 hrs Friday, 26 Feb, but did not report that he had found a lighter. He did not remember being in Brunsean's room that week.

R.P. 85B. Complied with.

Prosecutor sums up case for prosecution defence declines to address court.

Defence. (5) 6.1 [illegible]

FHD229 Tpr. D'Entremont, B.A.

As I was walking through the car park I kicked something with my foot and it sounded like metal so I picked it up and saw that it was a lighter and carried it in my pocket for two days and nobody said anything about losing a lighter so I figured it was finders keepers. Then I was broke and I asked L/cpl Oakley if he wanted to buy a lighter. He gave me 5s and 3 decks of cigarettes.

Q. On 27 Oct. 43 did you deny selling a lighter & why

A. To keep out of trouble I said no.

Q - When did you find the lighter

A - On afternoon mon. 22 Feb 43

Cross-examination

Q. Is car park underground

A yes

Q - Are civilians allowed in.

A - yes but they must show identity cards

Q - Had there been any while you were on guard

A - No.

Q - When did you buy fluid for lighter

A - On Mon. night.

Q - When did you come off duty

A - at 2100 hrs thurs 23 Feb 43

Q - When did you first hear that a lighter was missing

A - At 1630 hrs Fri. 26 Feb 43

Q - Did you report lighter after kit inspection

A - No, I was afraid of getting into trouble.

Q - Did you have a lighter of your own

A - Several

Q - Did you ever get a light from Bronowen

A - no

Q did you ever see him with a lighter

A no

Q had you been drinking much night of sale

A - no 3 glasses of beer

D2 Gast. (6)

Q - Do you know where Brousseau sleeps
A Yes
Q Have you ever been in the room
A Yes, before Brousseau moved in
Q - where does Brousseau hang his clothes
A I don't know
Q Where did you hang yours
A On the door
Q Did you go to the ranges
A No
Q Did you have the next day off
A - No.
Q - Were you in Brousseau room that week
A - not that I can remember
Q - Did it require leaving
A - No the floor was clean.
Q Did you kick it or step on it
A Kicked it
Q It was lying in the open
A Yes.

Q - What is lighting like
A - very dim
Q - could people pass by it
A - yes.

Court Q - What was date
A - On Mon. 22 Dec 43, in the afternoon
Q - Who was guard Cpl?
A Cpl. Winthrop + one other who I can't remember
Q - When were you on shift
A - I can't remember
Q - You went up to center? Who gave you permission
A - Cpl of the guard. I don't remember which,
Q - there was no badge on it?
A - no.

Q - Didn't you think it belonged to member of unit

A - No. I thought it belonged to a civilian Q 3 [illegible]

Q - Did you see Brousseau in the garage

A - No

Q - Where was lighter

A - In front of cars

Q - Were you in last shift

A - In middle or last.

Q - Did you ask anybody if you had lost lighter

A - I asked a couple of the guard

Q - RP 85B complied with

Court's Witnesses. called by court with consent of Prosecution and defence

~~Sixth Witness~~ Cpl. Winthrop

~~Q. Were you get cond on mon 22~~

~~A no Tuesday at 0430~~

~~Q - Do you remember the shift [illegible]~~

~~A - 1530-1700 2100-2300 0300-0500~~

~~Sixth Witness~~ B89939 Cpl Snyder, I. B.

Q - When were you in cond

A - At 0730 hrs 22 - 0430 hrs 23 Feb.

Q - Did you give d'Entremont permission to leave

A - Yes, ~~at~~ the evening, before 2100, to get some peanuts, at the canteen

Q - Did d'Entremont mention finding a lighter

A - No. RP 85B complied with.

Both prosecution and defence declined to examine above witness.

Prosecutor's Address D.H. [illegible]

Before court on three charges, first theft of a cigarette lighter property of Brousseau etc.

2. Conduct to the prejudice etc. being in improper possession etc.

3. Selling a lighter well knowing it not to be his own property.

1. We have time from Sgt. Pettison, description of lighter, action taken. Lighter not found by kit inspection & denial of sale. Substantiated by Fraser who also said that owners knew what was being searched for. Also Kelly's corroboration. Oakley's statement that d'Entremont sold the lighter. Also some dunking and no money may have induced the sale.

Finally we have Brousseau's evidence who is very definite as to the time he last saw the lighter and first missed it. He was not in the garage all during the week. ∴ lighter was not lost in the garage. No evidence that the lighter was taken from the pocket although opportunities were present.

Only two conclusions

or 1) lighter stolen & lost in garage

2) D'Entremont took the lighter from cattleshed

OE knows beyond of room.

Reasonable man would have turned lighter in. Subsequent to kit inspection he knew lighter was missing that had sold it but knew where it was. If he did know the purchaser he might say nothing but not in present circumstances.

Commenting on discrepancy of Brousseau's evidence, possibly trying to help cover d'Entremont.

3. He knew it wasn't his but no inquiries made. Owners could easily be found.

d'Entremont lying when he found it in garage on Monday.

No doubt but what he knew it was property of comrades

Similarly on [illegible]

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused —.

NOT GUILTY of Charge I. A.A. 18(H).

GUILTY of " II + III A.A. 40 Genl.

Finding of NOT GUILTY on first charge announced in open court.

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut C. L. Thorne, Assistant Adj. 4 R.D.G. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes. M.F.A. 6. M.F.A. 556

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B, C., signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

Nil.

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

Part B

No. F40227 Name [illegible] 2/Lt. Battery or Company C Syn Corps Royal Canadian Regt (4 P.L.D.G.) Date of enlistment 20-3-40 G.C. Badges: Service or Proficiency Pay: Sheet No. 3 Signature O.C. Company, etc.: Character

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Aug 42	Gnr		AA Sec 17(1) AWL from 16.20 hrs 1/8 to 20.00 hrs 3/8 (2 days 22 hrs 20 mins)	Lt Johnson	28 days FP 1 + 28 days pay	4 Aug 42	2 i/c Lt Col Wyatt	Rejoined unit 0400 hrs 4/8
				AA Sec 40 - Did improperly commit an offence against good order & military discipline in that he without permission of his C.O. absented himself from his unit from 1600 hrs 3/8 to 0400 hrs 4/8	Capt Hepburn	Admits Charge			
Field	13 Jan 43	Gnr		AA Sec 15(1) AWL from 17.30 hrs 12/1 to 22.30 hrs 13/1 (5 hrs)	Lt Appleby	7 days C.B.	16 Jan 43	2 i/c Maj Craig	

CERTIFIED A TRUE AND EXACT COPY OF THE ORIGINAL IN EVERY MATERIAL DETAIL:
(W. E. Johnston) Capt. and Adjt.,
for F. D. Adams Lt.-Col.,
O.C., 4 CMR Recce Regt (4 P.L.D.G.)

First sheet destroyed on completion of six months' service.

Part B.

No. F40229 Name [illegible] 2/Lt. Battery or Company Corps W.N.S.R. Date of enlistment 20-3-40 G.C. Badges: Service or Proficiency Pay: Sheet No. Two

M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	27-4-41	Pte		AA Sec 24/42: WOA2 being by neglect damaged one Despatch Motor Cycle the property of His Majesty the value of which was reported to exceed £10 by [illegible]	[illegible]	Stoppage of £0-3-0	[illegible]	[illegible]	
In the Field	2/5/41	Pte		AA Sec 40 - Involved in a traffic accident	[illegible]	1 days stoppage of Sick Pay	26/7/41		
Field	2/5/41	Pte		WOA2 AA Sec 40 - Did commit an offence against good order and military discipline in that he neglected a matter which was his duty to do	[illegible]	7 days C.B.	16/9/41	2 i/c Lt Col Wyatt	
Field	1/5/41	"		AA Sec 40 - Driving a vehicle at a speed greater than a speed [illegible]	[illegible]	7 days C.B.	19/9/41	2 i/c Lt Col Wyatt	

(P.T.O.)

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is.

NOT GUILTY of Charge I. A.A. 18(4).

GUILTY of " II + III A.A. 40 Cap.

Finding of NOT GUILTY on first charge announced in open court.

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut E. S. Thorne, Assistant Adj. 4 P.R.D.G. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes. MFB 6. MFB 356

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B, C., signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

Nil.

Question to the accused.

Do you wish to address the Court? *Answer.* NO.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused to

60 days detention.

Sentence.

No. F 40225 Name A'Court Sqn. Battery or Company C Sqn Corps Reconnaissance Date of enlistment 20-2-40 G.C. Badges: Service or Proficiency Pay: Character

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. 3 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Aug 40	Tpr		AA Sec 17(1) AWL from 16.30 hrs 28.7.40 to 1.30 hrs 2 Aug 40 (22 hrs 30 mins)	Capt Johnston	28 days FP No 1	2 Aug 40		
				AA Sec 40 Driving improperly owing to excessive speed of motor vehicle	Cpl Piper	14 days C.B.			
Field	17 Jan 41	Tpr		AA Sec 15(1) AWL 12 hrs to 22.30 hrs on 17.1.41 (3 hrs)	Sgt Shipley	7 days C.B.	17 Jan 41		

CERTIFIED A TRUE AND EXACT COPY OF THE ORIGINAL IN EVERY MATERIAL DETAIL:

(W. F. Johnston) Capt. and Adjt.,
for F. D. Adams Lt.-Col.,
O.C., 4 Cdn Recce Regt (4 P.L.D.G.)

Last sheet discharged on completion of six months service

No. F 40229 Name A'Court Sqn. Battery or Company B Corps W.N.S.R. Date of enlistment 20-3-40 G.C. Badges: Service or Proficiency Pay: Character

Date of last entry in Company Conduct Sheet: No. and date of last drunk: Period not reckoning towards freedom from extra fine: Sheet No. Three Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	27-4-40	Pte		AA Sec 24 (2): When being by neglect the cause or occasion of any Committee or Board of Survey to be held on such Retrial upon any Inquiry assembled by Authority) Value £0.3.0	Cpl Brickley and Sgt Bowden	Stoppage of £0.3.0	28/4/40		
In the Field	26/7/41	Pte		AA Sec 40 Involved in a traffic Accident	A118 Mem	1 days stoppage of pay	26/7/41		
Field	24/7/41	Pte		WOAS AA Sec 40 Not taking proper speed when driving motor vehicle in the neglected manner to the danger of persons using the highway	Sgt Smith	7 days C.B.	10/9/41	2nd Cdn Corps	
Field	2/5/41	"		AA Sec 40 Driving a motor vehicle at a speed greater than is reasonable and proper having regard to the duty of the driver to have due regard for the safety of persons using the highway	A.P.M. C.M.P.	7 days C.B.	12/5/41	2nd Cdn Corps	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17-6-41	Tpr		AA Sec 40 Conduct to the prejudice i.e. lost his air indicator	Sgt Mongello	Stoppage of 1 days pay	23 June 41	W.O. Wetmore	
Ed Mitchell Beber	3-8-41	Tpr		AA Sec 40 - Are that he in his sleeping quarters was talking after being warned by the ord officer to stop talking.	Lt. A.M. Arnst	7 Days CB Report at 1800 hrs daily	4-8-41	Major Stevens	
Wm Smith	23-1-42	Tpr		Disobeying a lawful command given by Cpl Smith of his superior officer i.e. at 17 30 hrs did disobey an order given by Cpl Hungerford AA Sec 9	Cpl Smith	Fine of 4 days pay PR & A 149(2)	22-1-42	J.R. Hopkins Lt Col.	
"	15-2-42	Tpr		AA Sec 15 - Awl from 23 59 hrs to 20 30 hrs 16-2-42	Sgt Laughlin Tpr Funstel	2 days pay	18-2-42	J.R. Hopkins Lt Col.	Fine of one days pay
Chobham	5/6/42	Tpr		AA Sec 40 - Appeared on parade unshaven	Sgt Jette	3 days CB	22 July 42	W.O. Wetmore	
Field	21 July	Tpr		AA Sec 15(1) AWL 8 hrs 30 mins	H/C Runge	3 days CB	22 July	H.A. Thorne Capt	
Field	31 July	Tpr		AA Sec 15 AWL 4 hrs 16 mins AA Sec 11 Neglecting to obey Sgt standing orders	Cpl Beaton	8 Days CB	1 Aug 42	H.A. Thorne Capt	

Exact

M.F.B. 355
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number F 40229 Rank Tpr Name D'Entremont B Regiment (or unit)

4 Cdn Recce Regt (4 P.L.D.G.)

1. The following is a fair and true summary of the entries in the M.F.M. 6 ~~Service and General~~ Regimental and ~~Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

Within last 12 months			Since enlistment		
For A.A. Sec 40	One	times	A.A. Sec 40	6	times
For A.A. Sec 15 (1)	5	times	A.A. Sec 15 (1)	5	times
For		times	A.A. Sec 9	One	times
For		times			times

Number of instances of gallantry or distinguished conduct

N.A. or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

N.A.

or,

~~Previous convictions of the accused by a court-martial or a civil court of summary awards under~~ Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or,~~ N.A.

~~The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 3 days in military custody, making a total of 3 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his record of service is 26 years

6. The date of his ~~attestation~~ attestation specified in his record of service is 20 March 40

7. The service which the accused is allowed to reckon towards discharge is N.A.

8. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (~~or~~ military military ~~in possession of or entitled to~~). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N.A. ..... Date of promotion.

In the rank of N.A. ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....

Name ..... of ..... Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. [illegible] Lieut & A/adjt

Signed this 1st day of March 93

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Summary of Evidence in the case of
F 40224 Tpr D'Entremont B.A. of the 4th Canadian Recce Regt (4th PLDG.)

The Commanding Officer directs that the evidence be taken on Oath.

First Witness for the Prosecution

K 53244 Sgt Pattison W. 4 Canadian Recce Regt (4th PLDG) having been duly sworn states I am troop sgt of 4 Troop C Sqn. At approx 1430 hrs on the 26th of February 1943 Tpr Brussaux a member of 4 troop reported to me the loss of a Ronson cigarette lighter giving me a full description of the same. He also stated that the loss must have been caused by theft. I got the troop together and had a kit inspection. The lighter was not found on this inspection. On Saturday 27 Feb. at about 0915 hrs. I came over & saw Sgt Kelly of the Provost and as a result in the presence of Tpr Brussaux L/Cpl Oakley produced a lighter which corresponded with the description given me by Brussaux and the lighter was identified by Tpr Brussaux as his. I went back to the troop billets and as a result of a statement by Oakley I called Tpr D'Entremont into the room and in the presence of L/Cpl Fraser I asked the accused if he had within the last few days sold a lighter to any member of the unit. Tpr D'Entremont said he had not. I then warned D'Entremont that he was not

(P.T.O.)

First Witness for Prosecution (Contd)

charge for theft and placed him under close arrest

Cross examined by the accused

Ques 1 Did you ask me whether I had sold a lighter to L/Cpl Oakley ~~[illegible]~~ or did you ask me if I sold it ~~[illegible]~~ to any member of the unit

Ans 1 I asked Pte L'Estrange if he had sold a lighter to L/Cpl Oakley or to any member of the unit.

W Pattison Sgt

2nd Witness for the Prosecution

A 49737 Pte Brusseau G.J.

4th Canadian Recce Regt (4th PLDG) duly sworn states

I am a member of 1 troop C Sqn. On Tuesday night, February 23rd I had a leave pass & put on my good battle dress and had placed the lighter inside of my tunic pocket before leaving barracks. When returning from pass I looked to see if my lighter was still in my pocket and found that it was still there. Not looking in my pocket again until Friday 26th. when I looked for my lighter to have it refilled with fuel when I found it had disappeared & then reported it to Sgt Pattison

Questioned by Officer taking the Summary.

Q1 Did you describe the lighter to Sgt Pattison

2nd Witness for Prosecution Continued

answer No sir I did not

2 Was a kit inspection of 9 troop held on Friday

ans Yes

3 Did you visit the Right police with Sgt Patterson?

ans Yes Sir I did

4 Was a lighter produced by L/Cpl Oakley?

ans Yes sir.

5 Did you identify this lighter as your own?

Yes sir I did

6 Had you described this lighter to anyone before you identified it when L/Cpl Oakley produced it?

ans I told them it was a Ronson lighter, that's all sir.

7 After you took off your tunic on Tuesday night, did you wear it again before you found that your lighter was missing?

answer No sir.

9 How did you know the lighter Oakley had was your lighter?

answer On the identity plate on the lighter was some liquid solder where an Army Service corps badge had been soldered & on the lower left corner of the lighter (looking at the disk) the leather casing was punctured.

10 You did not mention these marks to anyone before the lighter was produced?

answer No sir

2nd witness for the prosecution (Continued)

The accused declines to cross examine this witness

L. J.

Tpr. Brusseau

3rd Witness for the Prosecution

F 40149 Lt Oakley R.H. L/Cpl in the Regt Police of the 4th Canadian Rifle Regt (4th P.L.D.G.) duly sworn states

I am a member of the Regt Police of the 4th Can Rifle Regt, on the the 23 or 24th of February/43 Trooper D'Entremont came up to me and told me that he was broke and needed money and offered to sell a lighter. For this I paid him ten shillings. Sgt Pattison came to me and asked me if I had bought a lighter and asked me to show him the lighter. Trooper Brussea was with him. Trooper Brusseau identified the lighter and I turned it over to Sgt Pattison.

Questions by officer taking summary

1. Did Tpr Brusseau describe the lighter before you produced it

ans I showed it to Sgt Pattison while Tpr Brusseau was present - I don't know whether he could have seen it or not before I asked him to identify it.

2. Did he identify it by describing it or just saying it was his.

ans He identified it by describing certain marks on it.

3. What day was it that Sgt Pattison came to see you -

ans I was Saturday Feb. 27th

3rd Witness for Prosecution (Continued) Accused declines to cross examine this witness

J.J. Oakley.

4th Witness for the Prosecution

C 30675 L/Cpl Fraser J.A. 4th Canadian Recce Regt. (4th P.L.D.G.) duly sworn states

I am a Lance Cpl of 9 Troop C Sqn of my unit. On the morning of 27th February 1943 Sgt Pattison in my presence asked Pte D'Entremont if he had sold a Ronson lighter to either Cpl Oakley or any other member of this unit. Pte D'Entremont replied that he had not.

The accused declines to cross examine this witness

L/Cpl Fraser J.A.

The accused declines to call any witness at the termination of the summing up of Evidence

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath, you are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence or make any statement.

P.T.O.

I certify that the foregoing Summary of Evidence consisting of 3 pages (both sides) was taken down by me in the presence of the accused and that rules of procedure 4 C. D. E. & F. have been complied with

E. L. Thorne
Lieut & A/Adjt
4 Cdn Recce Regt

In the Field
Feb. 28/43

F 40229 Tpr D'Entremont, B. A. 4 Cdn Recce Regt (4 P.L.D.G.)

LIST OF WITNESSES

Witnesses for the Prosecution

K 53244 Sgt Pattison, W.		All of 4 Cdn Recce Regt (4 PLDG)
A 49737 Tpr Brusseau, G. J.		
F 40149 L/Cpl Oakley, R. H.		
C 30675 L/Cpl Fraser, J. A.		

Witnesses for the Defence

Nil

LIST OF EXHIBITS

One Ronson Automatic Lighter (Cigarette) property of A 49737 Tpr Brusseau, G. J. of the 4 Cdn Recce Regt (4 P.L.D.G.)

STATEMENT OF ACCUSED WHETHER HE DESIRES A DEFENDING OFFR

I desire to have one of the u/m Officers defend me at my Trial:

Lieut. MacIntosh

or

Major Stellan

West Novia Scotia Regiment
Cdn Army (O)

B. A. D'Entremont
(F 40229 Tpr D'Entremont, B. A.)

DEFENDING AND PROSECUTING OFFRS

PROSECUTING OFFR

Lieut. E. S. Thorne
4 Cdn Recce Regt (4 P.L.D.G.)

DEFENDING OFFR

Lieut H H Powell.

47-55

Ypr. D'Entremont 13.a

SCHEDULE.

Accused: F40229 Tpr. BENOIT Augustin D'ENTREMONT 4th PLDG.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~And the present further sentence for~~ Nil DAYS ~~including the time~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 33 days, of which 15 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To be imprisoned without Hard labour for a term - two years. (2)

(Sgd) ..... Judge-Advocate, if any.

15 FEB 45 Date awarded.

(Sgd) Geo R Henderson Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) .....

Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,40(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court.

I direct that the accused be not committed to prison or detention barracks until further orders.(1) (1. AA 57A. Delete if not used.)

Date 16 Feb 45 (Sgd) [illegible] Lt-Col

Commanding 12 Can Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F40229 BENOIT AUGUSTIN D'ENTREMONT	17 FEB 45	[illegible] Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 4 APR 1945 AAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 42-85

FIELD GENERAL COURT-MARTIAL

(CFAR6 (2D Draft of AFA3) 40/1/2 S/1608 (2664))

Convened by Order of Brig J. L. Ilsley Comd 12 Can Inf Bde dated 14 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F40229	Tpr		Benoit Augustin	D'Entremont	4 R1DG

PROCEEDINGS REVIEWED [illegible] Capt REVIEWING OFFICER, AAG BRANCH C.M.H.Q. 4 Cdn Armd Div

Held in the Fd in (country) Italy on (date(s)) 15 Feb 45

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant fins RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 2. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(8), RP 80 fn 1. For effect see KR Can 543(c). Delete, if not applicable.)

A5. President to accused: Do you object to the Interpreter ~~to be sworn~~? Ans ~~No~~ (1)

The Interpreter is sworn.(1) Do you object to the shorthand writer ~~to be sworn~~? Ans ~~No~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Henderson G. A.	4 R1DG
Member	Capt.	Wilson J. H.	Adjt 4 R1DG
Member	Lieut	Craft E. J.	Platoon Commander 4 R1DG
Judge-Advocate			
Prosecutor	Capt.	Instater R.S.	4th PLDG.
Defending Offr	Capt.	Robertson A	4th PLDG

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 25, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 and fn 2 are not followed. See Dir p 3.)

A8. The accused F40229 Tpr Benoit Augustin D'ENTREMONT (1) stands arraigned. The following plea(s) is (are) made:

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or on bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused elects (does not object to any change.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 42; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted]3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty and, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6 4 and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole if part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B, altered as follows : [illegible] are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.(1)
(1. Under B5 such parts only of the Summary of Evidence as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-15 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 89. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(7) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E-1 and Ex E-2 respectively.(3)
(1. MFB 351 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)
(1. RP 37(C), 44(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to persue an oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 208, 230, 563-566, Overseas RO 309, 2323, MML p 90, 757-758. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(16), 68(7), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused F 40229 Tpr Benoit Augustin D'Entremont, 4th Princess Louise Dragoon Guards, a soldier of the Canadian Army Overseas, is charged with:-

First charge
Army Act
Sec 15(1)

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from the Unit lines of the 4th P.L.D.G. from 2400 hours 5th of November 1944 until he was apprehended by the Military Police in Terni at 1050 hours 24th November 1944.

Second Charge
Army Act
Sec 15(1)

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from the Unit lines of the 4th P.L.D.G. from 1200 hours 25th of December 1944 until he surrendered himself to P 16431 RQMS Money, D.J. 4th P.L.D.G. at 1000 hours on the 13th of January 1945.

In the field

(C. PETCH) Lt-Col.,
Commanding Officer
4th Princess Louise Dragoon Guards.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(J C Millard) Maj
DAA&QMG 12 Cdn Inf Bde
for (J S H Lind) Brig
Comd 12 Cdn Inf Bde

14 Feb 45

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1607 (2864)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-40229	Tpr		Benoit Augustin	D'ENTREMONT	4 PLDG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 14 Feb 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Major	G.A. HENDERSON	Lan & Ren Scot R.

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Capt	To be detailed by CO Westmr R (M)	
Capt or Lt	To be detailed by CO 4 PLDG	

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.
Lt	To be detailed by CO 4 PLDG	

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.
~~Capt~~	~~[illegible]~~	~~HQ - 5 Cdn Armd Div~~

On Active Service in the Fd

in ITALY (Country.) — J B Lend. (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 14 Feb 45 — Commanding 12 Cdn Inf Bde, Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE Exhibit EX. 13"

I have this date examined the accused F 40229 Tpr D'Entremont, B.A.

of the 4th P.L.D.C. and find him Fit to undergo trial by F.G.C.M.

(Sgd)

(L.J. CALVERT) Capt.,
R.M.O., 4th Princess Louise Dragoon Guards.

In the field
15 Feb 45

Tpr D'Entremont D. A. Ex "C" 8416

Character reference.

I have known Tpr. D'Entremont for approx. three years. He is a very capable soldier, can and has led a section in action.

During the times he was under my command he has carried out his duties enthusiastically.

[illegible] Capt

Statement in mitigation of sentence. Ex: "D"

F 40229 Tpr D'Entremont B.A.

The accused has pleaded guilty to charges which have arisen because of a foolish action and are in reality no reflection of his real worth as a soldier. He has had five years service in the army, in that time he managed to collect two noticeable entries on his M.O.L. but the court is asked to note that he has had no entries in the time he has been in action and that service includes part of the sicilian & all of the Italian campaigns up to the time of his first indiscretion.

His civilian background is one of a steady man who held jobs for three year periods, one as a farmer & truck handler and a later one as a mechanic in a garage. In the unit, he was employed as a driver while the unit was mobile and became a refleman when the unit turned to infantry and played his part as such.

The circumstances of his A.W.L. are simple to begin with. In company of a friend ~~who~~ both with 48 hour passes, he went to the town of Matelica & they had arranged to return with a truck which they knew would be going there but the truck didn't turn up & they proceeded to get ginned up, at which stage it was decided that they were in trouble and might as well make it worth while & go to Rome. When they sobered up they found themselves in custody & were kept three weeks in Perugia & returned to the unit on 17 Dec. The accused was released from arrest and sent right into the line & stayed there on the file for five days, after the second day he was in charge of a section. He finished the action which was rather rough and when the unit moved back to Ravenna he took out again on his own, this was due again to an more than liberal amount of wine which caused him to place undue emphasis on the apparently poor spirit of the new men who had been under his command, he felt that the situation was intolerable & in that state of mind it seemed that he could solve his problem

by taking a leave on his own and by leaving the solution to some one else.

This man has been a soldier & a good one, his had a good share of battle and aquitted himself well. He knows he must be punished and only asks that the court will be lenient enough that he may see action with the men who were let down by his actions.

Exhibit "A"

SUMMARY OF EVIDENCE

Summary of evidence in the case of F 40229 Tpr D'Entremont, B.A. 4th Princess Louise Dragoon Guards, Canadian Army Overseas.

By direction of the Commanding Officer, evidence is taken on Oath.

First witness for the prosecution

B 112402 A/Cpl Soderberg, W.L. 4th P.L.D.G. having been duly sworn states:-

I am B 112402 A/Cpl Soderberg, W.L. of "C" Sqn 4th P.L.D/G. I was in 13 troop and Tpr D'Entremont was a member of that troop. Tpr D'Entremont whom I recognize here as the accused failed to return from a 48 hour pass that ended at 2400 hours 5th Nov 44. I reported that he failed to return to the Sqn Orderly room.

I present to the Court a Certified true copy of a Casualty Return Dated 13 Feb 44 and signed by Capt W.A. Down. 4th P.L.D.G. This document refers to the accused man.

W.L. Soderberg A/Cpl

The accused delines to cross exam ine this witness.

The document referred to by the witness, produced, read over to the accused, marked exhibit "A", signed by me and attached hereto.

Capt RS Inkster
4th Princess Louise Dragoon Guards

Second witness for the prosecution

C 70510 A/SQMS Henry, M.D. 4th P.L.D.G. having been duly sworn states:-

I am C 70510 A/SQMS Henry, M.D. "C" Sqn 4th P.L.D.G. On the 25th of Dec 44 I was acting as a troop Sgt of 9 troop "A" Sqn and Tpr D'Entremont whom I recognize here as the accused was a member of that troop at the time. When I held the parade to proceed up to our Christmas dinner I called the roll and Tpr D'Entremont, B.A. was absent. I reported his absence to the Sqn Orderly room.

The accused declines to cross examine this witness.

M.D. Henry SQMS

Third Witness
for the prosecution P 16431 RQMS Roney, D.J. 4th P.L.D.G. having been duly sworn states:-

I am and was at all times material hereto P 16431 RQMS Roney? D.J. 4th P.L.D.G. At approx 1000 hours 13 Jan 45 Tpr D'Entremont whom I recognize here as the accused reported to me. I knew that he was A.W.L. so I placed him under Close Arrest.

Cross Examined by the Accused

Q. Did'nt I tell you that I waas A.W.L.?

A. Yes.

W. Roney
D.J. Roney RQMS

The accused having been warned as follows:-

" Do you wish to make any statement or to give evidence upon Oath? You are not obliged to say anything or to give evidenc uless you wish to do so, but whatever you may say or any evidence that you may give will be taken down in writing and may be given in evidence",

Declines to make any statement or to give evidence.

Certified that R.P. 4 (c) (d) (e) & (f) have been complied with.

This summary of evidence consisting of two (2) pages was taken down by me in writing in the presence and hearing of the accused .

R S Inkster

(R S Inkster) ~~Capt Lieut.~~,
4th Princess Louise Dragoon Guards
Officer taking this summary.

In the field
13 Feb 45

Army Form W. 3011A

(Margin for filing purposes)

Serial No. 4P/11

Number of sheets to this return

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
F 40229	Tpr	D'Entremont, B.A.		AWL from 2400 hours 5 Nov 44 until apprehended 1050 hours 24th Nov 44. Time absent 18 days 1950 hours.		

CERTIFIED TRUE COPY taken from records in my possession 14 Feb 45

(W.A. Down) Capt.,
A/Adjt., 4th Princess Louise Dragoon Guards.,
Officer having Custody of Original.

Exhibit A to the summary of evidence
[illegible] Capt.

4th P.L.D.G. (Unit)

12 C.I.B.

(Date) 13 Feb 1945 (W.A. Down) Capt
(Signature and appointment of Officer.)

(Bde., Divn., Area, etc., with which unit is serving.)

F-1 SAW

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F 40229	Tpr	D'Entremont, B.A.	4th P.L.D.G.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. ~~The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—~~

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*Strike out if not applicable.

3. ~~The accused at the present time is under sentence for beginning on the ..... day of~~

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 33 days in military custody, *i.e.*, ... days in open arrest, 33 days in close arrest; of which 15 days were spent in hospital.

5. The present age of the accused is 29 Years.

6. The date of his attestation / ~~calling up for military service~~ is 20 Mar 40

7. ~~The service which the accused is allowed to reckon is~~

8. The accused is in possession of† 1939-43 Star CVSM & Clasp.

†States the military decorations (if any) held by accused.

9. ~~(*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—~~

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt [illegible] 20,000 3/44 61-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15 day of Feb 45

(W.A. Down) Capt.,
A/Adjt., 4th Princess Louise Dragoon Gds

MFM 6
(AFB 122)
40/P&S/136 (3438)

No F 40229 Name D'Entremont, B.A. Sqn, Battery, or Company K-2 Corps CIC

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Date of enlistment | GC Badges | Signature OC Company, etc | Service or Proficiency Pay | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Supplementary Copy Only. Original not available. 13 Feb 45					
				(W.A. Down) Capt., A/Adjt., 4th Princess Louise Dragoon Guards.					

(PTO)

LIST OF WITNESS

For the Prosecution

B 112402	A/Cpl	Soderberg, W.L.	4th P.L.D.G.
C 70510	A/SQMS	Henry, M.D.	4th P.L.D.G.
P 16431	RQMS	Roney, D.J.	4th P.L.D.G.

For the defence

Nil

List of exhibits

1. Casualty Return

Prosecuting Officer

Capt R.S. Inkster 4th P.L.D.G.

Defending Officer

Capt A. Pepper 4th P.L.D.G.

I wish to have the a/m Officer to represent me at my trial.

In the field

B.A. D'Entremont Cpr

HL-133

Pte. Depew C.O.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-84396 Pte Depew C.O. - 34 Cdn C Tps Comp Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two years

(Sgd) N/A Judge-Advocate, if any. 9 Dec 1944 Date awarded. (Sgd) A.R. Brijon President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to military detention barracks until further order.~~ DH (1. AA 57A. Delete if not used.)

(Sgd) D Hunt Lt-Col

Date 9 Dec 44. Commanding 2nd C.C.A.S.C.E. 1st Corps Tps Confirming Officer. X

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused B84396 Pte Depew, C.O. Date 11 Dec 44 N.H. Holland Major Signature of Officer W.H. Langbottom Capt 34 CDN CORPS TPS COY RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ in AD 160. 4L-133.

CFA96 (In lieu of AFA3) 41/P&S/1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col J.U. Ross Smith Comd RCASC 2 Can C Tps dated 7 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B84396	Private	Clinton, Oswald.	DEPEW.	34 Can C Tps. Comp. Coy RCASC

PROCEEDINGS REVIEWED

REVIEWING OFFICER'S JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 9 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. XU-150

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instn, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns to ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~and~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A.

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instn, if any~~ sworn.(1) The following are the ranks, names and units of the offrs comprising the Court now:

President	Major	A.R. Brijon	HQ RCASC 2 Can C Tps
Member	Capt	T. Harper.	33 Can C Tps Comp Coy RCASC
Member	Lieut	A.R. Swanson	2 Can C Tps Coy RCASC
Judge-Advocate		N/A	
Prosecutor	Captain	W.H. Longbottom	34 Can C Tps Coy RCASC
Defending Offr	Lieut	J.B. Harp	34 Can C Tps Coy RCASC

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused before arraignment makes(s) (no) objection(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addressment made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is severally arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* 3.

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. Yes (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(three)~~ plea(s) of Guilty to Not Guilty on 1st charge(s). The accused is (~~not~~) so informed, ~~and the (three) charge(s) to which the plea(s) of Guilty is (are) changed to Not Guilty are struck out~~. ~~Part I of the Schedule is amended accordingly.~~ (2)
(1. *Court may be closed to consider the statement.* 2. *Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such pleas and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (ii).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras C1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP 37(C) fn 4, 44 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment?(1) Ans. Yes. (2)
(1. *RP 37(C), 44(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 39(F). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 3/29, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 58(1), KR Con 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused R.84396 Pte Clinton, Oswald, DEPEW,
34 Canadian Corps Troops Composite Company RCASC
a soldier of the Canadian Army Overseas,
is charged with

FIRST CHARGE
Sec 15(1) A.A. ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field absented himself without leave from 1200 hrs 8 May 1944 until 2210 hrs 24 Oct 1944, when he surrendered to the Corps of Military Police, at Charing Cross, London. (TFA - 169 days 10 hours 10 minutes)

W. H. Heffernan Major

(W.H.Heffernan) Major,
Officer Commanding,
34 Cdn C Tps Comp Coy RCASC.

In the Field
19 Nov 44

To be tried by Field General Court Martial.

(G D Ross-Smith Lt-Col
Comd RCASC 2 Cdn C Tps

7 Dec 44.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B-84396	Private		Clinton, Oswald	DEPEW	34 Cdn C Tps Comp Cor RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above ~~is~~ the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 7 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	A T	Dixon	HQ RCASC 2 Cdn C Tps

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	T	Harper	33 Cdn C Tps Comp Coy RCASC
Lt	A R	Swanson	2 Cdn C Tpt Coy RCASC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	N/A	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in HOLLAND (Country.)

(Signed personally. RP 105 in 2.) (G D Ross-Smith) Lt-Col (Rank.)

Date 7 Dec 44

Commanding RCASC 2 Cdn C Tps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CSD Judge President

CERTIFICATE of MEDICAL OFFICER

I certify that I have this morning examined

Regt. no B.84396 rank Pte name DEPEW, C.O.

and in my opinion he is fit to undergo trial by court martial

Station Field

Date 9 Dec 44

[signature]
Medical Officer
(H.Q. RCASC 2 Cdn C Tpt)

[signature]
Brevet Lt

Statement of the accused B84396 Pte Depew C.D. C.D. Dixon Maj Pres Board

Sir while being with C Pl of this coy on "Wheels II" Jan 44 we were getting ~~different~~ definite reports from the coy that the OC was asking NCO's to revert at their own request. Some of these NCO's were better men than I was or ever hoped to be. I was a L/Sgt at the time. I took 22 days unauthorized leave knowing then that I would loose my stripes. On returning to the unit I received a severe rep. and reverted. I was then reposted to A Pl where I took over the duties of MT Clerk. While there the clerk in the O Room had made application for a transfer out of the unit. This was granted. The OC then asked me if I would take over the clerks duties. I told him that I wasn't qualified and could not type. He told me to use the typewriter at HQ to get practice and then I would be TT'ed. The L/Sgt in A Pl asked for a transfer out of the unit. This was granted and a new L/Sgt made to take his place. It seemed to me that I was the L/Sgt and he was the clerk wearing the badges of rank of L/Sgt. I still had not been TT'ed and doing this extra work "browned" me off. On taking a pass on the

7 May 44 I did not return.

PLEA FOR MITIGATION OF SENTENCE

B.84396 Pte Depew, C.O.

In making a plea for mitigation of sentence it is often overlooked by the defence the seriousness of the crime at hand. In the case of Pte Depew, the accused and the defence both realize that the crime committed is of a most serious character. I do not deny that being A W L for 169 days is not serious but I do wish to point out to the court that the accused had what he considered grievances which were not rectified up to and until the time of his crime.

He has stated before the court that he went A W L in the spring of 1944 because he heard rumours to the effect that senior NCO's in his Coy were having to revert at their own request. This began to prey on his mind because he firmly belived that these NCO's were better than he. In my opinion this man suffers from an inferiority complex which his officers did not try to rid him of, and the result was his first case of A W L.

Again having been s tripped of his rank he was allocated to another platoon and given a job of some responsibility. Promises were made and if not kept w ere certainly slow in being fulfilled. This man no doubt felt that his former crime and the punishment meted out had not as yet been forgotten and he went A W L for a second time.

Mr President and members of the Court I wish to bring to your attention now the fact that this man in my opinion suffers as I said from an inferiorty complex and after having been punished for one crime and given promises for future betterment after it, they were not kept. A grave injustice was thereby perpetrated.

The accused has been in the army since Sept 1939 and until the original crime in 1944 had only one entry on his conduct sheet. This should be proof to the court that he is not a habitual criminal and would not have committed this crime unless he felt that some grievance had been done him. Add to this the fact that he gave himself up voluntarily realizing the seriousness of the crime and the consequences thereof.

I abjure the court in their considerations of this case that they do not deal too harshly with the accused. The proper amount of punishment to be inflicted is the least amount by which discipline can efficiently be maintained. It must be the object of all concerned to aim at the high state of discipline which springs from a military system administered with justice and impartiality, and to induce in all ranks a feeling of confidence that, while no offence will be overlooked, no offender under any circumstances will suffer an injustice.

In conclusion sir before I lay my case in your hands may I sum up my points.

(1) Depew is not a habitual criminal as shown on his AFW 6.
(2) An injustice was certainly done.

J. R. Hay, Lt.
Offr. Defending

Exhibit "A"

Summary of Evidence in the case of B.84396 Pte Depew,C.C. 34 Canadian Corps Troops Composite Company, R.C.A.S.C. Canadian Army Overseas, charged with Absenting himself without leave.

The Commanding Officer directs that the evidence be taken on oath.

First Witness

B.86295 Cpl Acciaroli, E, of 34 Canadian Corps Troops Composite Company, R.C.A.S.C., having been duly sworn, states:

I am B.86295 Cpl Acciaroli, E of 34 Cdn Corps Troops Comp Coy., R.C.A.S.C. On 8 May 1944 I was Orderly Corporal in 'A' Platoon of 34 Cdn Corps Tps Comp Coy RCASC. On making a tattoo Roll Call at 2245 hrs 6 May 44 I found that B.84396 Pte Depew, C.C. was absent. I looked for him throughout all the billets but could not find him. I then checked with the Platoon Orderly Room and found that Pte Depew had been allowed out on 24 hrs pass and was due in at 1200 hrs 8 May 1944,but had not returned. I therefore marked him A W L as of 1200 hrs 8 May 1944.

The accused declines to cross-examine the witness.

.....E. Acciaroli.....

Second Witness

Lieutenant E.Spenson, 34 Canadian Corps Troops Composite Company, R.C.A.S.C. having been duly sworn, states:

I am Lt.E.Spenson, of 34 Cdn Corps Troops Comp Coy,R.C.A.S.C. I command 'A' Platoon of which B.84396 Pte Depew,C.C. was a member. Since 1200 hrs 7 May 44 when Depew proceeded on 24 hrs pass I have not seen him on any roll call. He has been A W L, as far as I am concerned since 1200 hrs 8 May 44. The first time I have seen Depew was today at 1600 hrs, 19 Nov 44.

The accused declines to cross-examine the witness.

.....E.Spenson Lt.....

Third Witness

Captain C.M.Longbotham, of 34 Canadian Corps Troops Comp Coy RCASC, having been duly sworn states:

I am Capt C.M. Longbotham, of 34 Cdn Corps Troops Comp Coy., R.C.A.S.C. and produce as Exhibit "A" the original of the certificate of surrender pretaining to R.84396 Pte Depew, C.O. dated 2210 hrs 24 Oct 44. Said certificate forming part of the Regimental Books of this unit.

The accused has read the evidence submitted and declines to cross-examine it.

C.M. Longbotham Capt.

RP 4 (c) (d) (e) (f) having been complied with, the accused declines to make any statement or to give any evidence on Oath. Taken by me in the Field in the presence and hearing of the accused this 19th day of November 1944.

C.M. Longbotham

(C.M. Longbotham) Capt.,
34 Cdn Corps Troops Comp Coy., RCASC.

I desire the services of any available officer as counsel, but would prefer the services of Lt. J.B. Hay, 34 Cdn C Tps Comp Coy, RCASC

C.O. Depew

A.D. Dupuy
Maj.
President

CERTIFICATE UNDER THE ARMY ACT.
SECTION 165 (1) (j)

I Major L.M. Kerr M.C. Assistant Provost Marshal, London District

certify that No. B.84396 Rank Pte Name Dekens C.O. of the

R.C.A.S.C. Regiment, surrendered himself to No. 7686609

Rank Cpl Name Dalton T. of the Military Police

at Charing Cross Time 22.10 hrs on the 24th Day of Oct 1944

as an Absentee without leave. He was dressed in Uniform

Station Charing Cross

LONDON.
24-10-1944.

Assistant Provost Marshal,
London District.

List Of Exhibits

Exhibit 'A' - Certificate Of Surrender.

Original Exhibits

Exhibit 'A' - Certificate Of Surrender.

Exhibit 'B'

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B.84396	Pte	Depew, C.O.	34 Cdn C Tpn Comp Coy, RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—At a trial by field general court martial this summary may be completed from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recommended special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	One times	Two times.
For	~~XXXXXX~~	~~XXXXX~~
For	~~XXXXX~~	~~XXXXX~~
For	~~XXXXX~~	~~XXXXX~~
For	~~XXXXX~~	~~XXXXX~~

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted ~~by~~ By Court Martial

~~Particulars of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 155 of the Army Act, or the Schedule thereto, or the Air Force Act, or the Schedule thereto, are as follows:~~

3. ~~The accused is now under sentence as the prosecutrix as the accused at the present time is undergoing for~~

~~beginning on the~~ 2 day of ~~XXX~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and ~~XX~~ 46 days in military custody, making a total of ~~XXX~~ days, of which Nil days were spent in hospital. Cut IN OPEN ARREST - 20 DAYS - CONCURRENT 26 DAYS

5. The present age of the accused according to his ~~record of service~~ attestation paper is 36 Yrs 11 Mos ~~XX~~ days. Cut. Cut.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 18 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 2 mos ~~XX~~ days

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 2 mos ~~XX~~ days service. Cut. Cut. Cut.

9. The accused is entitled to reckon 5 yrs 2 mos ~~XX~~ service for the purpose of determining his pension, etc. Cut. Cut.

10. ~~The accused is in possession of or entitled to an military decoration or military badge (or a gratuity in lieu thereof) and is entitled to (wear any military decoration or medal).~~

11. ~~If the accused is a warrant officer:~~ The accused holds or has held a warrant which (as held by the regiment) ~~rank of XXX~~

12. ~~If in the case of an officer:~~ The accused holds in the army the rank of ~~XXXXXXXXXXXXXXXXXXXXXXXXXX~~ and in his regiment (or corps or department) the rank of ~~XX XXXXXXXX~~

[illegible] W13/3000/1/39 15/1/40 10/42 A.A.G.(P.S.) Gp.999

A.D. Tupper
President

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N/A		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of December 44

C. Longbotham
Capt

13. [illegible]

Date of Promotion.

[illegible] XXXX

[illegible] XXXX

[illegible] XXXX

[illegible]

(Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Exhibit "C" [illegible]

No. B-84396 Name Depew, C.O. Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 18 Sep 39 | GC Badges | Service or Proficiency Pay N.A. | 3/17 MFM 6 (AFB 122) 40/P&S/136 (5412)

Date of last entry in Company Conduct Sheet N.A. | No. and date of last drunk N.A. | Period not reckoning towards freedom from extra fine N.A. | Sheet No 1 | Signature OC Company, etc W.H.Mitchell, Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 18 Sep 41; last entry NIL ; cases of drunkenness NIL; last instance on N/A ;									
						Signature. E. Eperson, Lieut.			
Field	1May43	Cpl		AASec 15(1) AWL 6 hrs 15 mins	Sgt.Marsh	Reprimand	4May43	CptHeffernan	WHM
Field	6 Feb 44	Cpl		AA Sec 15(1) AWL 22 days 20 hrs	Cpl Richards L/Cpl McCaffrey	Severe Reprimand	29 Feb 44	Major W.H. Heffernan	W.H.Heffernan,Major

Certified true copy [signature] Capt & Adjt
From Regt'l Books

[signature] President

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 84396 Pte Depew C.O. 34Cdn C Tps Comp Coy RCASC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~XXXX

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on First charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2), (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 2.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 125(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 68, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3099, 3323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B.84396 Pte Clinton, Oswald, DEPEW,
34 Canadian Corps Troops Composite Company RCASC
a soldier of the Canadian Army Overseas,
is charged with

FIRST CHARGE
Sec 15(1) A.A. ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field absented himself without leave from 1200hrs 8 May 1944 until 2210 hrs 24 Oct44, when he surrendered to the Corps of Military Police, at Charing Cross, London. (TTA- 169 days 10 hours 10 minutes)

In the Field
19 Nov 44

(W.H. Heffernan) Major,
Officer Commanding,
34 Cdn C Tps Comp Coy RCASC.

To be tried by Field General Court Martial.

7 Dec 44.

(G.D Ross-Smith) Lt.Col
Comd RCASC 2 Cdn C Tps

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 84396	Pte	Clinton, Oswald	DEPEW	34 Cdn C Tps Comp Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Dec 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A T Dixon		HQ RCASC 2Cdn C Tps

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	T Harper		33 Cdn C Tps Comp Coy RCASC
Lt	A R Swanson		2 Cdn C Tpt Coy RCASC

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
	N/A		

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
	N/A		

On Active Service in the Fd

in Holland (Country.)

Date 7 Dec 44

(Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Commanding (G.D. Ross-Smith) RCASC 2 Cdn C Tps Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FORMS (TO DEG OF AFAS) (G) P & S (1ST ED) (1401))

CERTIFICATE OF MEDICAL OFFIER

I certify that I have this morning examined

Regt no -- B84396 Rank--- Pte Name Depew C.O.----------

and in my opinion he is fit to undergo trial by court martial

Station Field

Date 9 Dec 44

Medical Officer
(H.Q. RCASC 2 Cdn C Tps)

STATEMENT OF THE ACCUSED B 84396 Pte Depew C.O.

Sir while being with Cpl of this coy on Wheels II Jan 44 we were getting definite reports from the coy that the O C was asking N.C.O's to revert at their own request. Some of these NCO's were better men than I was or everhoped to be. I was a L/Sgt at the time. I took 22 days unauthorized leave XXXX knowing then thatI would loose my stripes. On returning to the unit I received a severe rep. and reverted. I was then reposted to A Pl where I took over the duties of MT Clerk. While there the clerk in the O.Room had made application for a transfer out of the unit. This was granted. The O C then asked me if I would take over the clerks duties. I told him that I wasn't qualified and could not type. He told me to use the typewriter at HQ to get practice and then I would be TT'ed. The L/Sgt in A Pl asked for a transfer out of the unit. This was granted and a new L/Sgt made to take his place. It seemed to me that I was the L/Sgt and he was the clerk wearing the badges of rank of L/Sgt. I still had not been TT'ed and doing this extra work "browned" me off. On taking a pass on the 7 May 44 I did not return.

Summary of Evidence in the case of B 84396 Pte Depew C.O. 34 Canadian Corps Troops Composite Company, R.C.A.S.C. Canadain Army Overseas, charged with Absenting himself without leave.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

B 86295 Cpl Acciarcli, E, of 34 Canadian Corps Troops Composite Company, RCASC having been duly sworn, states:

I am B 86295 Cpl Acciarcli, E of 34 Cdn Corps Tps Comp Coy., RCASC. On 8 May 1944 I was Orderly Corporal in 'A' Platoon of 34 Cdn Corps Tps Comp Coy RCASC. On making a tattoo Roll Call at 2245 hrs 8 May 44 I found that B. 84396 Pte Depew, C.O. was absent. I looked for him throughout all the billets but could not find him. I then checked with the Platoon Orderly Room and found that Pte Depew had been allowed out on 24 hrs pass and was due in 1200 hrs 8 May 1944, but had not returned. I therefore marked him A W L as of 1200hrs 8 May 1944.

The accused declines to cross-examine the witness.

SECOND WITNESS

Lieutenant E. Eperson, 34 Canadian Corps Troops Composite Company, RCASC having been duly sworn, states:

I am Lt. E. Eperson, of 34 Cdn Corps Troops Coy, RCASC., I command 'A' Platoon of which B 84396 Pte Depew, C.O. was a member. Since 1200hrs 7 May 44 when Depew proceeded on 24 hrs pass I have not seen him on any roll call. He has been A W L, as I am concerned since 1200hrs 8 May 44. The first time I have seen Depew was today at 1500hrs, 19 Nov 44.

The accused declines to cross-examine the witness.

THIRD WITNESS

Captain C.M. Longbotham, of 34 Canadian Corps Troops Comp Coy RCASC, having been duly sworn states:

I am Capt C. M. Longbotham, of 34 Cdn Corps Troops Comp Coy., R.C.A.S.C. and produce as Exhibit "A" the original certificate of surrender petaining to B 84396 Pte Depew , C.O. dated 2210 hrs 24 Oct 44. Said certificate forming part of the Regimental Books of this unit.

The accused has read the evidence submitted and declines to cross examine it.

RP (c) (d) (e) (f) having been complied with, the accused declines to make any statement or to give any evidence on Oath. Taken by me in the Field in the presence and hearing of the accused this 18th day of November 1944.

(C.M.Longbotham) Capt.,
34 Cdn Corps Troops Comp Coy., RCASC.

I desire the services of any available officer as counsel, but would prefer the services of Lt. J.B. Hay, 34 Cdn C Tps Comp Coy, RCASC

CERTIFICATE UNDER THE ARMY ACT.
SECTION 163 (1) (j)

I --Major I M Kerr M C----Assistant Provost Marshal, London District certify that No -- B 84396---- Rank-- Pte--- Name------ Depew C.C. of the ------ R.C.A.S.C. Regt, surrendered himself to No.--7686609----- Rank--Cpl---Name --- Dalton T. of the Military Police--- at Charing Cross ----- time 2210 hrs--- on the-- 24th-- Day of Oct 1944------as a absentee without leave. He was dressed in --uniform.---

Station-- Charing Cross.--

London.
24-10-1944

Assistant Provost Marshal,
London District.

M.F.B. 355
225M—9-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 84396	Pte	Depew C.O.	34Cdn C Tps Comp Coy RCASC

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, / Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 15(1)	One times	Two times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted By Court Martial

or,

[redacted]

3. [redacted]

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in / Air Force civil custody, and 46 days in military custody, making a total of In Open arrest 20 Days Close Arrest-26 days in custody. Days of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 36 yrs 11Mos

6. The date of his attestation specified in his record of service is attestation paper 18 Sep 3 9

7. The service which the accused is allowed to reckon towards discharge is 5 yrs 2 mos

8. The accused is entitled to reckon 5yrs 2mos service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in / military military possession of or entitled to). State any air force decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held / Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of N/A years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit Regiment

Name of

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	- NIL -			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4 th day of Dec 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

No. B 84396 Name Depew, C.O. Sqn, Battery, or Company Corps RCASC Date of enlistment 18Sep39 GC Badges Service or Proficiency Pay N.A. 3/17 MFM 6 (AFB 122) 6/7 [illegible] (5413)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine N.A. Sheet No 1 Signature OC Company, etc W.H. Mithcell, Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 18 Sep 41; last entry Nil; cases of drunkenness Nil; last instance on N/A; Signature.....E. Eperson, Lieut.....									
Field	1May43	Cpl		A A Sec 15(1) AWL 6 hrs 15 mins	Sgt. Marsh	Reprimand	4May 43	Cpt Heffernan	WHH
Field	6Feb44	Cpl		A A Sec 15(1) AWL 22 days 20 hrs	Cpl Richards L/Cpl McCaffrey	Severe Reprimand	29 Feb44	Major W.H. Heffernan	W.H. Heffernan, Maj.

CERTIFIED TRUE COPY..... Capt & Adjt.
FROM Regt'l Books.

(PTO)

PLEA FOR MITIGATION OF SENTENCE

B 84396 Pte Depew, C.O.

In making a plea for mitigation of sentence it is often overlooked the defence the seriousness of the crime at hand. In the case of Pte Depew, the accused and the defence both realize that the crime committed is of a most serious character. I do not deny that being A W L for 169 days is not serious but I do wish to point out to the court that the accused had what he considered greivances which were not rectified up toand until the time of his crime.

He has stated before the court that he went A W L in the spring of 1944 because he heard rumours to the effect that senior NCO's in his Coy were having to revert at their own request. This began to prey on his mind because he firmly believed that these NCO's were better than he. In my opinion this man suffers from an inferiourity complex which his officers did not try to rid him of, and the result was his first case of A W L.

Again having been a stripped of his rank he was allocated to another platoon and given a job of some responsibility. Promises were made and if not kept were certainly slow in being fulfiled. This man no doubt felt that his former crime and the punishment meted out had not as yet been forgotten and he went A W L for a second time.

Mr President and members of the Court I wish to bring attention now the f act that this man in my opinion suffers as I said from an inferiority complex and after having been punished for one crime and given promises for future betterment after it, they were ntnot kept. A grave injustice was there by perpertrated.

The accused has been in the army since Sept 1939 and until the original crime in 1944 had only one entry on his conduct sheet. This should be proof to thecourt that he is not a habitual criminal and wouldnot have committed this crime unless he felt that some grievance had been done him, add to ht this the fact that he gave himself up volentarily realizing the seriousness of the crime and the consequnnces thereof.

I abjure the Court in their considerations of this case that they do not deal to harshly with the accused. The proper amount of punishment to be inflicted is the least amount by which discipline can efficently be maintained . It must be the object of all concerned to aim at the high state of which springs from a military system administratived with justice and impartiality, and to induce in all ranks a feeling ofconfidence that, while no offence will be overlooked, no offender under any c ircumstances will suffer an injustice.

In conclusion sir before I lay my case in your hands may I sum up my points.

(1) Depew is not a habitual criminal as shown on his AFW 6.
(2) An injustice was certainly done.

(Officer Defending)

SE-139.

Spr. De Piero, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : H.43161 Spr Louis DEPIERO - 1 Cdn Base Park RCE

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 18(4)	NOT GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence~~ for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for a period of One Hundred and Twenty (120) days.

(Sgd) ..... 11 Apl/45 ..... President. (RP 45, 50.)
Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further ordered~~.(1) (1. AA 57A. Delete if not used.)

Date 13 Apl 45 (Sgd) ..... Commanding F Sp. CRU Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
H-43161 Spr Louis DEPIERO	17 APR 45	S Calbin Maj. Officer Commanding 1 Cdn Base Park RCE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 180, SE-137

CMHQ SECRET 1

FIELD GENERAL COURT-MARTIAL (CPA86 (In lieu of AFA81) 40/P & R/1698 (6/44)) 4/38B

By Order of Brigadier J.E.Seger, RD Comd F Gp CRU dated 11 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H.43161	Spr	Louis	DEPIERO	1 Cdn Base Park RCE

PROCEEDINGS REVIEWED J. Rutherglen Capt 30 Apr 45 REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date*) 11 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(✓) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are✓) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~✓) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~✓) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to SGT SINCLAIR RM shorthand writer ? Ans NO

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	D.L.	REDMAN	HQ, CRU
Member	CAPT	W.J.	DAVIES	1 CCOD
Member	LT	A.G.	BISHOP	1 CCOD
~~Judge-Advocate~~				
Prosecutor	LT	F.	TEMPLETON	1 COMBAT PARA
Defending Offr	CAPT	G.B.	BENT	6 CAN INF

Questions by President : Is the Prosecutor a lawyer ? Ans N.O. Is the Defending Offr a lawyer ? Ans N.O.(2)

(1. RP 26, 27, 109, 113. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All caps and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 27(B). 2. RP 27(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p. 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO, SIR.(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE-ATT
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. DONE THAT..... Do you intend to call witnesses on your behalf ?
Ans. NO - SIR. Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
(*1a. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.*(2))
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Have had that. (NOTE ATT)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 208, 230, 563-566. Overseas AO 309, 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H-43161 Spr DEPIERO, Louis, 1 Cdn Base Park RCE., a soldier of the Canadian Army (Overseas) is charged with:

FIRST CHARGE
ARMY ACT SEC 18(4).

WHEN ON ACTIVE SERVICE FRAUDULENT MISAPPLICATION OF PUBLIC PROPERTY

in that he

at BURNHAM, Bucks on the 30th day of January 1945 while acting as co-driver of a military vehicle, of which C-11936 Spr LAVERGNE, J.H. was the driver, having assisted in the removal of packing case timber, the property of the public, from Cdn Mechanization Depot, SLOUGH in the said military vehicle assisted in the fraudulent misapplication and sale of the said timber to a civilian.

WOODSIDE LONDON S.E. 25
6th day of April 1945

D.L. Calkin Maj
D.L. Calkin, Major RCE
Officer Commanding
1 Cdn Base Park RCE

Approved on behalf of the JAG CA(O) pursuant to KR(Can) 540
[illegible] Capt
for DJA

To be tried by Field General Court Martial.

BORDON, Hants
11 Apr 45

J.E. Sager
(J.E. SAGER) Brigadier,
Comd "F" Gp, C.R.U.

My

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
R.43161	Sgt		Louis	DRIEDRO	1 Cdn Base Bark RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 11 Apr 45 (date) endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[and that it is not practicable to delay the trial for reference to a superior qualified offr.]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court; (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD Gen List	HQ CMU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	from and to be detailed by CC	HQ 1 Cdn COD RCOC
A Lieut	from and to be detailed by CC	HQ 1 Cdn COD RCOC

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

J.E. Sager (J.E. SAGER) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Dat: 11 Apr 45

Commanding 1st Gp, C.R.U. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 38 (In lieu of AFA 3) 40/P & R/1697 (8145)

(See overleaf for oaths and notes for use on trial.)

I certify that I have this morning examined No. H-43161

Spr DEPIERO L. of I CDN BASE PARK RCE and in my opinion

He is FIT to undergo trial by Court Martial.

~~UNFIT~~

Station: London SW1

Date: 11 Apr 41

Sgd. F H Israels Capt

Medical Officer RCAMC

CASE OF

H.43161 Spr DePIERO L 1 Cdn Base Pk RCE

PROSECUTION

FIRST WITNESS

Mr JA MASON, Cdn Mech Depot, Slough, having been duly sworn, states:

I'm employed by theCdn Govt at Slough, and on 22 Mar 45 Mr Douglas, Detective Turner and myself and Mr Ridout of Citroen's Cars went to a fd near Lent Green and I was able to identify a pile of casex material as theproperty that had been unpacked at our plant. Upon checking our records we found that they were unpacked on 29 Jan 45. I identified them as Govt property as they were mrked with lot numbers and Can-Mech. This fd was rented by a man named Chas Portway, a Publican of Lent Green.

CROSS-EXAMINED

Q. Do you recognise the accused?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

SECOND WITNESS

U.1889 S/Sgt NELSO FR, SIS, Cdn Pro Corps, CMHQ, hwing been duly sworn, states:

I saw the accused at this unit on 29 Mar 45 at 2000 hrs, told him who I was and I cautioned him and inf rmed him of the nature of my inquiries and he made to me avoluntary statement which I took down in writing and which he signed in my presence. This is the statement which the Prosecutor has now shown me.

THE DEF OFFR MADE NO OBJECTION TO THIS STATEMENT BEING ADMITTED IN EVIDENCE

STATEMENT MARKED EXHIBIT 1

Q. Did you see the accused later?
A. Yes, on the 31 Mar, when I handed him the statemat made to me by another soldier, I cautioned him and he made another statement which I took dwn in writing and which he signed in my presence.

THE DEF OFFR MADE NO OBJECTION TO THIS STATEMENT BEING ADMITTED IN EVIDENCE

STATEMENT MARKED EXHIBIT 2

CROSS-EXAMINED

Q. Did you find the accused willing to give any infm he knew of to help?
A. He showed certain reticence at first regarding the incrimination of another soldier but apart from that he was helpful.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS

Capt MN FARQUHAR, 1 Cdn Base Pk RCE, having been duly sworn, states:

I'm 2IC Stores Offr as well as MT Offr, and I recognize the accused. He has been on strength here since about the middle of Jan as a MT Driver. For the first short while he was with the unit he wasn't well acquainted with the rds and instructions and I sent him out with another driver to learn.

Q. Do you remember the accused and what route he was on on 30 Jan?
A. The statement I made qt the Summary is true, yes, as I checked that up before I maie the statement.

CROSS-EXAMINED

Q. Was the accused under this driver's orders?
A. Certinaly not.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

THE COURT ADJOURNED TO ALLOW THE DEF OFFR HIS PLAN OF DEFENCE

THE COURT REOPENED AND THE DEF OFFR SAID THAT THE ACCUSED WOULD NOT BE GIVING EVIDENCE NOR CALLING ANY WITNESSES.

THE DEFENCE IS CLOSED

STATEMNT BY THE PROSECUTOR ON THE FINDING

I draw the Court's attention to P.107 MML, Chap 7, para 16, and again to the statement he maie to the S/Sgt of the SIS. He asked no questions because there was no necessity to ask any questions. He knew very well that the £ was in fact, payment for his part in the transaction, and I therefore submit that the accused is as fully responsible as though he had committed the offence himself.

STATEMENT BY THE DEF OFFR ON THE FINDING

(NOTE ATT)

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT IS REOPENED

PLEA IN MITIGATION

The accused is married, and was a paper worked in Canada. He has a clear conduct sheet, and is a man of good character. He asked me to bring out the facts in this case clearly and this I have attempted to do. His category is U2, Sir.

EXHIBIT 'B' II

SPECIAL INVESTIGATION SECTION 29 MAR 45

Cdn. Provost Corps, CMHQ. EX 1 MY 20:00 hrs.

STATEMENT of:

Regt. No. H-43161 Spr. F.D. DE PIERO, L.

A.Q. Coy., No 1 Cdn. Base Park, RCE, CRU Command.

Begins:

I have been cautioned by S/Sgt. NELSON, of SIS, that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here. F. De Piero

States:

I arrived at No 1 Cdn. Base Park round the middle of January 45 and since then have made three or four trips to a Canadian vehicle assembly plant at SLOUGH, Bucks. to get salvage lumber F.D. Driver's Mate with Spr HAYWARD and Spr LAVERGNE F.D.

Over a month ago on a trip with Spr. LAVERGNE F.D. we picked up a double load of salvage wooden cases - about three small cases on the truck, and 3 or 4 cases on the 6T trailer we had. I don't know what Spr. LAVERGNE signed for in the office. I wasn't there. After we got out of the factory LAVERGNE said something about getting rid of the load on the truck. I figured he was going to try to sell it. We stopped outside the plant, and at his request I got out and unhooked the trailer. He then drove down to a public house, where he stopped and went in. I stayed in the truck. In a few minutes he came out again with a civilian who got in the truck with him (I got on the back of the truck) and he drove up to a little field a short piece away by the main road and pulled into the field by a little shack. There was snow on the ground at the time. I helped undo the ropes on the load and LAVERGNE dumped the wood in the field. I got in the back of the truck again, the civvy got into the cab with LAVERGNE, he drove out to the road, and the civvy got out. I did

F.D.

not see any money change hands, although I figured LAVERGNE would be paid for the wood. I don't know how much he actually got. I got back into the cab and we drove ~~another way~~ straight back to ~~the~~ where the trailer was. We hitched the trailer on again and drove straight back to A/1 Base Park.

On the way back Spr. LAVERGNE handed me a pound note which I put in my pocket. Nothing at all was said and I asked no questions. We checked in at A/1 Base Park in the usual way and never referred to the matter again. I don't think I've been with Spr. LAVERGNE on any trip since then.

Neither Spr. LAVERGNE nor Spr. HAYWARD ever took anything else they weren't supposed to have from the assembly plant at SLOUGH, and ~~so far as~~ I know of I myself have never been mixed up in anything like this before or since. I really had nothing to do ~~with~~ beforehand with taking the wood. It was all news to me when it happened.

I think I'd recognize the civilian again if I saw him and I'll say what I know in a civilian court if they ask me to.

I have read over the above statement which has been made voluntarily without fear of any threat or hope of favour to come and it is all true. I have had the chance to cross anything out or add anything at all to this statement.

L. De Puro 29-3-45.

(Witnessed) Fredk R. Nelson S/Sgt.
S.I.S.

EXHIBIT "C"

SPECIAL INVESTIGATION SECTION
Cdn Provost Corps, CMHQ

31 MAR 45
11:50 hrs.

EX 2

IV

SECOND STATEMENT of:

Regt. No. H-43161, Spr. De PIERO, L.,
H.Q. Coy., No 1 Cdn. Base Park, R.C.E., CRU Command.

Begins:

I have been cautioned by S/Sgt. NELSON, of S/S, that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here. L. Depiero

States:

I have read over the statement of Spr. LAVERGNE, dated 29 MAR 45 ~~when~~ of which you have given me a copy. A lot of what he says I never knew anything about. I wasn't even here in December when he says the thing started. I am the driver's mate he refers to and what he says about me is true.

I have nothing more to add to my first statement which tells all I know about it.

I have read over this statement which has been made voluntarily, without fear of any threat or hope of favour to come and it is all true. I have had the chance to cross anything out or add anything at all to this statement. L. Depiero 31-3-45

(Witnessed) Fredk R. Nelson S/Sgt.
S.I.S.

STATEMENT BY THE DEF OFFR ON THE FINDING

Sommary of Case.
H. 43161 Spr. Depiero.

1. Spr. Depiero arrived from Canada in Nov 1944. He was totally inexperienced as regards procedure and customs of the Ca Army in England. He was put with an experienced Privt to learn the ropes and find his way around. Unfortunately he became unknowingly involved in an illegal transaction initiated and carried through by the very person who had been detailed to instruct him in his duties.

His first reaction to the affair was when he was given some money by Spr. Lavergne. Being new to the Unit he was reticent about squealing on another soldier and thought that perhaps this sort of thing did happen overhere. It must be remembered that the first thing a new member of a Unit has to do is to get along with his new comrades and doing something which earns you the name of a squealer don't help any. If he had been more experienced he might have reacted differently. In view of the above, I ask the Court to find him not guilty

APPENDIX 'A'

STATEMENT OF MR J. MASON.

I, J. MASON, INSPECTOR at the Canadian Mechanization Depot, Slough,

On 22nd March 1945, I, in company with Mr J. Douglass, Mr Ridout of Citroen, and Det; Constable Turner visited a field situated off Gore Road, Burnham where I saw a quantity of packing case timber.
The timber was distinctly marked "CAN-MECH", CANMILITARY".
I identified the following cases, T.W.S. 114. T.W.S. 117. and T.W.S. 124.
These cases had contained Mobile Servicing Trailers and were unpacked at Citroen 29th January 194[illegible].
The field in which the above mentioned lumber was found is rented by Mr Charles Portway, the licensee of the Pheasant Public House, Lent Green, Burnham, Bucks.

Signed. J. Mason

M.F.B. 355
22M—6-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-42162	Spr	DEPIENO, Louis	No 1 CDN BASE PARK RCE

1. The following is a fair and true summary of the entries in the APH 6 conduct sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NO days in civil custody, and NO days in military custody, making a total of NO days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his SERVICE & CASUALTY FORM IS 28 YRS.

6. The date of his attestation specified in his SERVICE & CASUALTY FORM IS - 13 AUG 40.

7. The service which the accused is allowed to reckon towards discharge is 2 8/12 YRS.

8. The accused is entitled to reckon 2 8/12 YRS service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

EXB

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1219-20)
H.Q. 1772-39-1652

No. H43161 Name DE PIERO, LOUIS Sqn., Battery, or Company 2 DEPOT Corps RCASC Enrolled 13 Aug. 42 Date of enlistment 9 June 44 Sheet No. One G.C. Prof. Badges 20 Signature O.C. Company, etc. Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy of ORIGINAL Document now in my Custody

[signature] Lieut. R.C.E.
Officer in charge of Regimental Books
1 Cdn. Base Park R.C.E.

EXC
MY

(P.T.O.)

M.F.H. 335
22M—5-41 (372-8)
H.Q. 1772-39-620
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-43161	Spr	DUPIENO, Louis	No 1 CON BASE PARK ROE

1. The following is a fair and true summary of the entries in the AFH 6 conduct sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NO days in civil custody, and NO days in military custody, making a total of NO days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his SERVICE & CASUALTY FORM IS 28 YRS.

6. The date of his attestation specified in his SERVICE & CASUALTY FORM IS - 13 AUG 42.

7. The service which the accused is allowed to reckon towards discharge is 2 8/12 YRS.

8. The accused is entitled to reckon 2 8/12 YRS service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward (

10.

EXB

~~11. (In the case of an officer) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the ~~paragraph must be struck through.~~

SCHEDULE

~~Air Force~~

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th day of APRIL, 1945.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
175M—7-41 (1219-26)
H.Q. 1772-39-1652

No. H43161 Name DE PIERO, LOUIS Sqn., Battery, or Company 2 DEPOT Corps RCASC Enrolled 13 Aug. 42 Date of enlistment 9 June 44 G.C. Prof 20 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. One Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy of ORIGINAL Document now in my Custody

[signature] Lieut. R.C.E.
Officer in charge of Regimental Books
1 Cdn. Base Park R.C.E.

EX 6
MY

(P.T.O.)

I CDN BASE PARK RGE

6 Apr 45

I hereby acknowledge receipt, on 6 Apr 45, of one copy of charge sheet and summary of evidence dated 6 Apr 45 on one charge under Army Act Sec 18(4).

L DePiero

H-43161 Spr DEPIERO L.

Officer Commanding
1 Cdn Base Park RCE.

With reference to my pending trial by Field General Court Martial I wish that an officer be assigned to act as my defending officer.

L. DePiero

H-43161 Spr DePiero, L.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of H-43161 Spr DEFIERO, Louis, 1 Cdn Base Park RCE, a soldier of the Canadian Army (Overseas).

By the direction of the Officer Commanding, the Summary of Evidence is taken on oath.

FIRST WITNESS
For the Prosecution

Mr J.A. MASON of Cdn Mechanization Depot SLOUGH.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Appendix "A". Having regard to the distance, the expense and the loss of time involved, attendence of this witness cannot in my opinion be readily procured.

T.O. Templeton, Lieut RCE
Officer detailed to take the Summary of Evidence

The accused does not demand the attendance of this witness for cross-examination.

SECOND WITNESS
For the Prosecution

U-1889 S/Sgt NELSON F.R., S.I.S. CMHQ, a soldier of the Canadian Army (Overseas) having been duly sworn states as follows:

I, U-1889 S/Sgt NELSON F.R. on 27 Mar 45 was informed by Col CAMERON IPW CMHQ of the alleged theft of case lumber from CME SLOUGH. I was instructed by Col CAMERON to investigate the case.

On 29 Mar 45 in consequence of information received I proceeded to No 1 Cdn Base Park RCE where at about 2000 hrs I saw the accused H-43161 Spr DEFIERO L. whom I now recognise. I announced to him my identity. I cautioned him and informed him of the nature of my inquiries. He made a voluntary statement which I took down in writing and which he signed in my presence having been given the opportunity to add anything to or delete anything from his statement. This statement I herewith submit. (Statement marked as Exhibit "B"). I placed the accused H-43161 Spr DEFIERO L. under close arrest at about 2130 hrs 29 Mar 45 and handed him over to the Sgt of the Guard.

On 31 Mar 45., about 1150 hrs at No 1 Cdn Base Park I again saw the accused H-43161 Spr DEFIERO L. I handed to him a copy of a statement dated 29 Mar 45 made by C-11936 Spr LAWRENCE J.H. I cautioned him and he made a second voluntary statement which I took down in writing and which he signed in my presence after having had the opportunity to add anything or delete anything from his statement. This statement I herewith submit. (Statement marked as Exhibit "C").

The accused declines to cross-examine the witness.

S/Sgt.
U-1889, F.R. Nelson,
S.I.S., Cdn. Provost Corps, CMHQ

THIRD WITNESS
For the Prosecution.

Capt. M.N. FARQUHAR, 1 Cdn Base Park RCE., an officer of the Canadian Army (Overseas) having been duly sworn states as follows:-

I, Capt M.N. FARQUHAR am Transport Officer at 1 Cdn Base Park RCE. On 30th of January 1945 the accused H-43161 Spr DePIERO, L. whom I now recognise was detailed as co-driver of CL219850 Chev 60cwt Dump lorry with trailer to proceed to CMD SLOUGH to collect a load of salvage lumber for delivery to 1 Cdn Base Park RCE.
The accused made several trips on this route, for about 2 weeks previous to 30 Jan 45 as co-driver in different vehicles for the purpose of instruction as he was a new driver with the Unit.

M.N. Farquhar, Capt. RCE.

The accused was cautioned as follows:- Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing summary of evidence, consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c),(d),(e),(f), and (g) have been complied with.

F.O. Templeton, Lieut RCE.
1 Cdn Base Park RCE.
Officer detailed to take the Summary.

WOODSIDE, LONDON, S.E. 25.
6th day of April 1945.

4R-128

Pte. De Pippo B.M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B45997 Pte Benjamin Michael DePIPPO CIC - 1 CITR

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	NOT GUILTY	NOT GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of~~ ~~days, of which~~ ~~days were spent in hospital~~ (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court~~:

The accused was Released

(Sgd) ..... Judge-Advocate, if any. 31 Jan 45 Date awarded. (Sgd) ..... President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 740.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(1). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....
Date .....
Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4A-128

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/P & B/1098 (5144) 4/38B

RECEIVED 7 FEB 1945 JAG BRANCH

Convened by Order of Brigadier K G Blackader Comd 13 CITB dated 29 Jan 45
DSO, MC, ED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B45997	Pte		Benjamin Michael	DePIPPO	CIC 1 CITR

PROCEEDINGS REVIEWED

SENIOR OFFICER, JAG'S BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 31 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnm ROs. For guidance on procedure when variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 695, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ ~~as interpreter? Ans~~
~~The Interpreter is sworn.~~(1) Do you object to Lt Col Sinclair as shorthand writer? Ans NO
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO, SIR
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ, CRU
Member	CAPT	H.G. McKINLEY	2 CITR
Member	LT	M.A. GUERTIN	4 CITR
~~Judge-Advocate~~			
Prosecutor	LT	J.D. PHELPS	16 ITR
Defending Offr		H.W. PURCELL	16 ITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding were recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 695 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B" "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO, SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) "The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly."~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 37(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 17.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans NO, SIR. Do you intend to call witnesses on your behalf?
Ans YES, SIR. Are they witnesses as to character only? Ans NO - SIR
(1. *RP 115.* 2. *RP 114(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115. For procedure see Notes on back of Convening Order. Cf RP5. Evidence for accused as to his character should, if it is his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule. The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.~~(1) ~~Or~~, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFR 255 or AFB 294.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to peform on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then (if a) of same~~.(2)
(1. *Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused currently under sentence of imprisonment or detention see AA 44(3)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, B-45997 Private Benjamin Michael DePIPPO, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, absented himself without leave from 2359 hours on the 25th day of December, 1944 till surrendering himself at No. 1 Canadian Infantry Training Regiment at 2100 hours on the 16th day of January 1945.

Absent: 21 days, 21 hours, 1 minute.

C.B. Ware Colonel,
(C.B. Ware) Commander,
1 Cdn Inf Trg Regt.

In the Field,

22nd day of January, 1945.

To be tried by Field General Court Martial

K G Blackader
(K G Blackader) Brig
Comd
13 Cdn Inf Trg Bde

In the Field
29 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B45997	Pte		Benjamin Michael DePIPPO	CIC	1 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 29 Jan 45 endorsed by me, ~~for by an offr of my staff for me~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

LT COL	D L REDMAN, VD	HQ CRU
(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

Captain	to be detailed by Commanding Officer	2 CITR
Lieutenant	to be detailed by Commanding Officer	4 CITR
(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Captain	to be detailed by Commanding Officer	4 CITR
(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

K G Blackader (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 29 Jan 45

Commanding (K G Blackader) 13 Cdn Inf Trg Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FA95 (In lieu of AFA3) 40/P & S/1697 (4001))

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined

No. B45997 Pte. De Pippo M.

of #1 C.I.T.R. and in my opinion he

is fit to undergo Trial by Court Martial.

Station In the Field

Date 31 Jan 45

A. Kelen Capt.
Medical Officer

CASE OF

B.45997 Pte DEPIPPO BM 1 CITR

- PROSECUTION -

THE PROSECUTOR PRESENTED A CERTIFIED EXTRACT FROM UNIT PT II ORDER DATED 30 DEC 44 RELATING TO THE ACCUSED.

EXTRACT OF UNIT PT II ORDER MARKED EXHIBIT 1 BY THE COURT

FIRST WITNESS

L.28004 CSM (WO II) HASTINGS AO, 1 CITR, having been duly sworn, states:

I am the CSM of the Trg Bn, 1 CITR, and the accused whom I now recognize reported to me at 2100 hrs 16 Jan 45 and I put him under arrest because he had been AWL.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

- DEFENCE -

FIRST WITNESS

The accused, having been duly sworn, states:

Sir, I went on leave at 1200 hrs 23 Dec 44 and I reported back to 1 CIRU on 16 Jan 45. When I went on leave I was sick with a cold and went to LONDON and on Sun 24th, it got worse. My leave was to expire at 2359 hrs on 25 Dec 44, and I went to bed on the 24th with pains in my shoulders and legs. I went to the Dr's on Wed, the 27th, and he gave me some medicine, pills and ointment for my shoulders and legs. I told him when he asked me when I was going back that I was going back the following day, but he told me I had bronchitis and muscular rheumatism. Coming back from the Dr's it was foggy and the busses had stopped running and I had to walk about a mile to 18 Bayham St where I was staying and I got soaking wet as I didn't have my greatcoat on, and the next day when I tried to get up I was beat and I stayed in bed. This was on the 28th. On Fri the 29th I wrote a letter to the OC of "D" Coy, Maj Wright, and my wife mailed it for me the next day, and in this letter I explained the posn I was in and I expected instructions what to do. He knew why I was in London and understood the personal reasons as to why he would not call in a doctor. I've been living with a woman for some time who is legally separated from her husband, and she has a child by me, and the people in the house have thought all along that I am her husband and I didn't want to call in the doctor for fear it might open up her character. Sir, I waited for an answer to this letter, nobody called however, and I kept taking treatments and hot baths, etc, and so on the 11th Jan 45 I got up, I was very weak and just moved around the house. I stayed in too all this time except my trip to the Dr on the 27th. On 16th Jan I felt a lot better and came back and reported back to 1 CITR. This is the certificate from the Dr whom I saw on the 27th Dec.

DOCTOR'S CERTIFICATE MARKED EXHIBIT 2 BY THE COURT

Q. When you went to see the Dr the first time why did you not go back again the second time?

A. I couldn't get out of bed.

Q. Did you pay the Dr for the consultation?

A. Yes, 7/6, Sir.

CROSS-EXAMINED

Q. Exhibit 2 does not state that you were unfit to travel?
A. I was at the time I got it but I wasn't the next day after I got soaking wet, Sir.

Q. You didn't call in the Dr the second time?
A. No, because of the reasons stated and because I didn't have the money to pay him, Sir.

QUESTIONS BY THE COURT:

Q. You wrote this letter yourself?
A. Yes, it was addad to the CC of "D" Coy, 1 CITR, Sir.

Q. Did you have a leave pass when you went to London on the 23rd?
A. Yes, this is the pass.

LEAVE PASS MARKED EXHIBIT 3 BY THE COURT

Q. Did you read the para on the back of the pass headed "illness on leave"?
A. Yes.

Q. Why didn't you apply to the nearest unit of the Cdn Army?
A. For the simple reason that the weather was bad and I was afraid of getting pneumonia, Sir. I knew where this civilian Dr lived and knew exactly how I could get to him and that's why I went there.

Q. Why didn't you get your wife to do it?
A. She has a baby to look after, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH KR 63(3).

SECOND WITNESS

Mrs. Florence BLACKBURN, 18 Bayham St, CAMDEN TOWN, LONDON, having been duly sworn, states:

I recognize the accused and he came to visit me on the 23 Dec 44 on leave, complaining of pains in the back and he had a very bad cold. I advised him to go to bed but instead of that he got steadily worse and then on the 27th I told him he had better see a Dr and he went to see a Dr and got a certificate, also some lotion for rubbing, pills and medicine, and the Dr told him to keep warm. He stayed in bed until the 11 Jan and then got up and sat in front of the fire saying he still had pains in the legs and then later he came back saying he felt a lot better although he didn't look so good to me.

Q. Did you have any discussion as to whether he should go to an Army authority?
A. I did mention it but he was ill and I didn't like to worry him too much.

Q. Did you mail any letters for the accused while he was there?
A. Yes, I didn't take notice who they were addad to as I was in a hurry to get to the mail box with a couple of my own.

Q. Did he mention whether or not he had written to his CO?
A. We had a discussion as to whether he should but what happened after that I don't know.

Q. You don't know?
A. I don't know.

CROSS-EXAMINED

Q. Did the accused say anything about visiting the nearest mil authority about getting an extension on his leave?
A. He couldn't as he was in bed.

Q. Did he say anything about it at all?
A. He said it was generally done, to notify his CO.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THIRD WITNESS

1633808 Gnr CHAFFIN A, 1st Med Heavy AA Regt, OSWESTRY ST, SALOP, having been duly sworn, states:

I recognize the accused, he lives at 18 Bayham St, the same house where I live. Between the 24th Dec and 16 Jan I was stationed in Milhill Emergency Hosp and during this time I went to my house on several occasions and I saw the accused there. I arrived home on 24 Dec on 48 hrs pass and my wife told me that DePippo was in bed and I went upstairs to see him and saw him lying in bed. He told me he had pains in his back and chest and I saw him again on the 3 Jan, the 6th Jan, the 7th, 10th, 13th and 14th. He was in bed up until the 10th and on the 13th he was sitting up by the fire and he complained of still feeling bad. All the way through he looked sick and as if he could have done with some med treatment.
E

CROSS-EXAMINED

Q. All the times you saw the accused up until the 11th he was in bed?
A. Yes.

Q. Is there a phone in the house?
A. No.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE DEFENCE IS CLOSED

THE PROSECUTOR ASKED LEAVE TO CALL MAJ WRIGHT IN REBUTTAL.

LEAVE GRANTED.

FIRST WITNESS FOR THE PROSECUTION IN REBUTTAL

Maj PG WRIGHT, 1 CITR, having been duly sworn, states:

I am the CO of "D" Coy 1 Trg Bn 1 CITR and I recognize the accused - he was up before me on a charge of AWL, this present charge, and he is a member of "D" Coy. The accused stated that he had sent me a letter during the period of his absence but I recd no such letter and have still not recd it to this time.

CROSS-EXAMINED

Q. Have you always recd all mail which has been sent to you?
A. No, I have had mail missing.

Q. Is it not ~~xxxxxx~~ feasible to assume that letters in the Can Army are apt to be held up for a long time or to go astray?

A. Yes, that's feasible.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

STATEMENT BY THE DEF OFFR ON THE FINDING

The accused has been charged with AWL and to be AWL one must have med grounds to be found guilty. If the accused is found to have been sick during his leave and fulfills the conditions which are laid down by the Army to prove that sickness, then the Court will find the accused not guilty. I would draw the attn of the Court to Ex 3 para 4, sub para "C", in this regard.

STATEMENT BY THE PROSECUTION ON THE FINDING

It is my duty as Prosecutor to prove that the accused went absent. My witness has said that he was absent at the times stated However, the accused did report back to his unit and as far as the letter is concerned the accused was quite right in writing it and it is not his fault if it did not reach Maj Wright, but I'm wondering why he didn't telegraph, however he was quite justified in sending the letter. I think that is all I wish to say, Sir.

THE COURT IS CLOSED TO CONSIDER THE FINDING

THE COURT IS REOPENED

SUMMARY OF EVIDENCE

In the case of B-45997 Pte DePippo, B.M., Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

L-13573 L/Sgt Tole, W.B., Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:-

I am L-13573 L/Sgt Tole, W.B. on the strength of No. 1 C.I.T.R. On the 25th Dec 44 I was Orderly Sgt for D Coy, 1 Cdn Inf Trg Bn, 1 C.I.T.R. It was my duty to receive passes at D Coy Orderly Room on that night. At 2359 hrs I found that B-45997 Pte DePippo, B.M. hadn't turned his pass in. I checked the billets and found no-one of his name or number. He had not reported in by 0030 hrs 26 Dec 44 and I reported him absent from 2359 hrs 25 Dec 44.

The accused declines to cross-examine this witness."

W.B. Tole L/Sgt
(W.B. Tole)

SECOND WITNESS for the PROSECUTION

Lt F.L. Dunbar, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, an officer of the Canadian Army Overseas, having been duly sworn states as follows:

I am Lt F.L. Dunbar, on the strength of No. 1 C.I.T.R. I produce certified true extract from 1 C.I.T.R. Part II Daily Order No. 49 d/30 Dec 44. This document relates to the accused and is marked Exhibit "A" and initialled by me for purposes ofidentification.

The accused declines to cross-examine this witness.

F.L. Dunbar Lt
(F.L. Dunbar)

THIRD WITNESS for the PROSECUTION

L-28004 C.S.M. Hastings, A.C., Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

I am L-28004 C.S.M. Hastings, A.C. on the strength of No. 1 C.I.T.R. I am C.S.M. of D Coy, No. 1 Cdn Inf Trg Bn, 1 C.I.T.R. B-45997 Pte DePippo, B.M., whom I now recognize as the accused, reported in to me at 2100 hrs 16 Jan 45. I placed him under close arrest.

The accused declines to cross-examine this witness.

A Hastings CSM
(A.C. Hastings)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused elects to make a statement.

SUMMARY OF EVIDENCE

In the case of B-45997 Pte. DePippo, B.M., Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

B.M.

B-45997 Pte. DePippo, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, states:-

I am B-45997 Pte. DePippo, B.M. I left here on 23 Dec 44. I had a very bad cold. On Sunday 24 Dec 44 it must have developed into bronchitis, with severe pains in my shoulders and a slight pain in my legs. I went to bed on the Sunday at 18 Bayham St., London, N.W.1 I felt pretty bad. On the following Wednesday, 27 Dec 44 I went to see Dr. Ripka. He told me that I had bronchitis and muscular rheumatism and gave me some liquid medicine and pills for bronchitis and also some ointment for the rheumatism. He also gave me the certificate which is marked Exhibit "B". I intended coming back next day but coming back from the doctor's there was heavy fog and I had to walk back. I had no greatcoat and got drenched. I went to bed that night and used the medicine. Next morning the bronchitis was worse and the rheumatism had spread all through my body. On 29 Dec 44 I wrote a letter to O.C. D Coy, 1 CITR explaining where I was and what condition I was in. I gave the letter to my wife to mail and waited for an answer or someone to call. I stayed in bed until Thurs 11 Jan 45 and then got up and moved around the house very slightly as I was weak. I was looked after by my wife.

B.M. DePippo Pte
(B.M. DePippo)

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

R.B. Allan Lt
(R.B. Allan) Officer detailed to take the Summary of Evidence

In the Field,

17th day of January, 1945.

EXA

ADDITIONAL SUMMARY OF EVIDENCE

In the Case of B-45997 Pte DePippo, B.M., Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Additional Summary of Evidence is taken on Oath.

FOURTH WITNESS for the PROSECUTION

Major P.G. Wright, 49th The Loyal Edmonton Regiment, on the strength of No. 1 Canadian Infantry Training Regiment, an officer of the Canadian Army Overseas, having been duly sworn states as follows:

I am Major P.G. Wright, on the strength of No. 1 Canadian Infantry Training Regiment. I am the O.C. of D Coy, 1 Cdn Inf Trg Bn, 1 C.I.T.R. B-45997 Pte DePippo, B.M. on 23 Dec 44 and since that date has been on the strength of the said Coy. I have not received any letter whatsoever from B-45997 Pte DePippo, B.M. between 23 Dec 44 and this date.
The accused declines to cross-examine this witness.

Major
(P.G. Wright)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The Accused declines to make a statement and reserves his defence.

I certify that the foregoing Additional Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

(J. Cowan) Officer detailed to take the Additional Summary of Evidence.

In the Field,

19th day of January, 1945.

1 CANADIAN INFANTRY TRAINING REGIMENT
PART II ORDERS
SHEET THREE

LAST ORDER
NO. 48
29 Dec 44

THIS ORDER
NO. 49
30 Dec 44

"B" OTHER RANKS

10. ABSENTEES

(b) Absent from 2359 hrs 25 Dec 44.

B-45997 Pte DEPIPPO, B.M.

(Signed) B.J. Mothersill, Major,
for Commander 1 CITR.

Certified true extract from the original now in my possession.
17 Jan 45.

Capt.
(J.M. Galloway) Record Offr
1 Cdn Inf Training Regt.

Dr. M. D. RIPKA,
Physician, Surgeon and Accoucheur

TEL.: EUSTON 3653

158, Gower Street,
N. W. 1.

Ex 2

27/12/ 1944

This is to Certify that M. Mrs. De Pippo
residing at 18, Bayham St., N.W.1
is suffering from Bronchitis & muscular Rheumatism
~~was~~
~~and is at present unable~~ ~~now able~~ to work

EXHIBIT B.
R.B.A.

Authorized to travel by rail

CANADIAN ARMY OVERSEAS
LEAVE PASS

O.C. 1. CDN. INF. BN. (A)

Pass No. A29 Date 23/12/44

No. B45997 Rank Pte. Name de Pippo. B.M.

has permission to be absent from his unit from 1200 hrs. 23/12/44

to 2359 hrs. 25/12/44 for the purpose of proceeding to

London

Ex 3

O.C. "D" COY. 1. CDN. INF. BN. (A)

Orderly Room Stamp (Unit Signature Stamp)

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 CITR, In the Field, preliminary to my trial by Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Signed at 1 CITR
In the Field
this ..... day
of 194

B. DePippo

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lieut Purcell H.W. if he is available.

LIST OF EXHIBITS IN THE CASE
OF

B-45997 Private Benjamin Michael DePippo

1. Extract from Part II Order No. 49 d/30 Dec 44
2. Doctors certificate signed by M.D. Ripka

LIST OF WITNESSES IN THE CASE
OF

B-45997 Private Benjamin Michael DePippo

1. L-13573 L/Sgt Tole, W.B., 1 Cdn Inf Trg Bn
2. Lt F.L. Dunbar, 1 Cdn Inf Dep Bn
3. L-28004 C.S.M. Hastings, A.C., 1 Cdn Inf Trg Bn
4. Major P.G. Wright, 1 Cdn Inf Trg Bn

HX-150.
HX-151.
Sta. Veraicki. N.R.
Sta. McPhail. D.M.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E.42314 Pte DERAICHE NR 2 Motor Amb Convoy Inc 1 Cdn Adm Tpt Coy
H.95806 Pte McPHAIL DM

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA-40	NOT GUILTY	NOT GUILTY	
2nd AA-40	NOT GUILTY	GUILTY	
3rd AA-11	NOT GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which NIL days were spent in hospital.(1)

The accused (name) E42314 PTE DERAICHE N.R. 2 MTR AMB CONVOY INC 1 CDN ADM TPT COY and H 95806 PTE McPHAIL D.M. 2 MTR AMB CONVOY INC 1 CDN ADM TPT COY are sentenced to undergo detention for a period of 90 days, and to be put under stoppages of pay until he has made good the sum of £1/4/0, a portion of the damage occasioned by the commission of the offence of the charge, and,

the accused McPHAIL, to forfeit all ordinary pay for a period of 60 days, and to be put under stoppages of pay until he has made good the sum of £1/4/0, a portion of the damage occasioned by the commission of the offence in the charge.

5 Jan 45

(Sgd) ..... President

(Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 56(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be attached before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) J. H. Roberts

Date 14 Jan 45 — J. H. ROBERTS, Maj-Gen, Comd Can Rft Div, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
314 Pte Deraiche NR	16 Jan 45	A Shannon Capt
806 Pte McPhail DM	16 Jan 45	A Shannon Capt

DO No 5 dated 16 Jan 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Original made per barracks. COPY per one Planet Record to

CPA96 (In lieu of AFA81) 40/P&S 8/1698 (144)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Maj-Gen JH Roberts DSO MC Comd CRU dated 4 Jan 1945

ORIGINAL

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or continued rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 563(b). AT CMHQ IN AB 160

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E42314	Private	Normand Roger	DERAICHE)	2 Motor
H95806	Private	Donald Morris	McPHAIL)	Ambulance Convoy Inc 1 Cdn Adm Tpt Coy

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date)(1) 5 Jan 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted;(2) accused is not amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 45, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....
~~The Interpreter is sworn.~~(1) Do you object to 5/591 TRAVEL ICPKD as shorthand writer? Ans NO SIR
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR
(1. 6 110. 2. If no objection, waiting member retires. RP 58(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	DL	REDMAN	CRU
Member	CAPT	FR	LAMBERT	1 CG RU
Member	LT	JF	ROSSEAU	1 CG RU
~~Judge Advocate~~				
Prosecutor	LT	RA	COOPER	1 CDN ADM TPT COY
Defending Offr	LT	EJF	CAMACHE	1 CASC RU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dft p 3.)

A8. The accused before arraignment make(s) (no) ~~to~~ plea
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused ~~is~~ (are) arraigned (separately) on all charges in the charge sheet.(1) The accused ~~does~~ (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 26, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial

CHARGE SHEET

The accused E-42314 Private Normand Roger Deraiche and H-95806 Private Donald Norris McPhail, No.2 Motor Ambulance Convoy Increment to No.1 Canadian Administrative Transport Company, R.C.A.S.C., soldiers of the Canadian Army Overseas, are charged with.

FIRST CHARGE

A.A.SEC 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that they,

At Swindon, Wiltshire on 2 Dec 44 did use W.D. Vehicle No. C.A. 4236273 without authority, thereby causing damages to that vehicle in the amount of £2-8-0.

SECOND CHARGE

A.A. SEC 40 (Alternative)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that they

At Swindon, Wiltshire on 2 Dec 44 were concerned in the improper use of W.D. Vehicle No. C.A. 4236273, thereby causing damages to that vehicle in the amount of £2-8-0.

THIRD CHARGE

A.A. SEC 11

NEGLECTING TO OBEY CANADIAN ARMY OVERSEAS ROUTINE ORDERS

in that they

At Swindon, Wiltshire, on 2 Dec 44 did without authority carry two civilians in W.D. Vehicle No. C.A. 4236273, contrary to Overseas R.O. 3510 M.T.Drivers' Regulations, para 42.

Farnborough, Hants
29 December 1944

G. C. McArthur
(G.C. McArthur)Lieut-Col.,
Commanding Officer,
No.1 Cdn.Adm.Tpt.Coy.,
R.C.A.S.C. C.A.(C)

To be tried by Field General Court Martial.

In the Field
4 Jan 1945

J.H. Roberts
(J.H. Roberts) Major-Gen.,
Commander,
Cdn. Rft. Units.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23.
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets RP 87(B).
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)
see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E42314	Private		Normand Roger	DERAICHE)	2 Motor
H95806	Private		Donald Morris	McPHAIL)	Ambulance Convoy Inc, 1 Cdn Adm Tpt Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 Jan 1945 endorsed by me, (or by my predecessor in command), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible] (*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. [illegible] (*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO		1 CGRU
Lt	To be detailed by CO		1 CGRU
	[illegible]		
(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
	[illegible]		
(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (*Country.*)

Date 4 Jan 1945

J.H. Roberts Maj-Gen
(*Signed personally. RP 105 fn 2.*) (*Rank.*)
(J.H. Roberts)
Commanding Canadian Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (*See overleaf for notes and notes for use on trial.*)

NO. 1. CDN. ADMINISTRATIVE TRANSPORT COMPANY R.C.A.S.C. C.A.(C).

Medical Officer's Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No. E42314 Pte Deraiche N.
(rank) (name)
of No. 2 MAC Increment
No. 1 Cdn.Adm.Tpt. Coy., R.C.A.S.C. and in my opinion he is fit to undergo
~~unfit~~
trial by Court Martial.

Station Farnborough, Hants

Date 8 January 45.

Sgd. W.R.C. Tupper Capt
(Medical Officer)
(W.R.C. Tupper) Capt.,
R.C.A.M.C.

NO. 1. CDN. ADMINISTRATIVE TRANSPORT COMPANY R.C.A.S.C. C.A.(C).

Medical Officer's Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No. H95806 Cfn McPhail D.N.
(rank) (name)
of No. 2 MAC Increment
No. 1 Cdn.Adm.Tpt. Coy., R.C.A.S.C. and in my opinion he is fit to undergo
~~unfit~~
trial by Court Martial.

Station Farnborough, Hants.

Date 8 January 45.

Sgd. W.R.C. Tupper. Capt.
(Medical Officer)
(W.R.C. Tupper) Capt.
R.C.A.M.C.

CASE OF

E42314 Private Normand Roger DERAICHE and H95806 Private Donald Norris McPHAIL.

After the accused had both been arraigned, the President asked the Defending Officer if either of the accused desired separate trials to which the Defending Officer answered NO.

FIRST WITNESS FOR THE PROSECUTION

Lt WH CRAIG, 1 CASCRU, being duly sworn states:

I was the officer in charge of No 2 MAC Incr from about 19 Sep until 23 Nov 44. My HQ were at SWINDON. During that time the fitter and the DM were not permitted to take vehicles out on test runs without a work ticket properly signed either by myself or by the corporal despatcher, and in the latter case to be ratified by me. I recognize both the accused. McPHAIL was the fitter and DERAICHE was the DM.

CROSS EXAMINED BY DEFENDING OFFICER

Q. WHAT SORT OF A WORKSHED DID YOU HAVE AT THE TIME YOU LEFT?

A. We had two DMs and a fitter and we had a shack and a tarpaulin stretched over a couple of trees.

During the whole period we were up there we had to scrounge parts all over the place, and that was done by various people and the sergeant did most of it; some of it was done by McPHAIL and DERAICHE sometimes went with McPHAIL. The work ticket depended entirely on the job. If, for example, there were runs from airport to hospital, we gave them a work ticket for the trip and return. If it was a work ticket for a duty vehicle for use in the area, a general area work ticket was made out for the day.

We had 33 ambulances, one 60-cwt, 4 MCs and one 8-cwt.

The fitter was kept very busy and sometimes he worked nights. I don't think DERAICHE worked more than one or two nights all the time I was there, sometimes they worked together.

Sometimes spotlights had to be fixed at night. If they took a vehicle to test its spotlights, they would have to do it after dark. Our camp was about three miles from SWINDON. I did not make an organized check of the condition of the spotlights. I would check them when they were on the road. I cannot remember checking the vehicle CA 4236273.

Our ambulances were used to carry the wounded from BROADWELL Aerodrome and from DOWN ALDNEY Aerodrome to any one of the Canadian Hospitals at WATFORD, BRAMSHOTT, TAPLOW, BASINGSTOKE and CONNAUGHT, also we took wounded to an English hospital at STRATTON.

While I was there we evacuated patients after midnight a few times. Normally the convoy left the aerodrome before midnight.

The spotlights on ambulances are very bright because there was heavy American traffic and the Americans have very bright lights; it gave the patients being carried protection. We got these lights about the beginning of September. We scrounged them from time to time.

If I wished to test spotlights, I would take the vehicle out on the road to do it.

Myself and the corporal despatcher were the only persons authorized to sign work tickets. Either one of us were always on duty.

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Normally while I was there we got the all clear from the aerodrome for that night, but sometimes I was on duty trips. There were two despatchers, both were corporals. Sometimes they had to hunt for me to get work tickets signed. Ordinarily the driver of the vehicle would come to me and get a work ticket signed.

I cannot remember anything peculiar about ambulance CA 4236273, I think that RUSSMAN was the driver of it. He also was my batman and he did not use it very much.

We used the 60-cwt for recreational transport. I don't recall any of the ambulances being used for recreational transport. I used a 8-cwt. There were about 93 in all in the detachment. We thought that the 60-cwt and the 8-cwt were not enough for recreational transport, this accounting for the witnesses coming to the trial in an ambulance from the detachment. That was the normal way they would be sent. We never carried civilians in the ambulances for recreational purposes to my knowledge.

We had a parade at 0830 hrs, one at 1200 hrs and the last at 1800 hrs. The drivers, with the exception of hut orderlies, were present. Medical orderlies were present, the cooks were not. McPHAIL was not required to be present. Also latterly I excused DERAICHE from parades. From time to time, I warned the parade that vehicles should not go out without work tickets. I think DERAICHE must have been present at one of such parades, but McPHAIL, as a fitter, never went on parades to my knowledge. My statement would be to the effect that no vehicle would go without work ticket.

To my knowledge, no fitter or DM went on tests without a work ticket. I have seen them doing test runs on the road, I never stopped them to see if they had a work ticket.

Our park was in two sections. One was enclosed and the other across the road was not enclosed. At night we had one guard on the camp side of the road and the other guard was in the park across the road.

RE-EXAMINATION

Normally a vehicle would go out scrounging but an authorized work ticket was signed. I have seen vehicles taken on the road for the purpose of testing spotlights.

When personnel were sent to HQ 2 MAC, it was usually because the ambulance needed some repair.

RE-CROSS EXAMINATION

Orders were that no persons should come to FARNBOROUGH in an ambulance unless the ambulance had to come down for repair. The distance is 65 miles.

In the opinion of the Court it is unnecessary to comply with RP 83(3)

SECOND WITNESS FOR THE PROSECUTION

Lt GH RINEHART, 2 MAC Increment, 1 Cdn Adm Tpt Coy, RCASC, being duly sworn states:

I recognize the accused. Since 22 Nov I have been officer in charge of the detachment at SWINDON.

On the morning of 3 Dec 44, I went out to the camp approximately 1100 hrs. L/Cpl LAVIGNE informed me that one of our vehicles had been

involved in an accident the previous night.

I was informed by my sergeant that there was going to be an identification parade at 1200 hrs. I then went over to the vehicle park to check the ambulances and found that CA 4236273 had been damaged. I saw the vehicle.

The police had not arrived at 1230 hrs for the identification parade, and found that they would not be there before 1430 hrs. I later met the accused in the drying room, and told them they would have to be on identification parade at 1430 hrs. They told me they had heard nothing about the parade. At 1430 hrs the identification parade was held. After certain things had happened on that parade, I tried to locate HQ but could not get them. I got in touch with HQ the next morning. I them had both accused paraded to me. I did not give them a legal caution. I reported to Col McARTHUR. I them took statements from various witnesses.

CROSS EXAMINATION

I did not authorize either of the accused to take ambulance CA 4236273 on any trip on 2 Dec 44. This is the work ticket for that ambulance for the period including 2 Dec 44. (Work ticket marked Exhibit 1 by Court). It is not signed by me, it is signed by Capt VAN LUVEN who is CO of the entire increment at FARNBOROUGH. It was in fact so signed on 1 Dec 44. I never at any time authorized any vehicle to be taken out on test or otherwise without a work ticket. They could take a vehicle without a work ticket to gas up at STRATTON. That is approximately 1½ miles away.

[redacted]

I did not write out any part of the work ticket (Exhibit 1). I first saw this work ticket in the morning of 3 Dec 44 to the best of my recollection. It was signed by Capt VAN LUVEN when I saw it on 3 Dec 44. The work ticket shows a duty run from SWINDON to FARNBOROUGH and return 1 Dec 44. Capt VAN LUVEN was not at SWINDON but at FARNBOROUGH on 1 Dec 44. The work ticket is dated 1 Dec 44. It is very probable from the condition of this work ticket that the vehicle went from SWINDON to FARNBOROUGH without the work ticket signed and that it was signed by Capt VAN LUVEN when the vehicle got to FARNBOROUGH.

I saw the accused DERAICHE on 30 Nov about going to the QM at FARNBOROUGH with certain papers. I told him about the trip, he was to get a work ticket the next morning. I did not give a work ticket. Ordinarily the work ticket would have been issued the next morning. I cannot remember whether or not I saw McPHAIL that night.

All work tickets could be signed by myself or Sgt YEATMAN. No one else was authorized to sign work tickets. We used the orderly corporal as despatcher but he had no power to sign work tickets.

On the evening of 2 Dec I left camp at approximately 1830 hrs and was in my billets in SWINDON. I saw Sgt YEATMAN on duty before I left. That day the all clear came from the aerodrome at 1730 hrs.

While I was there I held a parade at 0830 hrs and another at noon and the last one at 1700 hrs. I have seen each of the accused on parade but I cannot say they were always on parade. Cooks were excused. There is no excuse given to the fitter. As far as I know the two accused were the only fitter and DM which we had. There is enough work to keep

them busy but they did not have to rush. The vehicles were not moving much at that time.

At about 1730 hrs, 2 Dec 44, the two accused spoke to me in the men's kitchen. They were discussing some work they had done that afternoon and they said they had got the 60-cwt in working order again. I said: "That's fine, we will be able to have recreational transport this evening to go to SWINDON - 4½ miles away". We had on a previous night used an ambulance for recreational transport but not on any other night while I was there. The accused were talking with me about spotlights. I mentioned that I had noticed the fog lights were not adjusted properly on some of the vehicles and I would like them to look into the matter. Spotlights should be adjusted in accordance with Routine Orders, so that the light would shine in the ditch 20 or 25 feet in front of the vehicle. That did not mean they would have to go on the road to test them. They could test right in our own camp. It is not necessary to go on the road to test spotlights. I was approximately 10 days with the detachment. I say it is not necessary to go on the road to test spotlights. I did not tell the accused to test the spotlights, I told them to adjust them. I thought they could do this in the car park. The cars are parked in the park across the road. There is a public road running through this park but the traffic is very light. I am not sure whether CA 4236273 was parked there on 2 Dec 44 or not. I did not tell them where to go to make the adjustment. I could not swear that they did not go on these runs without tickets. I had seen them going down the road in a vehicle for which I had not signed a work ticket, but YEATMAN might have. I had intended to put a stop to this practice. I had seen them do this once 3 or 4 days before the accident.

I don't recall mentioning on parade that vehicles should not go out without work tickets, but Part I Orders were published here at FARNBOROUGH and were on file in the orderly room. They are not posted in the living huts or the workshop. The detachment has only one copy. They were not then being read on parade.

We had two guards on at night. One was at the gate of the camp to see that no vehicles left without work tickets. The other guard was to patrol in the park across the road and his duties were the same. As far as I know these guards were on duty on the night of 2 Dec 44. They were on from 1900 hrs until reveille. The guards were changed every three hours. It is the duty of the orderly corporal to inspect the guards. I lived in billets in town, I had my meals there.

The orders were that ambulances were not to be used except to carry wounded. I received order from FARNBOROUGH to send an ambulance with Pte DERAICHE to FARNBOROUGH to attend a court martial. I believe that one civilian was carried. At no times were ambulances used to carry civilians on recreational transport.

I cannot remember signing any work ticket for the accused to test vehicles. I don't recall warning them on parade that they needed work tickets. I did not think it was necessary. I never in SWINDON or elsewhere stopped my vehicles to see if they had a work ticket, but I often took the number and when I returned to camp asked Sgt YEATMAN respecting the authority. I took alternate duty at night with the Sgt staying until 1030 p.m. I never signed a pass for Sgt YEATMAN to be off. Sgts can stay out till midnight without a pass. They had my telephone number if any emergency arose. I was never telephoned.

I cannot recall how often I saw either of the accused on parade but I did see them.

I inspected the workshop daily when I was there. There is no necessity for either of the accused to do any night work. When Mr CRAIG was there they had more vehicles and the ambulances were going night

and day. While I was there the ambulances were not moving much.

I never signed a work ticket for either of the accused to go and scrounge parts.

RE EXAMINATION BY PROSECUTING OFFICER

Other ranks usually come into the orderly room to get their work tickets. The Part I Orders are accessible to them there.

I gave no direct order to either of the accused to fix the spotlights on that vehicle that night. I am not a mechanic but it seems to me possible that spotlights could be adjusted in daytime.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

THIRD WITNESS FOR THE PROSECUTION

Capt HM LAURENCE of 4 SRD, RASC, being duly sworn states:

Going to my billets about 2315 hrs on 2 Dec 44 I heard a crash nearby and went in the direction from whence it came. I went to see if any help was needed. My billet is at 12 Whitworth Road, Swindon. When I got around the corner I found a jeep and an ambulance had collided and the driver of the jeep appeared to be injured. He was an American. After examining him on the side road with other people who were present, I asked one of the soldiers with the ambulance to take him to hospital with their ambulance and they told me they could not on account of the damage. I then asked to pull the ambulance on the side of the road and got the man in to keep him warm. I told them I was going down to a nearby fire station to ring up an ambulance to collect the injured man. This I did and when I came back I found the ambulance and the injured American had disappeared.

I spoke to two soldiers about taking the injured man in the ambulance when they told us the ambulance had been injured.

It was not a particularly dark night. As a result of a telephone call which I received next morning, I went up to the Cdn lines about two miles outside SWINDON. I got there between 1100 and 1200 hrs. I was asked to inspect a parade to see if I could identify any of the men I had seen at the scene of the accident. I think there were approximately 40 men on that parade. I inspected them going around all three ranks. I did see one man on that parade whom I had seen the night before, and I identified him. This is the man pointing at the accused Pte McPHAIL. I saw another man on the identification parade who I was a bit uncertain about, but I went back to the parade a second time and I was then certain of the second man. I now say that the accused DERAICHE is the second man whom I saw on the night of the accident. He is the second man whom I identified at the parade.

CROSS EXAMINATION BY DEFENDING OFFICER

On the identification parade I did not have either of the accused moved out of the ranks. Neither of them in my opinion knew that I had identified them. They did not hear what I said to Lt RINEHART.

When I saw the ambulance on the night of 2 Dec there was a lot of petrol under the ambulance and under the jeep, the jeep being somewhat underneath the left of the ambulance. I could not say whether or not the driver of the jeep had been drinking. I saw no evidence of drink.

In the opinion of the Court it is unnecessaryt to comply with RP 83 (B)

FOURTH WITNESS FOR THE PROSECUTION

Mr Frederick CRUMPLET of 106 Kingsdown Road, Upper Stratton, Swindon, Wilts, being duly sworn states:

On 2 Dec 44 at about 11.00 p.m. I was riding my bicycle along Cricklade Road in SWINDON and an ambulance passed me going very slowly. I followed close behind. I thought the ambulance would turn right at the corner but the ambulance pulled in the kerb its front wheels being turned as though he were going to turn into a road on the right. Then another vehicle came from the opposite direction and collided with the ambulance. After hearing the crash, I put my bike down on the opposite side of the roadway and I went over to the ambulance expecting there were some wounded being carried in it. Two ladies got out and I did not notice how they were dressed, I thought they must be there to attend the wounded.

I went around the left side of the ambulance where the jeep had run into it to see what had happened. Then saw two soldiers trying to push the jeep back from the impact. I helped them push the jeep back. We shoved the jeep back and parked it on the other side of the road and there was a man in uniform lying on the verge across the pavement and the two females were leaning by him to see what could be done for him. I knelt down too. Then an officer came along and he ordered one of the soldiers to put the injured man in the ambulance where he said it would be much warmer. The soldiers put the wounded man in the ambulance. The ambulance then moved off with the wounded man. I would not know these soldiers if I saw them again.

CROSS EXAMINATION

The ambulance was moving at between 10 and 15 miles per hour when I was following it on my bicycle. I did not see the lights of the approaching jeep but I could not have seen it as I was behing the ambulance. There were no lights on the jeep after the crash. I don't know how fast the jeep was going and I heard screeching of brakes and tires and there was considerable impact.

In the opinion of the Court it is unnecessary to comply with RP 91(B)

FIFTH WITNESS FOR THE PROSECUTION

Miss Peggy Rudman of 10 Hurst Crescent, Pinehurst, Swindon, Wilts, being duly sworn states:

Some weeks ago I went to a dance with my sister in Harding Hall, Gorse Hill, Swindon. We came out of the dance at 11.00 p.m. We were with Don and Frenchie. That is Don pointing at McPHAIL and that is Frenchie pointing to DERAICHE.

We got into the back of the ambulance with Frenchie and Jean. Don drove the ambulance. We started to drive home. I looked through the sliding panel and found that we had gone too far so I told Don to turn back. He made a slight turn and then there was a crash. We got out of the ambulance and we went around to the front and there was an American there by the front of the ambulance. There was an officer there and he took the American on the grass on the side of the road and then my sister and I went over to where the American was lying. He appeared to have a bad cut on his head. I helped to wipe the blood off his head. The American got up and went back to his jeep and then my sister and I went home.

I had met Don and Frenchie before twice on some previous nights.

I was present at an identification parade at Old Town Police

Station at SWINDON. I did not identify them as being present on that parade. They were on the parade, I saw them there.

CROSS EXAMINATION BY DEFENDING OFFICER

I did not notice any loud crash when the jeep hit the ambulance, but the ambulance doors were closed.

I think we were driving fairly slow.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

SIXTH WITNESS FOR THE PROSECUTION

Miss Jean RUDMAN, of 10 Hurst Crescent, Pinehurst, SWINDON, being duly sworn states:

On the night of 2 Dec 44 my sister and I and Frenchie and Don came out of a dance. It was about 11.00 p.m. That is Frenchie pointing to DERAICHE and that is Don pointing to McPHAIL.

I had known Frenchie about three weeks before this date. I met Don a couple of nights after I met Frenchie.

My sister and I and Frenchie got into the back of the ambulance. Don went to drive. We started off and we were going along when my sister pulled the sliding panel down and we told Don that we passed our turning. He said he would take the next turning. Then we got to Stratton X-roads and we stopped. We went forward a little and then we stopped again and then there was a bump. We got out of the back of the ambulance. We went around and we saw an American. He was being helped out of his jeep which had run into the ambulance. Someone took the American onto the grass and laid him down. We stopped there for a bit and then my sister and I left.

CROSS EXAMINATION

My home is on the way from SWINDON to the Cdn camp where Don and Frenchie lived. I live not far from STRATTON X-roads. The ambulance was stopped before the jeep hit it. We had not been driving very fast.

In the opinion of the Court it is unnecessary to comply with RP 83 (B)

SEVENTH WITNESS FOR THE PROSECUTION

Mr Stanley James SNEDDON of 40 Lindon Ave, Pinehurst, SWINDON, Wilts, being duly sworn states:

One afternoon early in Dec, the accused DERAICHE came into my home. During the conversation an accident was mentioned. My wife asked DERAICHE which accident it was and he turned to the wife and said that Jean RUDMAN could tell her all about it. Jean RUDMAN and her sister Peggy were also present in my home, and Jean RUDMAN then told the wife about the ambulance and the jeep. They had been coming home from a dance, had missed a right turning, that while they were turning a jeep had hit the ambulance, and that when they got out there was an American on the side of the road with blood on him. They said they did not stop long. The accused did not deny anything we said. During the following day DERAICHE told the girls not to worry, that there was not much said and there was nothing to worry about. I had seen DERAICHE before at a

cafe which I had been running at Cricklade Road. I did hear the name of Don mentioned as driving the ambulance but I never saw him.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

EIGHTH WITNESS FOR THE PROSECUTION

C121948 Pte FRASER, AK, 2 MAC Incr to No 1 Cdn Adm Tpt Coy, being duly sworn states:

On the night of 2 Dec 44 at about 2330 or 2345 hrs, I went to the vehicle park together with the accused whom I now recognize. We looked at all the vehicles, we saw an ambulance which was damaged on one side. The carrier for the petrol tank was damaged. I did not notice its number.

CROSS EXAMINATION

I never drove an ambulance. I never noticed any ambulance going out without a work ticket, but I was working in the kitchen. I don't know of an ambulance ever being used for recreational transport, I went into town in a 60-cwt that night.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

NINTH WITNESS FOR THE PROSECUTION

Arthur John BARNBROOK, PC 111, SWINDON, Wilts, being duly sworn states:

On Saturday 2 Dec 44 at 2330 hrs I was on duty at Gorsehill Police Station, SWINDON, when I received a telephone message that an accident had occurred at Upper Stratton X-roads, SWINDON. I immediately went there arriving at 2340 hrs where I saw Capt LAURENCE who informed me that an accident had occurred. I saw an American jeep parked on a piece of waste ground on the offside of the road. This jeep had been very badly damaged at the front. I also found 4 beer bottles on a piece of waste ground, 3 empty and one full. (Beer bottles marked Exhibit 2).

The American military police arrived with their jeep, Pte FOSTER. We then proceeded to Stratton St Margaret Hospital and in consequence of what I was told by the orderly I went to Stanton Fitzwarren, Hants Copse. Later I saw two lines of ambulances and examined them and found one CA 4236273 which was damaged. There was a cut on the near side panel which correspond with the bonnet peak of the jeep if a jeep had hit it there. The petrol carrier just underneath the chassis and the petrol carrier tank which is on the same side was punctured at the rear. At the scene of the accident there was quite a drop of petrol on the road.

On the following day I accompanied Capt LAURENCE and the American military police to Stanton Fitzwarren. There was an identification parade and Capt LAURENCE identified two men. He said nothing in the hearing of these two men whom he identified. I later assisted Sgt Hammond of the SIB in his investigation

In the opinion of this court it is unnecessary to comply with RP 83(B)

The prosecutor stated he did not feel it necessary to call the following witnesses:

A103064 Pte EARNSEY, JJ.
B89156 Pte BUTTS, IH.
D138858 Pte JUSSEAUME, R.
L154284 Pte NEVARD, RA.

The Defending Officer said he did not require them for cross examination.

The Prosecutor said that 20316224 Pte LOVE, RVL, was not available as he was outside of ENGLAND.

TENTH WITNESS FOR THE PROSECUTION

Maj JH CORNELL, No 1 Cdn Adm Tpt Coy, being duly sworn states:

I submit in evidence printed copy of ORO 3510. (Order marked Exhibit 3).

I also produce MT Drivers Regulations authorized by the said ORO. (MT Drivers Regulations marked Exhibit 4).

I am Maj JH CORNELL, Officer in Charge of workshop, No 1 Cdn Adm Tpt Coy, of which 2 MAC in an Incr.

I examined vehicle CA 4236273 on 30 Dec 44 for the purpose of making out an estimated cost of repair and I found the following:

Left side of body damaged
Petrol carriers damaged
Petrol tank damaged

Labour, 16 hours at three shillings an hour equals £2.8.0.

CROSS EXAMINATION

Q. Why did it take so many hours to repair these three things on the ambulance?

A. The left lower body panel was dug in. That necessarily means we have to remove it to straighten it, which takes a long time removing all the screws. That takes a body man. It also has to be painted. The petrol carrier has to be removed and straightened. It takes a lot of work to fix a petrol carrier. There is a great deal of work to do in repairing a gas tank, all of which would take 16 hours at three shillings an hour. Sixteen hours was an estimate, but I am sure if we checked it up it took longer than that.

In the opinion of the Court it is unnecessary to comply with KR 83(2)

ELEVENTH WITNESS FOR THE PROSECUTION

D105030 Pte LAVIGNE, HC, 2 MAC Incr to No 1 Cdn Adm Tpt Coy, being duly sworn states:

I was the orderly NCO for the detachment on 2 Dec 44. I went on duty some time in the afternoon and I came off the following morning.

There was a trip authorized to TAPLOW during my tour of duty. There were no other trips authorized except the recreational trip to SWINDON with the 60-cwt. There was no authorized trip for vehicle CA 4236273.

CROSS EXAMINATION

I think I went to the SWINDON detachment in October and I was

there until after 2 Dec 44. I was a despatcher when Lt RINEHART was there. Either Mr RINEHART or the Sgt signed the work tickets. Lt RINEHART gave me permission to sign work tickets if he or the Sgt were not there. I did not sign any on the night of 2 Dec. I think Lt RINEHART signed the ticket for the recreational transport.

I remember something about DERAICHE coming to FARNBOROUGH on 1 Dec.

I do not know of any vehicle going out from there without a work ticket. I think the accused took out vehicles on test runs without work tickets. It was generally taken for granted that they were allowed to take vehicles out on test runs without work tickets. If they want to test a vehicle they could go to SWINDON, that is approximately four miles away. I think STRATTON X-roads is about half way between the camp and SWINDON.

I have seen a few Part I orders on the file in the office. They are on the wall on the right-hand side facing the outside door.

RE-EXAMINED

I could not say whether it was accepted by the officer that the accused could take cars out for tests without work tickets.

I imagine that anybody coming in would have to ask to see Part I Orders before they were allowed to read them.

In the opinion of the Court it is unnecessary to comply with RP 83(R)

Lt RINEHART, SECOND WITNESS FOR THE PROSECUTION, recalled, still under oath states:

The distribution of MT Drivers Regulations (Exhibit 4) as laid down by this unit is one MT Drivers Regulations per vehicle. I did not have a chance to check while I was there whether this was being complied with. I have seen some in the front part of vehicles at SWINDON.

CROSS EXAMINED

Q. Of the 93 men in your detachment, how many are drivers?

A. Approximately half or perhaps a little better are drivers. I don't know whether either of the accused have driving licenses. I did not examine the drivers' licenses in the detachment.

The Prosecutor produced in evidence certified copy of Unit Part I Order No 53 marked Exhibit 5 by Court. The Prosecutor produced certified copy of Unit Part I Order No 17 marked Exhibit 6 by Court.

In the opinion of the Court it is unnecessary to comply with RP 83 (R)

THE PROSECUTION IS CLOSED

EVIDENCE FOR THE DEFENCE

FIRST WITNESS FOR THE DEFENCE

E42314 Private Normand Roger DERAICHE, being duly sworn states:

I have never seen MT Drivers Regulations (Exhibit 4) before. They were never issued to me. I have been in ENGLAND about two years. I am a qualified driver. I was never issued with any drivers regulations. They were never read on parade to me. I never saw Part I Orders at SWINDON detachment. I never go on parade. Sgt YEATMAN told me I did not have to go on parade.

I often go on road tests. Some times you will drive a vehicle 30 miles without finding trouble. I never got a work ticket for going on a road test. I recognize this work ticket (Exhibit 1). I saw this work ticket on 30 Nov. I went to the Orderly Room. I was a witness in a court martial at FARNBOROUGH, I was to take the other witnesses and I drove the car down to FARNBOROUGH on 1 Dec. Lt RINEHART gave me the work ticket and the log book. There is no copy of Exhibit 4 with the log book. When I got the work ticket there was no officer's signature on it. It was signed by Capt VAN LUVEN at FARNBOROUGH at about 1600 hrs on 1 Dec 44. It was noticed that the ticket was not signed. There is no repair required for the ambulance which we drove down here in.

In the afternoon of 2 Dec 44, it was Saturday, someone came for McPHAIL and myself.

At about supper time we went in the kitchen, there we saw Lt RINEHART and he said he had received an order from CMHQ to have the spotlights repaired in every vehicle, so that they would turn on the left ditch 20 feet in front of the vehicle. I told him we would have to work at night and that we could not adjust it in daytime. Me and McPHAIL went back to the hut and we would work that night and adjust the spotlights. We waited until it was dark. At about 2000 hrs we went to our tool shed and took some tools and we went over to the park across the road. We decided to take CA 4236273 because McPHAIL wanted to test the seal beam as he had previously worked on it. McPHAIL said: "I don't think it's really good like that. We had better take it on road test where we will pass other vehicles and see how it works". I went to the tool shed and got the "On Test" sign. I put this sign in front of the ambulance and we went to SWINDON. That is about 3½ to 4 miles.

Our ignition cut off. It took us at least 1½ hour to find the trouble, and we took Cricklade Road to go back to camp.

I said to McPHAIL "I have somebody to see at the dance". I saw my girl Jean RUDMAN and her sister Peggy. McPHAIL stayed outside. I danced a couple of dances with her. I saw McPHAIL come at the door. He said "It's time to go, come on". I said "Let me dance the last dance". The girls came out with us. I said to McPHAIL "We will take the girls home, it is on our way, we have to pass where they live". He said "OK". They got in the ambulance with me and McPHAIL drove. We went down the road and the girl said he missed the turning. I said to McPHAIL "You missed the road". He said he would turn at the next intersection. He missed the next intersection because we had to pass a bicycle. He went to turn around, something hit us. We were just stopped when we were hit. I had not seen any vehicle approaching. I could have seen through the slide if it had lights. I heard the crash and I and the girls got out of the ambulance. I saw the American in front of the vehicle. I looked in the jeep, there were no lights

on the jeep. I saw the ambulance with a gas tank busted. I asked the American what had happened. He said "Look at my head, I have a sore knee. I took him on the grass and my girl and I laid him down. The officer told us to take the American to hospital. The American told us he would be paying for this for the duration as he was on the loose. We then took the American to hospital.

We made no accident report because we thought we could repair the ambulance ourselves. We could have done that in two hours each.

I saw many guys drive an ambulance to SWINDON if they wanted to go there. I never heard it was against the rules to take vehicles without a work ticket. I had to take a civy to SWINDON. That was one of the witnesses who was at the court martial. I asked the assistant adjutant for a chit to authorize me to carry the civilian. The Sgt told me I would have to wait for this chit. The assistant Adjutant told me I did not need a chit to carry a civilian in No 1 Adm Tpt. He said "Go ahead".

Q. Who gave orders to repair vehicles?

A. The driver would come in if there was anything wrong, he would tell us to fix it.

CROSS EXAMINED

I qualified as a driver mechanic in Bordon, England, early in 1944. There was no driver in our unit. I was only taking a test down there and they passed me. I never took a driver mechanic's course in ENGLAND.

Q. Do you ever read Part I Orders?

A. They did not show Driver Mechanic Regulations. At SWINDON I never read Part I Orders, I never saw an order in the hut.

No officer ever authorized me to take out a vehicle on tests without a work ticket.

I cannot read English but I talk it. I went to Grade 5 in school in Quebec. No officer ever told me that I could take a vehicle on tests without work tickets. They have seen me out on plenty of occasions, but they never stopped me.

SECOND WITNESS FOR THE DEFENCE

H95806 Private Donald Norris McPHAIL, No 2 MAC Incr to No 1 Cdn Adm Tpt Coy, being duly sworn states:

I have been at SWINDON about four months before 2 Dec 44.

I have heard the evidence of DERAICHE and it is true but I would like to and wish to explain how the accident occurred. I was going to turn right into the cross street but a bicycle came along and that put me beyond the intersection. I thought I could still make the road to the right but when I partially turned I realized I could not. I stopped. It was a wide road and I intended to back up and make the turn to the right. I saw no light on the jeep that hit me. I could have seen them come over a long distance.

DERAICHE did say to RINEHART that the testing of spotlights would have to be done at night. I did not hear the officer raising objection.

I had been quite busy while Lt CRAIG was there when the ambulances were moving all the time but was not busy when Lt RINEHART came when the ambulances were not moving so much.

I think it was proper to go out at night to test the spotlights. This can best be done on the road. It cannot be done within the park, as there were ambulances parked all along the kerb that Lt RINEHART referred to.

SWINDON is a very foggy area. The American traffic was heavy and the lights were bright, and our lights should be adjusted to counteract it.

I think that we made an average of 25 trips on the road on tests per week. We never used work tickets at any time while I was there. I was employed there as a fitter. I sometimes went to the American camp to get some needed supplies or welding without a work ticket, or to scrounge parts. I only had fitter's kit, no welding or other kit. I only had two work tickets all the time I was there. That was to enable me to go to NEWBURY salvage dump.

Q. Do you know this book (MT Drivers Regulations)?

A. I have not seen Drivers Regulations (Exhibit 4). I have no idea where Part I Orders are kept at SWINDON. I had no idea until today where they were kept. I was never on any of the regular daily parades at SWINDON.

At about 2000 hrs that night we decided we would fix the spotlights and we both walked down to the tool house. We picked up three wrenches, a screwdriver and a pair of pliers. We went down to the vehicle lines and backed CA 4236273 in position onto the road. We partially adjusted the light and decided to take it out on the road. We went back to the tool house and got the road test sign. Just before we reached SWINDON the ignition went off and it took a long time to find the difficulty.

I quite often had seen civilians in ambulances in the evenings.

CROSS EXAMINED

It would be dark enough to adjust spotlights after 1900 hrs, on 2 Dec 44. I can judge the distance of 20 feet more easily from a vehicle which is moving than from one which is stationary.

I was never authorized by anyone to take vehicles on tests without a work ticket but it is a known fact throughout the camp that it was done.

I was trade tested as a fitter in Canada and I took no course in England. I am still RCEME. I never took a driver's test in England.

I go to the orderly room an average of once a day. I never saw Part I Orders up there. I have read Part I Orders in other camps.

RE-EXAMINATION

I did not have an English driver's licence at the time of the accident. I got one after the accident. I was in the orderly room one day and the clerk was making application for some other licences. He asked me if I had one, when I said NO, he put me down for one. I have my licence but was never given MT Drivers Regulations. I had a driver's licence in Canada.

THIRD WITNESS FOR THE DEFENCE

K98470 Sgt YEATMAN, MFJ, RCASC, being duly sworn states:

I was the senior NCO and the only Sgt at SWINDON detachment. I went on parades and I never saw DERAICHE or McPHAIL on parade. There was quite a bit of work at the time and they were excused parades so they could do it.

I don't know whether the accused needed work tickets to go on test runs. I never signed any for them. I could not tell you whether they did in fact go out on tests from time to time without work tickets. I have seen them on the road on occasions when I had not signed a ticket. I was away on the night of 2 Dec 44.

Q. How do you fix spotlights?

A. I am a DM. It would have to be dark to fix spotlights properly. I think you could do it stationary if you had a level piece of ground to do it. You should have a wall or something white to fix spotlights. Where I have been it is the custom to try it on the road after it has been fixed.

CROSS EXAMINATION

When Part I Orders came in they were put in the Orderly Room on a file on the wall near the outside door. They were accessible to anybody who wanted to see them. Drivers would have to come to the Orderly Room to pick up their log book and ticket. They could read Part I Orders then.

ADDRESS BY THE DEFENDING OFFICER ON THE FINDINGS

With regard to the first charge, I think it has been brought out in the evidence of Lt CRAIG and Lt RINKHART that they tacidly approved vehicles going out on test runs and that on 2 Dec 44, Mr RINKHART made special mention to both the accused that as a result of recent orders the spotlights should be gone over, and after Private DERAICHE mentioning that this work would have to be done at night, had nothing else to say but "That is your job". He did not restrict them as to whether they should go. Four days previously he had seen them out on the road and without a work ticket and did not put a stop to it nor did he on that very night tell them that they needed a work ticket or remind them that they should have a work ticket. I think that this is brought out by Exhibit 1 brought in by the Prosecution, when they allowed Private DERAICHE to come all the way from SWINDON to FARNBOROUGH with an unsigned work ticket. We have the evidence of Sgt YEATMAN to state that he had seen both the accused out without work tickets and had not stopped them, and Private LAVIGNE stated that it was accepted practice that both the accused could go out without work tickets.

Regarding the second charge which reads that they were concerned with the improper use of MD vehicle thereby causing damage to that vehicle in the amount of £2.8.0, that is an alternative charge to the first one and insofar as they were testing this vehicle, I submit that it comes under the same argument that as a matter of fact they were tacidly authorized to use these vehicles in road test jobs without work tickets.

With regard to the third charge, I submit that at SWINDON conditions were such that civilians were being carried in ambulances without anything to the contrary ever having been published to the accused, that it was not unusual in SWINDON to see civilians riding in vehicles, and furthermore civilians were carried by the accused on the day previous to this accident happening and no chit was given to him giving him permission to carry these civilians. I think the Court can readily see that ORO 3510 was never brought to the notice of either of these men. You have under the evidence of Private LAVIGNE where he states that Part I Orders had to be asked for in order to be read and the evidence of the accused to the fact that Part I Orders were not posted in their huts.

ADDRESS BY THE PROSECUTOR ON THE FINDINGS

In respect to the first charge against the two accused persons I submit that regardless of the fact that they had reason to believe that there were other unauthorized trips from this detachment, that this would not excuse an unauthorized trip on their part. These two men have been working with vehicles for almost the whole time of their army career and would know or should know that they were required to have proper authorization before taking a vehicle away from vehicle park. As to the matter of it being necessary to go out on the road to adjust a spotlight it seems to me that adjustments of lights could be much more easily done from a standing vehicle. It has been brought out in the evidence that both the officers Lts CRAIG and RINEHART, that they had at no time given authority to take vehicles on road tests or for any other reason without proper authorization. It has been brought out by the various witnesses and by the witness for the defence that Part I Orders were available to all personnel at this detachment and it clearly states in these orders that all personnel will study MT Drivers Regulations.

To take from 2000 hours until 2300 hours to test a spotlight on a vehicle through the streets of SWINDON seems rather absurd. It has been brought out in the evidence of Lts CRAIG and RINEHART that ambulances were not to be used for recreational transport purposes. Yet the two accused persons did carry two civilians in the ambulance CA 4236273 and without authority.

I therefore submit that both these accused persons are guilty of both the charges, first and third.

THE COURT WILL BE CLOSED TO CONSIDER ITS FINDINGS

In the opinion of the Court it is unnecessary to comply with SR 83(B)

statement under oath by accused was obtained is attached

PLEA OF MITIGATION IN THE CASE OF H95806 Private Donald Morris McPHAIL BY THE DEFENDING OFFICER.

McPHAIL is 29 years of age, single, parents living on a farm. He has two brothers and two sisters, He is the second eldest one of the family. He has a brother in the Navy.

In school he reached Grade 10. You have the date of enlistment and since that time has served in the army with a clear record.

I submit that having due to all the circumstances, due to orders given and the tacid approval that was given to taking out of vehicles

although these charges look pretty serious, actually when you look behind them they are not serious at all.

PLEA OF MITIGATION IN THE CASE OF E42314 Private Normand Roger DERAICHE, BY THE DEFENDING OFFICER.

Private DERAICHE is 21 years old, He enlisted on 10 Jul 41 that means that he has now 3½ years in the army. He was 17 years old when he joined the army. He gave his age as 18 years old showing that he was quite anxious to join the army. His crime sheet actually is very light. This last entry he tells that he did this act because where he was sleeping was very cold, and he slept in the ambulance. He tells me that he has sore back suffering from kidney trouble. His category is I4. I think this charge which is the most serious is not very much.

These charges look quite terrific when you look at them but when you can see the circumstances behind these charges and I submit that on the second charge concerned with the improper use of a WD vehicle that the Court should not fail to judge the evidence which is produced to carry the third charge that is carrying civilians in the vehicle - that the second charge actually is just another wording of the first charge and I submit that these two charges are the same thing and that this second charge should not hold more water than the first one.

The accused has stated in the evidence he just reached 5th Grade in Quebec. He quit school when he was 14 years old and went to work immediately afterwards. It is I am quite safe in assuming after seeing the conduct of the detachment at SWINDON that he could feel that it was quite a proper thing for him to do to taking two civilians back from a dance which was on the way back to camp. According to the evidence the girls lived half way between SWINDON and the camp and actually they never reached SWINDON and turned around at the round about at the best place to turn to come back to camp.

THE COURT WILL NOW BE CLOSED TO CONSIDER ITS SENTENCE

A.P.G. 3518 (Revised 1942)
CO/P&S/400(.7-9)

TRANSPORT WORK TICKET

No. 4/2/72

No. 1 CDN. ADM. TPT. COY. R.C.A.S.C.

MAKE OF VEHICLE	CLASS	UNIT	SECTION	DRIVER'S NAME	W.D. No.	MONTH & YEAR
Ford	Amb	2MAC	[illegible]	Deraiche	[illegible]	1-12-44

DATE (1)	FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Day (18)
	A		Brought forward from Work Ticket No. 4/1/88						24						Broken		
1	2MAC	Duty	Stratton	[illegible]	Return	[illegible]			24	16½	12½	12½				1.20	
	C									12½							
	D																
	E				EX 1												
	F																
	G																
	H																
	J																
	K																
	L																
	M																

M.P.G. for week ..... or totals carried over.

8 Jan 44

Received 3 empty beer bottles and one bottle allegedly filled with beer. Exhibit #2 which I agree to hand to the adjutant of the Adm Spt Coy

R A Cooper Lt

Certified true copy:

D.R.C. Cadson Lieut & Asst Adjt.

NO 1 CDN. ADMINISTRATIVE TRANSPORT COY. R.C.A.S.C. C.A.(O)

PART 1 ORDERS D.O. No 53

LIEUT-COL. G.C. McARTHUR, E.D. COMMANDING OFFICER

TUESDAY
31 Oct 44

1. DUTIES:

Duty Officer	31 Oct 44	Lieut H.A. Bonnell.
Next for Duty	1 Nov 44	Lieut W.C. Ticknor.
" " "	2 "	Lieut K.G. Cooke.
" " "	3 "	Capt. D. MacDuff.
" " "	4 "	Lieut J.F.B. Belanger.
" " "	5 "	Lieut R.A. Cooper.
" " "	6 "	Capt. H.O. Moyer.

Duty N.C.O.	31 Oct 44	S/Sgt Hotton, C.
Next for Duty	1 Nov 44	S/Sgt Densmore, W.A.
" " "	2 "	S/Sgt Mitchell, A.M.
" " "	3 "	S/Sgt Freypons, J.A.M.
" " "	4 "	Sgt. Allen, G.F.
" " "	5 "	Sgt. Jensen, R.J.
" " "	6 "	Sgt. Marshall, A.J.

2. FIRE PICQUET: To be supplied by "E" Pl. (W/S).

3. DISCIPLINE:

Q.M. PARADES

After this week Platoons will parade during the week of 5 - 12 Nov 44 and fortnightly thereafter in the following order:

Monday	1330 hrs.	"B" Pl.
Tuesday	1330 hrs.	H.Q. & W/S.
Wednesday	1330 hrs.	"A" Pl & MAC.
Thursday	1330 hrs.	"C" & "D" Pls.

VEHICLES ON TEST

Vehicles "on test" after attention by Pl D M will NOT be allowed out of the gate without a Work Ticket signed by an Officer. This does not apply to vehicles being tested by authorized N/S personnel.

PASSES

Several instances have occurred recently of personnel of this Unit being found out of bounds of the Aldershot Command without a pass.

For purposes of information the area in which personnel may proceed without a pass is bounded by the following places: Wokingham, Sunningdale, Woking, Haslemere, Alton and Odiham.

Personnel desiring to proceed to a destination beyond these limits must secure a pass. -- Ignorance of boundaries will not be accepted as an excuse.

4. POSTINGS:

D-106757 Pte Winter, A. posted from H.Q. Pl to "B" Pl wef 23 Oct 44.

L-8372 Pte Schwartz, D. posted from "C" Pl to "D" Pl wef 24 Oct 44.

AMENDMENT:

DO No 52 d/ 24 Oct 44, para 4 insofar as it refers to the u/m is amended as follows:

Delete: "from "D" Pl to "C" Pl.

Subs: from "C" Pl to "D" Pl.

G-17787 Pte [illegible]lanc, S.A. H-[illegible]220 Pte Tremblay, A.

FLOWER CABLES TO CANADA.

1. The Auxiliary Services have inaugurated a scheme to enable the members of the Canadian Forces in Britain to send flowers home to Canada for Xmas. Orders will be flown by Bomber Mail to Canada.

2. To guarantee delivery of the expected rush of Christmas flowers, the orders must be received not later thatn the 8 th Nov.

3. This service is available also for any other occassion you wish to send flowers. At least ten days must be allowed for delivery.

4. Further details are available at the Canadian Legion Office and also from the attendant at the Reading Room. Orders may be placed at either of these places.

Certified true copy:

D.R.C. Cohen Lieut & Asst Adjt.

NO 1 CDN. ADMINISTRATIVE TRANSPORT COY. R.C.A.S.C. C.A.(O)

PART 1 ORDERS D.O. No 53

LIEUT-COL. G.C. McARTHUR, E.D. COMMANDING OFFICER

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31 Oct 44

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Next for Duty	1 Nov 44	Lieut W.C. Tiknor.
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" " "	3 "	Capt. D. MacDuff.
" " "	4 "	Lieut J.P.B. Belanger.
" " "	5 "	Lieut R.A. Cooper.
" " "	6 "	Capt. H.O. Moyer.

Duty N.C.O.	31 Oct 44	S/Sgt Hutton, G.
Next for Duty	1 Nov 44	S/Sgt Densmore, W...
" " "	2 "	S/Sgt Mitchell, A.M.
" " "	3 "	S/Sgt Pasypons, J.A....
" " "	4 "	Sgt. Allen, G.F.
" " "	5 "	Sgt. Jansen, E.J.
" " "	6 "	Sgt. Marshall, A.J.

2. FIRE PICQUET: To be supplied by "E" Pl. (W/S).

3. DISCIPLINE:

S.M. PARADES

After this week Platoons will parade during the week of 6 - 12 Nov 44 and fortnightly thereafter in the following order:

Monday	1830 hrs.	"B" Pl.
Tuesday	1830 hrs.	H.Q. & W/S.
Wednesday	1830 hrs.	"A" Pl & MAC.
Thursday	1830 hrs.	"C" & "D" Pls.

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Vehicles "on test" after attention by Pl D M will NOT be allowed out of the gate without a Work Ticket signed by an Officer. This does not apply to vehicles being tested by authorized W/S personnel.

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AMENDMENT:

DO No 52 d/ 24 Oct 44, para 4 insofar as it refers to the u/m is amended as follows:

Delete: "from "D" Pl to "C" Pl.

Subs: from "C" Pl to "D" Pl.

G-147787 Pte [illegible], T.... M-101820 Pte Trombley, A.

MAILING OF GIFTS TO CANADA RO 536

1. Attention is directed to the following regulations governing the mailing of Gifts to Canada by members of the Cdn. Armed Forces in the U.K.

2. The conditions detailed in para 2 below must be completed before acceptance for onward transmission by any Canadian Field Post Office.

"1. EXPORT LICENSE.

Under wartime regulations, goods sent to Canada from the U.K. require an export license, and the requirements of the U.K. currency control regulations must be complied with.

2. CONCESSIONS have, however, been made in the case of gifts sent to Canada by members of the Canadian Forces in the U.K., and gifts as specified in para 4 hereunder may be sent without export License under the following conditions: -

(a) Letters or parcels containing gifts must be marked on the outside, "Exempted Gift." This marking should carry the signature of an officer of the Unit deputed to supervise and control the sending of such parcels, who will satisfy himself in each case, that it is a bona fide gift from the soldier purporting to be the sender.

(b) Letters or parcels containing such gifts must be handed in at a Canadian Field Post Office.

(c) Official adhesive Customs Declaration must be affixed to all parcels, giving particulars of contents of value; also a statement that it is a gift to relatives or friends.

(d) Parcels must also bear the name of the sender, together with particulars of rank, but no place name.

3. Official adhesive Customs Declarations are obtainable at Civil Post Offices and Canadian Army Field Post Offices.

4. This concession relates to gifts of all kinds, including articles of jewellery, precious stones, etc., but excluding foodstuffs, silk and technical instruments; i.e. stop watches, optical glass and instruments, the export of which can only be made under Board of Trade Export License.

(453/Gen/1 (ADM))

(G.C. McArthur) Lt. Col.,
Commanding Officer,
No 1 Cdn. Adm. Tpt. Coy.,
C.A.S.C.

N O T I C E S

EVENTS FOR THE WEEK

Monday 30 Oct. 2000 hrs. Lille Gym.
Movies "This Happy Breed" ... Technicolour.

Tuesday 31 Oct. 1900 hrs. Marlboro Lines Theatre.
Concert Party "Tin Hats."

Thursday 2 Nov. 1800 hrs. Lille Gym.
Movies "For Me and My Gal" .. Judy Garland & Gene Kelly.

P T O

FLOWER CABLES TO CANADA.

1. The Auxiliary Services have inaugurated a scheme to enable the members of the Canadian Forces in Britain to send flowers home to Canada for Xmas. Orders will be flown by Bomber Mail to Canada.

2. To guarantee delivery of the expected rush of Christmas flowers, the orders must be received not later thatn the 8 th Nov.

3. This service is available also for any other occassion you wish to send flowers. At least ten days must be allowed for delivery.

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EX 6

NO. 1 CDN ADMINISTRATIVE TRANSPORT COMPANY - R.C.A.S.C. C.A.(O)

INCREMENT

NO. 2 MOTOR AMBULANCE CONVOY SERIAL CW 353

Last Orders issued DO No. 16 d/17 Oct 44 — PART 1 ORDERS — DO No. 17 23 Oct 44

by

CAPT. L.L. VAN LUVEN — INCREMENT COMMANDER

1. DUTIES

(a) Duty Officer

Officer i/c Operational Section.

(b) Duty Clerk.

Tour of duty: 1200 hrs to 1300 hrs
1700 hrs to 0800 hrs following day:

23 Oct 44: Pte. Whittaker, W.S.
24 Oct 44: Pte. Fisher, K.S.
25 Oct 44: Cpl. Roy, J.
26 Oct 44: Cpl. Cadieux, J.R.
27 Oct 44: L/C. Brenner, D.M.

(c) Orderly NCO:

Tour of Duty: 0800 hrs to 0800 hrs following day:

23 Oct 44: Cpl. Jennings, C.C.
24 Oct 44: Cpl. Gillingwater, S.W.L.
25 Oct 44: Sgt. Hawkey, C.J.
26 Oct 44: Cpl. Gillingwater, S.W.L.
27 Oct 44: Cpl. Fettes, F.D.A.

(d) Operational Section:

0800 hrs 23 Oct to 0800 hrs 24 Oct 44 - No. 1 Sec
" " 24 Oct " " " 25 Oct 44 - No. 3 Sec(CWAC)
" " 25 Oct " " " 26 Oct 44 - No. 1 Sec
" " 26 Oct " " " 27 Oct 44 - No. 3 Sec(CWAC)
" " 27 Oct " " " 28 Oct 44 - No. 1 Sec
" " 28 Oct " " " 29 Oct 44 - No. 3 Sec(CWAC)
" " 29 Oct " " " 30 Oct 44 - No. 1 Sec

(e) Kitchen Fatigue.

0800 hrs 23 Oct - 0800 hrs 30 Oct 44:

No. 1 Section - will supply fatigues.

2. PAY PARADE:

Pay parade for personnel of 2 MAC INCREMENT will be at 1430 hrs. 30 Oct 44.

3. VEHICLE REGULATIONS:

All drivers will study carefully the provisions of MT Drivers Regulations, paying particular attention to pages 11-12 and 13. Drivers should be prepared the answer questions on any of the Regulations which apply to them.

It is again pointed out that smoking while driving or doing maintenance is strictly forbidden.

PTO

4. FROST PRECAUTIONS:

Commencing 31 Oct 44 all vehicles will be drained nightly unless filled with anti-freeze, Petrol tins may be drawn from ATO for this purpose.

Pl Cpnd will see that all drivers are instructed in the proper method of thoroughly removing all water from all parts of the cooling system.

5. BOOT REPAIRS

All boots turned in for repairs must have a tag attached giving the following information:

No. Rank & Name;
Size of boots;
State - with or without hob nails.

6. DISCIPLINE:

The use of stretchers when greasing under vehicles is prohibited.

Duck-boards are now available for this purpose, and must be used.

for (L.L. Van Luven) Capt
OC 2 MAC Increment

8 Jan 45
Certified a true copy
Rabcooper Lt.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

1

During the four months I had been in Swindon, I had taken vehicles out on road test with just a sign and no other written authority. None of my Officers or N.C.O. dispatchers had ever signed a work ticket for road testing therefore they all knew I used vehicles with just a sign for testing purposes. No one ever questioned me about going out without any written authority. I regarded the matter if anything ever happened I was within my rights because I figured it was in line of duty.

Improper use of vehicle, No one is going to cut across in front of an on coming vehicle if lights can be seen approaching. If there had been any light I would have seen them or any one of the other witnesses as it was a straight road. I venture to say that there is scarcely a driver in Eng. who has not carried civilians in their W.D. vehicle at some time or other. MT

PLEASE WRITE ON BOTH SIDES

4/71 CFA 170

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

2

While I was at Swindon detachment I might say I worked for the benefit of the unit at all times, I worked a good many Saturday afternoon and Sunday's besides doing many jobs after supper or go out in the middle of the night to bring in a vehicle that had broke down. During all the time I was there I only took one 24 hour pass as I ~~left~~ felt there was always some work to be done. Mr Craig told Cpl Shawdone day to tell me it was about time that I took a 48 hr pass or words to that effect.

I've been in the Army 2 yrs & 4 mons besides about 10 years in the Militia & this is the first time a charge has been laid against me, Anyone that can go that long certainly does not go about looking for trouble, Have worked at my trade since coming to England which is what I joined the army to do & have worked hard at it & tried to do the right thing. I ask you if I would not

4/71 CFA 170 PLEASE WRITE ON BOTH SIDES

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Be more beneficial to the Army with my past record working for the good of detachment somewhere or in a ~~best~~ shop than serving time I maintain if I am sentenced it is a miscarriage of justice

MM

4/71 CFA 175 PLEASE WRITE ON BOTH SIDES

Description of Court by which tried, or status of Officer dispensing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5 th day of January 1945

(D.R.C. Bedson) Lieut & Records Offr.,
No.1 Cdn Adm Tpt Coy, R.C.A.S.C.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

E-42314 Private Normand Roger DERAICHE of the No.1 Cdn Adm Tpt Coy, R.C.A.S.C.

1. The following is a fair and true summary of the entries in the Regimental and ~~xxxxxxxxxxxxxxxx~~ Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.		*Since Enlistment.	
For A.W.L.	1	times	1	times.
For Sec 11 A.A.	1	times	1	times.
For Sec 40 A.A.	1	times	2	times.
For		times		times.

~~Number of instances of gallantry or distinguished conduct.~~

~~†There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

~~or,~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for ~~beginning on the~~ day of

4. The accused has been in confinement, awaiting trial on the present charges

for Nil days in Civil Custody,

and 25 days in Military Custody.

Total 25 days.

Of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 22

6. The date of his ~~attestation~~ attestation specified in his ~~attestation~~ attestation paper is 10 Jul 41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years, 5 months, days

~~8. The accused is entitled to deferred pay or gratuity in respect of~~ years' service.

9. The accused is ~~entitled to~~ reckon years' service for the purpose of determining ~~his~~ pension, &c.

10. The accused is in possession of, ~~or is entitled to wear~~

The Cdn Volunteer Service Medal & Clasp w.e.f. 15 Jan 44

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

NOTE.—*A verbatim extract from the regimental books, stating three convictions and dispensations with trial, must be inserted*

Description of Court by which tried, or status of Officer imposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

If continued overleaf

3/17 MFM 6 (AFB 122) 40/P&S/[illegible]

No. E 42314 Name Deraiche, R. Sqn, Battery, or Company A Corps R.C.A. Date of enlistment 10 Sep 41 GC Badges Nil Service or Proficiency Pay Nil

Date of last entry in Company Conduct Sheet Nil No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Nil Sheet No 1 Signature OC Company, etc F.A.Steer, Lieut. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Old sheet destroyed. Completed 6 mos service Previous entries - nil. Cases of drunkenness - nil		10 Mar 42	J.B.Nash,	F.A.S. Capt. R.C.A.	
Field	21Oct43	Gnr		A.A. Sec 40. Misuse of a .303 rifle	Major Gagnon	5 days pay	3Nov43	Lt Col Panet	
Field	6Jan44	Gnr		A.A. Sec 11. Neglect to obey a unit Part I #471 dated 1 Jan 44	Sgt Farlardeau, J.	3 days C.B.	11Jan44	Lt F.R. Roy	
Field	28Oct44	Pte		(1) Sec 15(1)A.A.WOAS, AWL from 1200 hrs 28 Oct 44 until 2300 hrs 29 Oct 44. T.T.A. 1 day, 11 hrs, (2) Sec 40 A.A. WOAS, Conduct to the prejudice, etc., in that he was found sleeping in a WD vehicle contrary to Standing Orders	Documentary	5 days F.P. Forf 5 days pay 149 (2) FR&I	1 Nov 44	Lt Col G.C. McArthur	Forf 2 days pay 149(1)a FR&I

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy					
				D.R.C. Bedson					
		Jan	45	Lieut and Records Officer, 1 Cdn Adm Tpt Coy, R.C.A.S.C., Officer in custody of original document.					

TRIAL BY COURT-MARTIAL

I, H-95806 Private DONALD NORRIS McPHAIL, desire to have an officer assigned to represent me at my trial by Court-Martial.

(I desire the services of if he is available)

Lt Durant #15 ASSRU
or
Major Hetherington QC.
99 Battery Mfield

3 Jan 45

[signature]

TRIAL BY COURT-MARTIAL

I, E-42514 Private NORMAND ROGER DERAICHE, desire to have an officer assigned to represent me at my trial by Court-Martial.

(I desire the services of Lt. DURANT # 1 CASCRU. OR MAJOR HETHERINGTON 3C. 99 Bty., 19 Field RCA. if he is available)

3 Jan 45

~~Pte~~ Plt. ~~Pte~~ Normand Deraiche

ARMY FORM C2136 (Small)
40/PAS/2453(5945)(Pads of 100)

MESSAGE FORM

Register No.

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Office Date Stamp

FROM (A) Originator: Lieut. D.R.C. Bedson

Date—Time of Origin: 031445 A

For Action

TO

(W) For Information (INFO)

To whom it may concern:

Message Instructions — GR

Originator's No. 5299

At 1220 hrs 3 Jan 45 I personally handed a copy of the Charge Sheet and Summary of Evidence inthe Court-Martial proceedings against E-42314 Pte Deraiche, N.R. and H-95806 Pte McPhail, D.N. to these accused persons in the Regimental Guard Room where they were held under close arrest.

This Message may be sent as written by any means {except / unless}	If liable to be intercepted or to fall into enemy hands this message must be sent in cipher	Originator's Instructions Degree of Priority	Time	System	Op
Signed: D.R.C. Bedson Lieut.	Signed		THI or TOR		
			Time cleared		

Summary of Evidence in the case of E 42314 Pte Deraiche N.R and H 95806 Pte McPhail Dr No 2 M.A.C Increment to No 1. Can Administrative Transport Company R.C.A.S.C., soldiers of the Canadian Army Overseas.

By direction of the Commanding Officer the summary is taken on oath.

First Witness: C 121948 Pte Fraser A.K. - 2 M.A.C Incr No 1. Adm Tpt Coy. R.C.A.S.C. having been duly sworn states:

At about 2330 hrs on 2 Dec 44 I was standing in my billets at Hunts Copse preparing for bed. when Pte Gusseaume came in and told me that someone had phoned the orderly room about an accident. I then left my billets with Gusseaume and went to the kitchen - Deraiche and McPhail were in the kitchen and Gusseaume again mentioned the accident. Deraiche, McPhail and myself then went to the vehicle park to see the ambulance. This would be about midnight. We looked at the ambulance which was damaged on the left side about the petrol cans carrier. I do not remember the number of the ambulance. We were in the vehicle park about 5 minutes McPhail nor Deraiche made no mention of the accident in my presence. I then returned to quarters and went to bed. McPhail and Deraiche accompanied me to our quarters and we all went to bed.

The accused persons declined to cross-examine witness.

A.K. Fraser
C 121948 Pte Fraser A.K.

Second witness:-

Capt H.M. Lawrence - No 4 S.R.D. R.A.S.C.

having been duly sworn states.

At approximately 2315 hrs 2 Dec 44 as I was entering the gate at 12 Whatworth Road, Swindon I heard a crash and went in the direction from which it came. After proceeding approximately 50 yds. I came to Stratton Cross roads, and found that an American Jeep and a Canadian ambulance had collided. I found that an American soldier had been injured. We helped him to the grass at the side of the road and I examined his injuries. After getting one of the occupants of the ambulance to pull the vehicle to the side of the road, I went back to the injured man and got the occupants of the ambulance to move the injured man into the ambulance and told them I would go down the road to the Fire Station which was approximately 150 yds away and telephone the police. Also telephone for an ambulance to take the injured man to the hospital as the occupants of the Canadian ambulance had told me that they did not have sufficient petrol in the damaged ambulance.

On my return to the scene of the accident the damaged ambulance had disappeared and I was informed by some civilians who were present that they had taken the injured man to the hospital. Together with the civilians present I helped push the Jeep to the side of the road. On the arrival of the Police, I went home, after giving them my name and address.

At approximately 14.30 hrs 3 Dec 44 I was present at an identification parade at No 2 M.A.C. No 1 Can Adm Tpt Coy R.C.A.S.C. at Hunt's Copse. I went up and down the ranks once and positively identified one man in the rear rank, but was a little undecided between a man in the center rank and a man in the ~~rear~~ front rank as being the second occupant of the ambulance. I walked out of earshot of the parade and informed Lieut Reinhart that I had positively identified a man in the rear rank as one of the occupants, but was a little undecided whether it was the man in the center rank or the man in the front rank who had been the second occupant. He asked me if I would try to positively identify the second man and on second inspection, I was quite satisfied that the man in the front rank and not the man in the center rank had been the other occupant of the ambulance at the time of the accident.

Lieut Reinhart then informed me that the man I had positively identified on first inspection was Pte McPhail and that the man I had been a little undecided about was Pte Deraiche

The accused persons declined to crossexamine the witness

R. Laurence
Capt. R.A.S.C.

Ward Witness

Mr Fredrick Crumpler. 106 Kingsdown Road. Upper Stratton Swindon. Wilts. having been duly sworn states.

On Saturday 2 Jan 44 at about 11.15 pm I was riding my pedal bicycle down Cricklade Road. Swindon into Kingsdown Road. Upper Stratton. Shortly after passing the Fire Station. Cricklade Road an army ambulance overtook and passed me travelling towards Cricklade. As I approached the junction I noticed that the ambulance had turned across the road. apparently the driver had missed the turning into Kingsdown Road. The ambulance had turned across the road and the front wheels against the kerb obstructing traffic coming from the opposite direction. I then heard a crash and on going up to the ambulance found that a jeep had crashed into its nearside.

After the crash two girls got out of the rear of the ambulance. I then walked around the other side of the ambulance to see what assistance I could give. I saw a jeep driven against the side of the ambulance and a man lying on the grass by the side of the road.

I got about this time an officer appeared and directed two soldiers to place the injured man in the ambulance and the injured man in the ambulance was taken to hospital. The two soldiers moved the injured man into the ambulance and drove off. I then helped to move the damaged jeep to the side of the road.

The two girls left the scene of the accident after the injured man had been placed in the ambulance.

Seeing that I could be of no further assistance I left for home. This would be about 11:40 pm

Q1 Question by accused McMichael.
What would you estimate the speed of the ambulance to be when it passed you?

A1 Answer: No more than 10 miles an hour.

Q2 Question: Was the night clear?

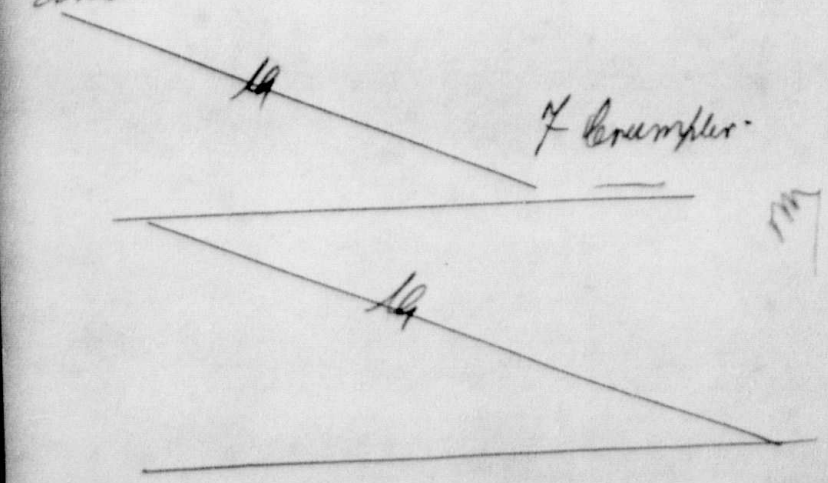
A2 Answer: Yes. It was a moonlight night.

Q3 Question: You saw no sign of the gap when after the accident?

A3 Answer. No.

Q4 Question: Did you see the lights of an approaching vehicle coming from the opposite direction?

A4 Answer. No. I saw no lights.



Fourth Witness 6

Stanley James Sneddon - 40 Lindon Ave Pinehurst, Swindon having been duly sworn states.

I recognise the accused person Pte Deraiche also known to me as "Frenchie". I was present at an identification parade held at 1600 hrs 14 Dec 44 at the Old Town Police Station at Swindon. The purpose of the parade was to identify Pte Deraiche as the soldier with whom I had had conservation relative to an accident which occurred on 2 Dec 44. I identified Pte Deraiche as that man.

Regarding this previous conversation on or about the 5th or 6th Dec 44. Deraiche came to my home and Jean Rudman was present. Deraiche and Jean were discussing an accident which had occured between their ambulance and an American Jeep. My wife then asked Deraiche to tell her about the accident. Deraiche turned to Jean and asked her to tell my wife about it. Jean said that on the evening of 2 Dec 44 at about 11.00 to 11.30 pm they, Jean and her sister Peggy were coming home from a dance in Deraiche's ambulance. They had missed two turnings in the road which would have taken them home and were turning about in the road when a jeep ran into them. Jean said that she was in the back of the ambulance with her sister and Deraiche and someone else was driving. Jean further said that they saw an American from the jeep put on the side of the road. And then some woman in a fur coat came up and asked them

if they had been in the ~~ambulance~~ jeep and if they had they had better "skip it". The girls then left.

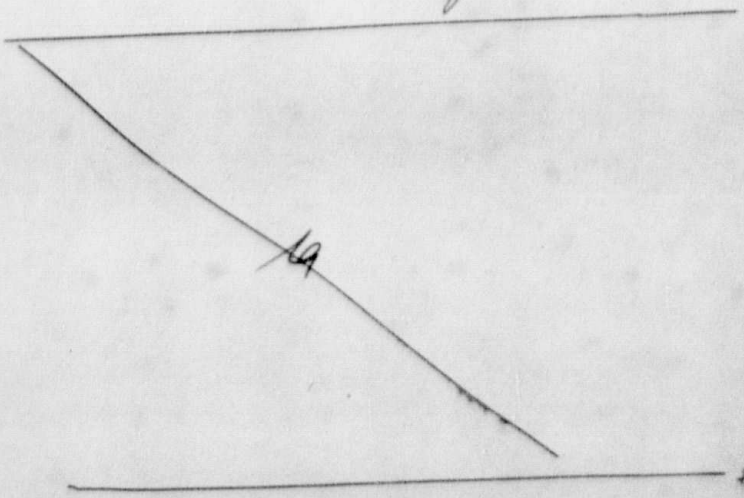
The girls seemed to be worried and Deraiche told them that they had nothing to worry about if they didn't say too much.

Some days later when Deraiche was at my house he passed a remark that inquiries were being made about the accident.

I have known Pte Deraiche for some time and he has been in the habit of calling at my house occasionally with an ambulance and sometimes on a motorcycle.

The accused persons declined to cross examine the witness.

J Meddon.



Fifth witness
Mrs Evelyn Elsie Sneddon - 40 Lindon Ave
Pinehurst Swindon having been duly
sworn states:

I know the accused person
Pte Deraiche also known to me as "Frenchie"
I do not know the other man.

During the first week in December Deraiche
came to my house to call on Jean Rudman
He told Jean in my presence that he was on
charge. I then asked him what he had
been up to: He told me he had had an
accident: and he asked Jean to tell me
the story - Jean said that on Saturday
night 12 Dec 44 at about 11:15 pm an
ambulance in which they had been riding
had had an accident with a jeep. She said
that a "Yank" had been hurt - He had
a cut forehead and leg injuries. I asked
her what they had done with him and
she said that they had picked him up and
taken him to hospital. She said that she
and her sister Peggy had been in the
back with "Frenchie" and that someone else
who she called "Mae" was driving

I asked Frenchie a few times after
that how the "Yank" was he could tell
me. After the accident he had called
at my house to see Jean

At a dance at Harding Hall
Corse Hill on 13th Dec 44 I saw Deraiche
talking to Jean. I went up to them and my
asked Frenchie what his name was and

he told me "Deraiche". This was after Jean had been interviewed by Sgt Hammond. Jean told Deraiche about the interview in my presence. Deraiche told Jean not to split on him and he wouldn't split on her. I told Deraiche not to be a fool he might only get two years. He said he wanted to go home after the war and not to delay in the Klink. Jean told Deraiche that she wouldn't identify him on the identification parade

Q5 Question: (To Deraiche) Didn't I tell you that I thought I was on charge and not that I was on charge?

A5 Answer: Yes.

Q6 Question: Didn't I ask Jean not to identify me before she volunteered to do so?

A6 Answer: All I heard was Jean say she wouldn't identify you.

Mrs E. E. Sneddon.

49

Sixth Witness
Miss Peggy Rudman 10 Hurst Crescent
Pinehurst Swindon having been duly
sworn states.

I know the two accused persons
as Frenchie and Don
(Witness points to Pte Heraiche as Frenchie
and to Pte McPhail as Don)

On the evening of the 2 Dec 44 I was at
a dance with my sister Jean Rudman
at Harding Hall, Gorse Hill. After the
dance ended at 11.00 o'clock pm we came
out of the dance with Frenchie and Don and
got into their ambulance. I got into
the back of the ambulance with Frenchie
and Jean and Don was driving. We
started to drive home. I looked through
the window in the ambulance and found
we had gone past the turning we should
have taken. I told the driver to turn
back. I think the driver tried to turn
on the road. I then felt a crash against
the ambulance. We got out of the ambulance
and went round to see what had caused
the crash. I noticed an American
soldier beside the ambulance holding
on to his leg. I didnt notice the jeep. My
sister and I took the American over to the
grass on the side of the road. We saw that
he had a cut on his forehead and he was
holding his knee and he said that it
hurt. The American then got up and
appeared worried about his jeep. We ~~then~~
my sister and I then left and went home

I was present at an identification
parade held at Old Town Police Station
Swindon. I didnt identify any of the soldiers
on the parade. The two accused persons

were on that parade. I didn't identify those two soldiers because French had asked me at a dance held the previous ~~Wednesday~~ Thursday not to identify them and I promised not to do so.

Q7 Question (Pte McPhail) - When you state that you looked out of the window while an ambulance you meant the slide which leads from the body of the ambulance to the ash?

A7 Answer: Yes.

Q8 Question: Were the lights on in the body of the ambulance at the time?

A8 Answer: Yes.

Q9 Question: When you opened the slide leading to the ash did you see the lights of an approaching vehicle coming from the opposite direction?

A9 Answer: No.

Peggy Rudman

9

Seventh Witness 12

Miss Jean Rudman - 10 Hurst Crescent Pinehurst Swindon having been duly sworn states:

I know the two accused persons as Frenchie and Don - I know that Don's name is MacPhail. I do not know Frenchie's last name.

My sister Peggy and I were at a dance held at Harding Hall Corse Hill on 2 Dec 44 When the dance ended at 11:00 o'clock pm my sister and I with Frenchie and Don came out of the dance together. My sister and I and Frenchie got in the back of an ambulance Don got into the drivers seat. We then started home in the ambulance.

As we were going up the road my sister opened the slide leading from the body of the ambulance to the cab and looked out: and said that we had passed our turning. McPhail said that he would take the next turning. We then went straight on and then I felt a bump against the ambulance. The ambulance was moving slowly at the time of the bump. After the bump the ambulance stopped. Frenchie then got out of the ambulance and Peggy and I followed him. We went around the front of the ambulance to see what had caused the bump. I saw someone holding ~~the~~ an American soldier up. Whoever was holding the American took him over and laid him on the grass at the side of the road. My sister and I went over to the American to see what was wrong with him. We stayed with him for awhile and then my sister and I left to go home.

I was present at an identification parade held at Old Town Police Station Swindon on the 14 Dec 44. I did not identify anyone present at that parade. The two accused soldiers were present on that parade. I didn't identify the two soldiers because Trenchis had asked me not to at a dance on the Wednesday night previous and I agreed not to identify them.

Q10 Question: (Pte Heraichi) Wasn't the ambulance stopped at the time of the accident?

A10 Answer: I don't know. I wasn't paying much attention up until the accident.

Q11 Question: (Pte Mitchell) Don't you think that I meant I would turn around and go back to the corner I had missed?

A11 Answer: I thought you would take the next turning to the left.

Jean Rudman

Eighth Witness. 14

A 103064 Pte Earngey JJ. 2 Mab Incr to #1 Cdn Adm Tp Hoy having been duly sworn states:

On the night of 2 Dec 44 I was in Stratton Wilts. I had been visiting the pubs. I left Stratton between 2230 and 2300 hrs and walked back to camp. This would be about a mile and a half. When I arrived in camp I went right to my hut no. 3. The walk to camp would take between half an hour to three quarters of an hour. After I got into the hut I was talking and eating some lunch when McPhail and Deraich came in. I dont know how long I had been in the hut and I do not know what time it was.

Sometime later Deraich asked me to make a statement that I had seen he and McPhail sometime after 2300 hrs and also that they came to bed at 2345 hrs. I do not remember whether he asked me that night or the following day. I do not remember what time they went to bed that night.

After McPhail and Deraich came in they left for somewhere and returned shortly afterwards. - The accused persons decline to crossexamine witness.

G. Earngey

Ninth Witness 15

B89356 Pte Butts J.H. 2 mab Inc. to #1 Cdn Adm Tpt Coy having been duly sworn states:

On the night of 2nd Dec 44 I was driving the recreational lorry from our camp to Swindon. As previously arranged I was at the Ymca at about 2300 hrs to pick up the boys for the return trip to camp. I was in the Ymca and had a cup of tea. I did not see either Deraiche or McPhail in the Ymca.

They were not in the truck on the way back as far as I know. I arrived back at the lines about 2320 hrs. I went to my hut and talked for a while and then went to the kitchen for something to eat. This would be about midnight or a quarter after. Deraiche and McPhail came in to the kitchen shortly afterwards. They had tea. We then left the kitchen and returned to our huts. We were all together including Deraiche and McPhail this would be about 0100 hrs.

After the identification parade held the following day. Deraiche came to me and asked me to state that I had picked McPhail and him up at the Ymca on the Saturday night and driven them back to camp in the recreational lorry. I agreed to do this.

Q12 Question: Are you sure that it was as late as 0100 hrs when we left the kitchen?

A.12 Answer: I am not sure but I think it was about that time. The accused persons declined to cross examine witness

J H Butts

Tenth Witness

Arthur John Barnbrook PC111 - stationed at Swindon Wilts having been duly sworn states:

On Saturday the 2nd Dec 44 at 2340 hrs I received a telephone message to the effect that an accident had occured at the Upper Stratton Crossroads - I immediately went there arriving at 2340 hrs -

On arriving at the scene I saw Capt Laurence and a lady, a Mrs Gilmour of Parkland Ave Bathroad Slough. Capt Laurence informed me that a Canadian ambulance had been in an accident with a jeep which was then parked on a piece of waste ground by the side of the road. As a result of conversation with Mrs Gilmour I found four beer bottles one being full on a piece of waste ground near the jeep -

I examined the road which is 30 ft wide and the point of impact of these vehicles was dead center of the road. The jeep was very badly damaged.

The American MP's arrived and in company with Pt Foster of the American Military Police I went to Stratton St Margaret Hospital - and saw Lt Col Sanderson - As a result of our conversation with him we went to Stanton Fitzwarren where we examined the two lines of ambulances and found one ambulance CA 4236273 damaged - It had a cut in the near side panel which would correspond

with the bonnet plate of the jeep, letting it.
And petrol tank was punctured which
would correspond to the petrol found at
the scene of the accident. The petrol carrier
at the side of the petrol tank had been
bent back.

I saw the Cpl of the guard and
reported this and he told me that no
driver was assigned to this vehicle.

On the following day Sunday
3 Dec 44 I was present at an identification
parade held at Stanton Fitzwarren
when Capt Laurence identified McPhail
and Devaiche

With Sgt Hammond S.I.S. I
carried out a full investigation of
the accident and was present when
statements were taken and I was also
present at the identification parade held
14 Dec 44 at Old Town Police Station Swindon

The number of the American jeep is
17AB466F.

I produce the aforementioned bottles
(Bottles entered as exhibit A and so marked)

Q 12 Question: (Pte McPhail) - What part of the petrol
tank was punctured.

A 18 Answer: The rear of the tank near the
bottom.

Q14 Question: What indications show that the accident happened in the center of the road?

A14 Answer: The mud that had fallen from the American jeep indicated this.

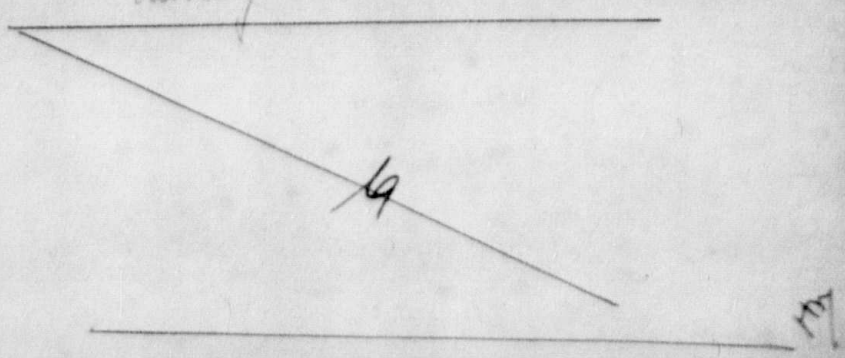
Q15 Question: On your examination of this ambulance at Stanton Fitzwarren on the night of 2 Dec 44 was there anything to indicate that an injured man had been carried in it recently?

A15 Answer: Yes there was fresh blood marks on the right hand cushion in the ambulance, also some blood marks on the floor.

Q16 Question: Was there an ambulance at the scene of the accident when you arrived?

A16 Answer: No.

Arthur J. Bannerock Cons. III.



Eleventh Witness 19.

Lieut S. H. Renehart 2 Mab Inc
1 Cdn Adm Tpt Coy RCASC. - having been
duly sworn states:

I am the officer in charge of
Swindon detachment 2 MAC. Inc
1 Cdn Adm Tpt Coy.

Ambulance No. CA 4236273 although
assigned to Pte Russman is very seldom
driven as Pte Russman is my batman.
On 1 Dec 44 ~~I signed~~ a work ticket
was signed for this ambulance to
allow Pte Deraiche to drive it into
Farnborough Hants to attend to a Court Martial.
The vehicle returned that evening. There
are no further trips authorized or recorded
on the work ticket for this vehicle.
On the morning of 3 Dec 44 I was informed
by Lt Cpl Lavigne that this ambulance
had been in an accident the previous
night. I had authorized no trip for
this ambulance and none is recorded
on the work ticket.
I investigated the accident and
submitted a report to my Officer Commanding
This is Work Ticket 4/2/72 for ambulance
CA 4236273
(Work ticket received as exhibit and
entered as exhibit B.)

19

Q17

Question (Pt McPhail) Is not the filter and Dr at this detachment allowed to take vehicles out "on test" without an authorized work ticket?

A17 16

Answer: A recent order published just before I took over this detachment states that no vehicle would go out "on test" without some other written authority. I maintain that S wind on detachment is a part of #1 Bdn Adm Tpt Coy and therefore this order applies to this detachment. I have only been with this detachment a short while prior to the accident. I have noticed that the filter and Dr have been going out "on test" without other authority and I had intended to put a stop to it but I have been occupied with many other details up to this time and didn't get around to it.

Q18

Question (Pt Deraich) Did you give us an order on 2 Dec 16 to adjust the spotlights on the vehicles?

A18

Answer: At approx 1730 hrs I was in the kitchen when Pt McPhail and Pt Deraiche came in for supper. I told them that I had noticed the spotlights on the vehicles ~~when~~ were not properly adjusted in accordance with GARO's and that it would be their job to make the proper adjustments.

G H Reinhart.

Twelfth Witness 21

20316224 Pte Love R.V.L. - 466 Para Fld Arty Btn. U.S. Army at present in 141st U.S. Gen Hosp. having been duly sworn states:

On the night 2 Dec 44 I was in Swindon Wilts in my jeep. About 2300 hrs I got in my jeep and started ~~back to camp~~ in search of a Fish and Chip Shop. I was travelling down Cricklade Road towards Swindon. I was travelling at about 35 mph. I was sober. My lights had a blackout shield and didn't show a very strong light. The first I noticed was a Red Cross sign on the side of an ambulance. The ambulance appeared to be about 20 to 25 feet away from me when I first saw it. This would be near the intersection of Cricklade Road and Kingsdown Road. I applied the brakes but I was too close and ran into the side of the ambulance. There was a crash. I sat there for a couple of seconds then got out and called out to ask the driver what he was parked as he was. Two soldiers appeared and came towards me. I then felt a pain in my left knee. Then two girls grabbed me and took me over to a grass lot and told me to lay down. Then a crowd of people gathered from somewhere. Someone then assisted me into the back of the ambulance. The

ambulance then drove off and then after a while stopped. Someone opened the backdoor. and assisted me out of the ambulance. And someone helped me into the reception room at Stratton St Margaret's Hospital. I don't know whether it was the same person who helped me out of the ambulance or not. Someone lead me over to the latrine.

When I was put in the ambulance two soldiers got in with me and were with me during the ride to the hospital. I was somewhat confused at this time due to the accident.

I do not know ~~the~~ if I could recognize any one I saw at the accident. I am not sure if I recognize anyone at this summary.

My trip in the jeep was an unofficial trip.

Q19 Question: (Pte Deraiche) Are you quite sure it was two guys who took you over to the grass lot?

A19 Answer: I am not sure as I was somewhat shaken by the accident.

Q20 Question: Before you hit the ambulance did you see any lights?

A20 Answer: I didn't see any lights at all nor any reflectors.

Q21 Question: Did you see the lights of the ambulance before it turned to the position it was in when you struck it?

A21 Answer: No.

Q 21 Question: Are you sure the lights were on on your jeep?

A 21 Answer: Yes the lights were on.

Q 22 Question: How did the lights happen to be off after the collision?

A 22 Answer: I didn't notice whether they were or not.

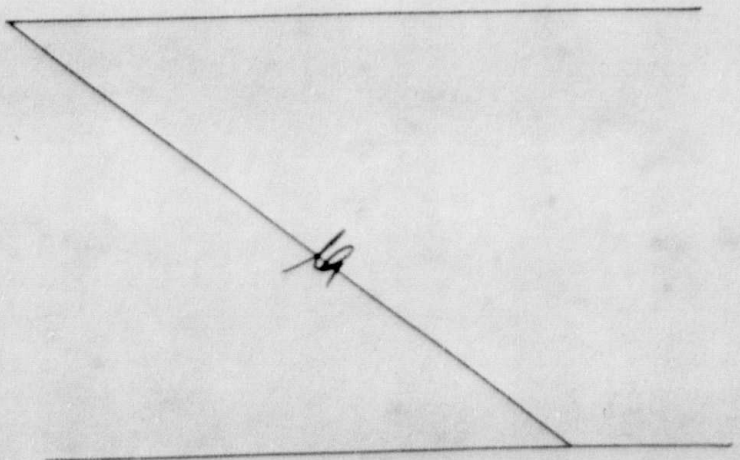
Q 23 Question: Did you admit at the scene of the accident that your trip was without permission?

A 23 Answer: Yes I believe I did say something to that effect.

Q 24 Question: How near were you to the left curb of the road when the accident occured?

A 24 Answer: I believe I was to the left of the center of the road.

Robert V. Cook.



Fourteenth witness 24

D138858 Pte Gusseaume R. - 2 MAC Inc to #1 Can Adm Tp & Coy RCASC. having been duly sworn states:

I was night fireman at Swindon detachment 2 MAC Inc. on the night of 2 Dec 44 and I was on duty from 1800 hrs 2 Dec 44 to 0700 hrs 3 Dec 44.

At about midnight 2 Dec 44 I went to the kitchen and Deraiche, McPhail and Butts were in the kitchen. I fixed the fires in the kitchen and by the time I had finished with the fires. Deraiche McPhail and the others had gone.

I was in the kitchen about 10 or 15 minutes - then made the round of the huts fixing the fires. When I was fixing the fires in Hut No 3 I noticed the Deraiche and McPhail were in their beds. This would be about 0020 hrs to 0025 hrs 3 Dec 44.

An identification parade was held at our camp the following day 3 Dec 44 and that night Deraiche came up to me and asked me to make a statement that I had seen them (Deraiche and McPhail) in the kitchen between 2300 hrs and 2330 hrs on the night of 2 Dec 44. I asked Deraiche if he had been in the accident and held me he hadn't been. I then agreed to make a statement as he had asked me to. The accused persons decline to cross examine witness.

R. Gusseaume. Pte.

Fourteenth Witness

L154284 Pte Nevard R.A. - 2 Mab Incr to 1 Cdn Adm Tpt Coy RCASC having been duly sworn states.

On the 2 Dec 44 I was posted for guard duty at the vehicle park of 2 Mab Incr Swindon - my tour of duty was from 2300 hrs 2 Dec 44 to 0300 hrs 3 Dec 44

A little while before 2300 hrs I reported to the orderly room and signed in for guard duty. Lt Cpl Lavigne was in the orderly room at the time.

After having signed in for guard duty I didnt go on guard but returned to my billets and remainded there until about 0100 hrs. I lived in the same hut as Pte McPhail and Pte Seraiche. They came into the hut while I was there. I am not sure of the time as I have no watch but I believe it was about midnight or a little after.

I went to my guard duty about 0100 hrs and I believe I went to the orderly on the way there. Pte Boden the other guard was at the gate when I arrived on duty. He then left to go to the kitchen. He returned a few minutes later.

At about 0230 hrs a jeep drove up with an American MP and a police constubate. They told me there had been an accident and wanted to look over our ambulances. I told them about two ambulances which had come in while I was on duty. We checked these but found no marks on them. I then took them to the orderly room and reported the matter to Lt Cpl Lavigne

MT

The MP and constable asked to be allowed to check all the vehicle and Hcpl Lavigne consented. I then went back to the vehicle park with the MP and constable and accompanied by Soden we checked all the vehicles. We found an ambulance, I believe the number was 273, although I can't be sure, which had been damaged on the left side. The spare carrier had been bent and driven into the gas tank and the tank had sprung a leak. There was a cut in the side of the ambulance.

We then returned to the orderly room and either the MP or the constable told Hcpl Lavigne the number of the ambulance and a description of the damage.

Just after I came on duty and while Soden was away. Deraiche, McPhail and Fraser came down to the vehicle park and looked at the damaged ambulance. I followed them down. I noticed that the ambulance had been damaged. McPhail made a comment that the damage could be easily repaired or words to that effect. The three men then left the park.

Q26 Question: Was it earlier than one o'clock when we went down to the park?

A26 Answer: I am not sure. But I seem to remember asking someone the time when I went on duty. But it could have been earlier.

Pte Neward. R.A.

Fifteenth Witness

D 105030 Pte Lavigne H.C. 2 Mab Inst
H. Edn Adm Sp Hoy RCASC having
been duly sworn states.

On 2 Dec xx I was Orderly N.Co.
at Swindon detachment 2 Mab my
tour of duty commenced ~~at~~ when I relieved
Sgt Yeatman at approximately 1630 hrs.
I was on duty until the morning parade
the following morning. Since the
following day was a Sunday that
would normally have been the noon
meal parade. My duties were to receive
any calls on the phone and to despatch
any trips if they were required. There
was only one trip called for that
being Pte Young's trip to Taplow. There
were no other authorized trips that
day or night with the exception of
the recreational lorry that being
authorized by either the officer or the
sergeant.

I did see Pte McPhail or Pte Deraiche
from last meal time until about
midnight or there abouts when I saw
them in the kitchen. I made no mention
of the accident to them nor they to me.
Neither McPhail nor Deraiche had
~~reported to me~~ told me that they
were taking a vehicle on a road test.

my

About 23.15 hrs or thereabouts I received a telephone message from Stratton St Margaret Hospital stating that one of our ambulances had delivered an American patient to the hospital and they wanted to know the name of the driver. I told them that as far as I knew we had no ambulances delivering American patients to that hospital. They then told me that the patient had been in an accident in which the ambulance had been involved. I told them that as far as I knew none of our ambulances were out except one on a trip to Tuplow but that I would check our lines to see. I checked the number of vehicles but as far as I could tell all ambulances were accounted for although it is difficult to make an exact count since sometimes when ambulances are sent to or returned from the Workshop in Pamborough it is not always recorded on our vehicle board. I inquired of the guard at the time and he told me that no ambulance had gone out. Pte Soden was on guard then. I then went to bed by the 'phone having taken it for granted that I was an ambulance involved. About 0300 hrs I was awakened by one of our guards who had an American MP and a civilian constable with him. They asked if they could check our vehicles to see if they could find the one which had been involved in an accident earlier that night. I told the guard to take them around.

They returned sometime later and told me that they had found an ambulance

I which they had reason to suspect
had been in an accident. They told me
the number which I dont remember but
I believe the last three figures were 273.
They told me that the petrol carrier had
been damaged and other damage which
I dont remember. I took the particulars
and reported it the following morning
to Lieut Rinehart the officer in charge of
the detachment. The accused persons
declined to cross examine witness H. C. Lavigne

Sixteenth Witness

Lieut W.H. Craig - #1 Casc Ru Can Army Overseas - having been duly sworn states:

From approximately 19 Sep 44 to approx 21 Nov 44 I was officer in charge of Swindon detachment 2 Mab Inor to No 1. Canadian Adm Tpt Coy RCASC. At no time during that period were the jitter or D.M. of the detachment given authority to take vehicles on test runs without a work ticket properly signed by myself or by the despatcher which I would later ratify.

Q27 Question: (Pte Deraiche) Did you ever tell us that we could take vehicles out on road test without a work ticket?

A27 Answer: It was laid down that no vehicle would leave the unit lines without a work ticket except to refuel at pumps

Q28 Question: (Pte McDhail) Did you ever tell me personally that I has to have a work ticket for all test runs?

W.H. Craig Lt.

A27 Answer: No! I don't recall telling you personally.

W.H. Craig Lt.

The accused persons were cautioned as follows: "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence, unless you wish to do so. But whatever you say or any evidence you give, will be taken down in writing and may be given in evidence".

The accused persons elect to make a statement

E 42314 Pte Seraiche N.R No 2 MAC Inst to No 1. Cdn Adm Tpt Coy RCASC a soldier of the Canadian Army Overseas states:

On 2 Dec 44 at 1730 hrs we went to the kitchen for supper where we saw Lieut Rinehart - the officer in charge of our detachment. He gave us an order to adjust the spotlights on the vehicles. He told us to adjust the spotlights to the left ditch twenty feet ahead of the vehicle. I told him that we would have to work nights in order to do this because we could not adjust the lights during daylight.

After supper we went back to the hut (Hut No 3) - we were to late to take the recreational lorry into town so we decided (McPhail and I) that we might as well work on the lights. We rested on our beds for awhile then about 2000 hrs we went down to our tool shop and taking some wrenches, screwdrivers etc we went down to the carpark. We took 273 and put the lights on, we backed onto the road.

We then adjusted the spotlight and McPhail said to me "I dont think it is really good like that" and I said "We'll try it out on the road" I said "I will go and get the "On test" sign" I got it and put the sign on the vehicle. We then drove down the main road to Swindon. By that time it would be about 2100 to 2115 hrs.

Before we approach the roundabout the Ignition cut out. I said to McPhail "What the matter". We tried to start the motor but it wouldnt start. The lights were still on and the starter worked and the horn worked. We took the engine cover off and tested for a spark at the plug. We worked on the motor about an hour trying to find the trouble. We finally located the trouble being the main ignition wire which had become disconnected just below the switch. We fixed the trouble and started. This would be about 2215 to 2230 hrs.

We turned around at the roundabout and we took the bricklade road back towards camp. As we passed the dance hall, Harding Hall, Gorse Hill, I said to McPhail "I have to stop here and see someone for a minute". He said "OK, dont stay too long"

I went to the dance and saw my girl friend. I had a couple of dances with her. Just before the last dance McPhail came into the dance hall and asked me to leave. I said "Let me dance the last dance". He said "OK". After the last dance I came left the dance hall my girl friend and her sister. I said to McPhail "Let's drive the girls home it's on our way or something like that.

McPhail wasn't sure of the way and missed the turning. I was sitting back with the girls. I opened the slide between the body and cab of the ambulance and I looked through and said to McPhail "You have missed the road". He said he was keeping at the intersection. It was raining a lot of bicycles and although it was driving quite slowly he couldn't turn sharp enough, on account of approaching bicycles, to make the intersection. I never saw the lights of any approaching vehicle.

Just as the ambulance stopped I heard and felt a crash. I said to the girls "Someone has hit us". I opened the door at the back and got out. I went round to the side and saw an American soldier in front of the ambulance and a jeep against the side of the ambulance

the side of the ambulance. I looked at the front of the jeep and ~~then~~ its lights weren't on. I went to the back of the jeep and the tail light wasn't on. I looked at the switch and the switch was turned off.

I went towards the American soldier and I asked him what had happened and he said "I've got a sore knee and look at my head". I took him by the shoulders and lead him over to the grass at the side of the road. By this time my girl friend and her sister were beside the jeep and helped me to lay him down on the grass.

I went back to the ambulance and said to Raphael - Lets take the jeep off the road. Yes we did with the help of a civilian. I then backed the ambulance to the left side of the road. I turned the spotlight and left the side and tail lights on. I then went back to the American. I saw the gas on the road and thought at that time our main petrol tank had been punctured and the other one or the right side was empty.

An English ~~Captain~~ told me to take the American to a hospital. I told him I had not enough gas as our tank was broken. He said he would go and phone for an ambulance.

By this time McPhail had looked at the gas tank and found out that there was sufficient gas to take the American to the hospital and to return to camp. The English officer had not returned. I went to where the American was and told the girls to go home. McPhail and I picked up the American and he asked us to let him see his jeep. He looked at the jeep and said he would be paying for this for the duration as he was on the loose onwards to that effect.

Walker put him with back of the ambulance. McPhail got into the back to help lift the American and the ambulance. I was at his head and McPhail was at his feet. I smelled beer on his breath. I told McPhail "This guy has been drinking". McPhail stayed with back and I drove to the hospital.

McPhail and I took him into the reception and saw the soldier there and I told him that the American had just had an accident. He pointed to a chair and told the American to sit down. The English chap stayed with the American and we left.

We talked together and decided that

May

necessary to make an accident report because the Yank was on a buckshee trip and we could repair our ambulance in ten or 15 minutes. I drove down to the car park and we took our tools out and took "On Test" sign off and took the tools and the sign to the tool shed. We then went to our hut to get our cups so we could have tea at the kitchen. We went to the kitchen and had our tea. Someone said that a 'phone call had come in about an accident. We saw Fraser and I said "Lets go and see the ambulance". We went to the car park and looked at the ambulance. McPhail said it was easy to repair. Then I said lets go to bed. This would be about twelve to twelve thirty. We went to bed.

I have read this and it is true.

M Peraiche

The accused person Pte McPhail elected to make ~~the fact~~ a statement.

H95806 Pte McPhail D.R. Not MAC Inc to #1 Cdn Adm Tpt Coy RCASC a soldier in the Canadian Army Overseas states.

I have heard Pte Deraiche's statement read out and corroborate it as the truth. and I make this additional statement. After I had passed the corner I should have taken on Bucklade Road I went to Kingsdown intersection to turn. On the way I met several bicycles and as I approached the corner there was a bicycle coming towards the intersection from the other direction and by the time he got by me I was beyond the intersection when I made the right turn. So I stopped the vehicle with the front wheels against the curb. I saw no approaching vehicle lights.

Just as I was shifting to reverse gear I heard a crash and then noticed the jeep against the side of the ambulance. I immediately got out.

It has been a known fact by officers at Swindon that the jitter and other could road test vehicles without a work ticket. I had been doing it for 4 months and nothing had been said.

MM

My duty hours were all hours since I was the only fitter at the detachment.

I have read this and it is true.

H. A. McPhail.

I certify that the foregoing Summary of Evidence consisting of thirty ~~eight~~ pages was taken down by me in the presence and hearing of the accused persons, and that Rules of Procedure 4 (1), (d), (e) and 4) have been complied with.

R. A. Cooper Lieut
Officer detailed to take the Summary of Evidence

Farnboro Hants
26 Dec 44.

Additional evidence in a summary of evidence in the case of E 42314 Pte Dereuchek and H 95806 Pte McPhail Dr. No 2 MAC Inst to No 1 Can Adm Tpt Coy R.O.A.S.C. soldiers of the Canadian Army Overseas.

Seventeenth Witness
Major J H Cornell #1 Can Adm Tpt Coy R.O.A.S.C. having been duly sworn states:

I have this day 30 Dec 44 examined ~~sum~~ bulause 6A 4236273 and estimate cost of repair to be £2.8.0. The damage was as follows

Left side of body damaged
Petrol carrier damaged
Petrol tank damaged

Labor - 16 hours @ 3 shilling per hour £2.8.0.

The accused persons declined to crossexamine witness.

J H Cornell Major

my

Eighteenth Witness

21st. Charles Harkin of 17 A.B. 466 Fd Arty US Army - a written statement ~~purporting~~ ~~to be~~ of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Appendix A.

Having regard to the exigeneous of the service and loss of time involved attendance of this witness cannot in my opinion be readily procured

R A Cooper Lt.
Officer detailed to take the Summary of Evidence.

The accused persons do not demand the attendance of this witness for cross examination

The accused persons declined to make a further statement.

I certify that this addition to the Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d) (e) (f) and (g) have been complied with.

Signature - R A Cooper Lt
Officer detailed to take the Summary of Evidence

MM

Farnborough Hants
20 Dec 44

Appendix A

Material and Labor required to repair 1/4 ton truck # 20432867

Bumper (Front)	$ 2.78
Filler Bumper Bar Wood	1.05
Glass-windshield Assy.	6.00
Headlight Unit Assy.	1.70
Guard-brush Assy.	8.00
Radiator Assy.	30.00
Panel Assy-hood Top	18.50
Finder Assy. L.H.	19.00
Front Spring	4.10
Body-water pump.	1.45
Lamp-blackout marker.	4.00
	$ 96.58
Labor, one mechanic 8 hrs @ $.40 hr.	$ 1.20
TOTAL --	$ 99.78

Charles I. Larkin

CHARLES I. LARKIN,
2nd Lt., FA
Motor Officer

Estimated cost of damage to CA-4236273, Ford Ambulance.

Left side of body damaged.
Petrol carrier damaged.
Gas tank damaged.

£2-8-0

Labor, 16 Hrs @ 3/- per hr.

30 Dec 1944.

J.H.Cornell Major.
(J.H.Cornell)
Officei i/c Workshops.
No 1 Admt Transport Coy.
R.C.A.S.C. C.A.(O)

The Deputy Judge-Advocate-General, Canadian Military Headquarters, having advised that the convictions on the third charge are invalid, I hereby direct that the same is hereby removed and the accused relieved from all consequences of their trial thereon.

J H Roberts

(J.H.Roberts) Maj-Gen
Comd
Cdn Rft Units

In the Field,
5 Feb 45.

THE MATTER OF THE FGCM OF H-95806 PTE McPHAIL D.M. AND E-42314 GNR DERAICHE N.R. DATED 8 JAN 45.

Upon it appearing to me, an authority having power to mitigate, remit or commute the punishment awarded by the sentences herein, that the finding upon the third charge is invalid and has been set aside, I, having regard to the finding on the second charge, do mitigate the punishment as awarded by the court and confirmed by the confirming officer as follows;

The accused E-42314 Gnr Deraiche N.R. to undergo detention for a period of 80 days, and to be put under stoppages of pay until he has made good the sum of £1.4.0d., a portion of the damage occasioned by the commission of the offence on the second charge.

The accused H-95806 Pte McPhail D.M. to forfeit all ordinary pay for a period of 55 days, and to be put under stoppages of pay until he has made good the sum of £1.4.0d., a portion of the damage occasioned by the commission of the offence on the second charge.

Promulgated & extracts taken 3 Mar 45.
Rabooper Lt
for O.C.

LONDON
26th Feb 45.

Ernest Weeks

(E.G. Weeks) Major-General
i/c Administration
Canadian Military Headquarters.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E.42314 Pte DERAICHE NR 2 Motor Amb Convoy Inc 1 Cdn Adm Tpt Coy
H.95806 Pte McPHAIL DM

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA-40	NOT GUILTY	NOT GUILTY	
(ALT) 2nd	AA-40	NOT GUILTY	GUILTY	
3rd	AA-11	NOT GUILTY	GUILTY	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence of ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which Nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

E 42314 Pte N.R. DERAICHE
H 95806 Pte D.M. McPHAIL

The accused DERAICHE, to undergo detention for a period of 90 days, a to be put under stoppages of pay until he has made good the sum of £1/4/0, a portion of the damage occasioned by the commission of the offence in the first charge, and,

The accused McPHAIL, to forfeit all ordinary pay for a period of 60 days and to be put under stoppages of pay until he has made good the sum of £1/4/0, a portion of the damage occasioned by the commission of the offence in the first charge.

15 Jan/45
Date awarded

(sgd) D.L. REDMAN LtCol
President

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that~~ the accused be ~~not~~ committed to prison or detention barracks ~~until further order~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) "J.H. Roberts" Maj-Gen.

Date 15 Jan 45 Commanding COMD CDN RCT UNITS Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E 42314 Pte Deraiche, N.R.	16 Jan 45	"J.S. Hardman Capt"
H 95806 Pte McPhail, D.M.	16 Jan 45	"A.G. Gadsden Capt"

"DO No 5 of 16 Jan 45"

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 CPA96 (In lieu of AFA81) 40/2 & 3/1000 16(44)

4X-150 4X-151 4/38B

RECEIVED 22 Jan 1945

FIELD GENERAL COURT-MARTIAL

Convened by Order of Maj-Gen JH Roberts DSO MC Comd CRU dated 4 Jan 1945

ACCUSED.

COPY

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E.42314	Private	Normand Roger	DERAICHE	2 Motor Ambulance Convoy Inc 1 Cdn Adm Tpt Coy
H.95806	Pte	Donald Morris	McPHAIL	

RECORD REVIEWED AT CMHQ BRANCH O.M.H.S.

Lt Cpl Leland Capt. 45 Fuller

for Commanding Officer's Comments of DERAICHE

COPY OF PROCEEDINGS OF TRIAL. for documents of McPhail see file

Held in the Fd in (country) England on (date) 5 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet/s attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is/are amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is/are brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is/are fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. Provision to accused: Do you object to an interpreter? Ans~~

The ~~Interpreter~~ is sworn.(1) Do you object to S/SGT G RAWLE ICGRU as shorthand writer? Ans NO

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NC SAB

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L.	REDMAN	HQ CRU
Member	CAPT	F.R.	LAMBERT	ICGRU
Member	LT	J.F.	ROSSEAU	ICGRU
~~Judge-Advocate~~				
Prosecutor	LT	R.A.	COOPER	ICDN ADMTPT Coy
Defending Offr	LT	E.J.F	GAMACHE	ICASCRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment makes/(has no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is/are arraigned (separately) on all charges in the charge sheet.(1) The accused ~~does~~ (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, 72 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) (NOTE ATT)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans BOTH TO GIVE EVIDENCE you intend to call witnesses on your behalf ? Ans YES SIR Are they witnesses as to character only ? Ans NO SIR
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*) NOTE ATT

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2ND + 3RD charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (c), RP 43, 120(A).* 2. *AA 54(2), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans DERAICHE - NO SIR - McPHAIL, TO GIVE EVIDENCE SIR (NOTE ATT)
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 6, 46 fn 1.* *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *AFB 2151 or AFB 2196.* 2. *MFM 6.* 3. *RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES SIR - FOR EACH ACCUSED (NOTE ATT)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove, on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(2), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 69. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(7), KR Can 564.* 2. *RP 30. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused E-42314 Private Normand Roger Dersiche and H-95806 Private Donald Norris MacPhail, No.2 Motor Ambulance Convoy Increment to No.1 Canadian Administrative Transport Company, R.C.A.S.C., soldiers of the Canadian Army Overseas, are charged with.

FIRST CHARGE — CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

A.A. SEC 40

in that they,

At Swindon, Wiltshire on ? Dec 44 did use W.D. Vehicle No. C.A. 4236273 without authority, thereby causing damages to that vehicle in the amount of £2-8-0.

SECOND CHARGE — CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

A.A. SEC 40 (Alternative)

in that they

At Swindon, Wiltshire on ? Dec 44 were concerned in the improper use of W.D. Vehicle No. C.A. 4236273, thereby causing damages to that vehicle in the amount of £2-8-0.

THIRD CHARGE — NEGLECTING TO OBEY CANADIAN ARMY OVERSEAS ROUTINE ORDERS

A.A. SEC 11

in that they

At Swindon, Wiltshire, on ? Dec 44 did without authority carry two civilians in W.D. Vehicle No. C.A. 4236273, contrary to Overseas R.O. 3510 M.T.Drivers' Regulations, para 82.

Farnborough, Hants
29 December 1944

G. C. McArthur
(G.C. McArthur) Lt.,
Commanding Officer,
No.1 Cdn. [illegible] Tpt. Coy.,
R.C.A.S.C.

To be tried by Field General Court Martial.

In the Field
4 Jan 1945

J.H. Roberts
(J.H. Roberts) Major-Gen.,
Commander,
Cdn. Rft. Units.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 42314	Private		Normand Roger	DERAICHE)	2 Motor
H95806	Private		Donald Morris	McPHAIL)	Ambulance Convoy Inc, 1 Cdn Adm Tpt Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Jan 1945 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not ~~practicable~~ that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO		1 CGRU
Lt	To be detailed by CO		1 CGRU
[illegible]			
[illegible]		(Named or detailed, if any. RP 106.)	
[illegible]		(Must be named, if any. RP 106.)	

On Active Service in the Fd

in England (Country.)

Date 4 Jan 1945

(Signed personally. RP 105 fn 2.)
(J.H. Roberts)
Commanding Canadian Reinforcement Units
Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AFAAS (to take place of AFAA) 40/7 & 8/1609) (4601)

(See overleaf for oaths and notes for use on trial.)

CASE OF

E42314 Private Normand Roger DERAICHE and H95806 Private Donald Norris McPHAIL.

After the accused had both been arraigned, the President asked the Defending Officer if either of the accused desired separate trials to which the Defending Officer answered NO.

FIRST WITNESS FOR THE PROSECUTION

Lt WH CRAIG, 1 CASCRU, being duly sworn states:

I was the officer in charge of No 2 MAC Incr from about 19 Sep until 23 Nov 44. My HQ were at SWINDON. During that time the fitter and the DM were not permitted to take vehicles out on test runs without a work ticket properly signed either by myself or by the corporal despatcher, and in the latter case to be ratified by me. I recognize both the accused. McPHAIL was the fitter and DERAICHE was the DM.

CROSS EXAMINED BY DEFENDING OFFICER

WHAT SORT OF A WORKSHED DID YOU HAVE AT THE TIME YOU LEFT?

We had two DMs and a fitter and we had a shack and a tarpaulin stretched over a couple of trees.

During the whole period we were up there we had to scrounge parts all over the place, and that was done by various people and the sergeant did most of it; some of it was done by McPHAIL and DERAICHE sometimes went with McPHAIL. The work ticket depended entirely on the job. If, for example, there were runs from airport to hospital, we gave them a work ticket for the trip and return. If it was a work ticket for a duty vehicle for use in the area, a general area work ticket was made out for the day.

We had 33 ambulances, one 60-cwt, 4 MCs and one 8-cwt.

The fitter was kept very busy and sometimes he worked nights. I don't think DERAICHE worked more than one or two nights all the time I was there, sometimes they worked together.

Sometimes spotlights had to be fixed at night. If they took a vehicle to test its spotlights, they would have to do it after dark. Our camp was about three miles from SWINDON. I did not make an organized check of the condition of the spotlights. I would check them when they were on the road. I cannot remember checking the vehicle CA 4236273.

Our ambulances were used to carry the wounded from BROADWELL Aerodrome and from DOWN ALDNEY Aerodrome to any one of the Canadian Hospitals at WATFORD, BRAMSHOTT, TAPLOW, BASINGSTOKE and CONNAUGHT, also we took wounded to an English hospital at STRATTON.

While I was there we evacuated patients after midnight a few times. Normally the convoy left the aerodrome before midnight.

The spotlights on ambulances are very bright because there was heavy American traffic and the Americans have very bright lights; it gave the patients being carried protection. We got these lights about the beginning of September. We scrounged them from time to time.

If I wished to test spotlights, I would take the vehicle out on the road to do it.

Myself and the corporal despatcher were the only persons authorized to sign work tickets. Either one of us were always on duty.

RM

Normally while I was there we got the all clear from the aerodrome for that night, but sometimes I was on duty trips. There were two despatchers, both were corporals. Sometimes they had to hunt for me to get work tickets signed. Ordinarily the driver of the vehicle would come to me and get a work ticket signed.

I cannot remember anything peculiar about ambulance CA 4236273, I think that RUSSMAN was the driver of it. He also was my batman and he did not use it very much.

We used the 60-cwt for recreational transport. I don't recall any of the ambulances being used for recreational transport. I used a 8-cwt. There were about 93 in all in the detachment. We thought that the 60-cwt and the 8-cwt were not enough for recreational transport, this accounting for the witnesses coming to the trial in an ambulance from the detachment. That was the normal way they would be sent. We never carried civilians in the ambulances for recreational purposes to my knowledge.

We had a parade at 0830 hrs, one at 1200 hrs and the last at 1800 hrs. The drivers, with the exception of hut orderlies, were present. Medical orderlies were present, the cooks were not. McPHAIL was not required to be present. Also latterly I excused DERAICHE from parades. From time to time, I warned the parade that vehicles should not go out without work tickets. I think DERAICHE must have been present at one of such parades, but McPHAIL, as a fitter, never went on parades to my knowledge. My statement would be to the effect that no vehicle would go without work ticket.

To my knowledge, no fitter or DM went on tests without a work ticket. I have seen them doing test runs on the road, I never stopped them to see if they had a work ticket.

Our park was in two sections. One was enclosed and the other across the road was not enclosed. At night we had one guard on the camp side of the road and the other guard was in the park across the road.

RE-EXAMINATION

Normally a vehicle would go out scrounging but an authorized work ticket was signed. I have seen vehicles taken on the road for the purpose of testing spotlights.

When personnel were sent to HQ 2 MAC, it was usually because the ambulance needed some repair.

RE-CROSS EXAMINATION

Orders were that no persons should come to FARNBOROUGH in an ambulance unless the ambulance had to come down for repair. The distance is 65 miles.

In the opinion of the Court it is unnecessary to comply with RF 83(B)

SECOND WITNESS FOR THE PROSECUTION

Lt GH RINEHART, 2 MAC Increment, 1 Cdn Adm Tpt Coy, RCASC, being duly sworn states:

I recognize the accused. Since 22 Nov I have been officer in charge of the detachment at STINSON.

On the morning of 3 Dec 44, I went out to the camp approximately 1100 hrs. L/Cpl LAVIGNE informed me that one of our vehicles had be

involved in an accident the previous night.

I was informed by my sergeant that there was going to be an identification parade at 1200 hrs. I then went over to the vehicle park to check the ambulances and found that CA 4236273 had been damaged. I saw the vehicle.

The police had not arrived at 1230 hrs for the identification parade, and found that they would not be there before 1430 hrs. I later met the accused in the drying room, and told them they would have to be on identification parade at 1430 hrs. They told me they had heard nothing about the parade. At 1430 hrs the identification parade was held. After certain things had happened on that parade, I tried to locate HQ but could not get them. I got in touch with HQ the next morning. I then had both accused paraded to me. I did not give them a legal caution. I reported to Col McARTHUR. I them took statements from various witnesses.

CROSS EXAMINATION

I did not authorize either of the accused to take ambulance CA 4236273 on any trip on 2 Dec 44. This is the work ticket for that ambulance for the period including 2 Dec 44. (Work ticket marked Exhibit 1 by Court). It is not signed by me, it is signed by Capt VAN LUVEN who is CO of the entire increment at FARNBOROUGH. It was in fact so signed on 1 Dec 44. I never at any time authorized any vehicle to be taken out on test or otherwise without a work ticket. They could take a vehicle without a work ticket to gas up at STRATTON. That is approximately 1½ miles away.

CROSS EXAMINATION BY DEFENDING OFFICER

I did not write out any part of the work ticket (Exhibit 1). I first saw this work ticket in the morning of 3 Dec 44 to the best of my recollection. It was signed by Capt VAN LUVEN when I saw it on 3 Dec 44. The work ticket shows a duty run from SWINDON to FARNBOROUGH and return 1 Dec 44. Capt VAN LUVEN was not at SWINDON but at FARNBOROUGH on 1 Dec 44. The work ticket is dated 1 Dec 44. It is very probable from the condition of this work ticket that the vehicle went from SWINDON to FARNBOROUGH without the work ticket signed and that it was signed by Capt VAN LUVEN when the vehicle got to FARNBOROUGH.

I saw the accused DERAICHE on 30 Nov about going to the QM at FARNBOROUGH with certain papers. I told him about the trip, he was to get a work ticket the next morning. I did not give a work ticket. Ordinarily the work ticket would have been issued the next morning. I cannot remember whether or not I saw McPHAIL that night.

All work tickets could be signed by myself or Sgt YEATMAN. No one else was authorized to sign work tickets. We used the orderly corporal as despatcher but he had no power to sign work tickets.

On the evening of 2 Dec I left camp at approximately 1830 hrs and was in my billets in SWINDON. I saw Sgt YEATMAN on duty before I left. That day the all clear came from the aerodrome at 1730 hrs.

While I was there I held a parade at 0830 hrs and another at noon and the last one at 1700 hrs. I have seen each of the accused on parade but I cannot say they were always on parade. Cooks were excused. There is no excuse given to the fitter. As far as I know the two accused were the only fitter and DM which we had. There is enough work to keep

them busy but they did not have to rush. The vehicles were not moving much at that time.

At about 1730 hrs, 2 Dec 44, the two accused spoke to me in the men's kitchen. They were discussing some work they had done that afternoon and they said they had got the 60-cwt in working order again. I said: "That's fine, we will be able to have recreational transport this evening to go to SWINDON - 4½ miles away". We had on a previous night used an ambulance for recreational transport but not on any other night while I was there. The accused were talking with me about spotlights. I mentioned that I had noticed the fog lights were not adjusted properly on some of the vehicles and I would like them to look into the matter. Spotlights should be adjusted in accordance with Routine Orders, so that the light would shine in the ditch 20 or 25 feet in front of the vehicle. That did not mean they would have to go on the road to test them. They could test right in our own camp. It is not necessary to go on the road to test spotlights. I was approximately 10 days with the detachment. I say it is not necessary to go on the road to test spotlights. I did not tell the accused to test the spotlights, I told them to adjust them. I thought they could do this in the car park. The cars are parked in the park across the road. There is a public road running through this park but the traffic is very light. I am not sure whether CA 4236273 was parked there on 2 Dec 44 or not. I did not tell them where to go to make the adjustment. I could not swear that they did not go on these runs without tickets. I had seen them going down the road in a vehicle for which I had not signed a work ticket, but YEATMAN might have. I had intended to put a stop to this practice. I had seen them do this once 3 or 4 days before the accident.

I don't recall mentioning on parade that vehicles should not go out without work tickets, but Part I Orders were published here at FARNBOROUGH and were on file in the orderly room. They are not posted in the living huts or the workshop. The detachment has only one copy. They were not then being read on parade.

We had two guards on at night. One was at the gate of the camp to see that no vehicles left without work tickets. The other guard was to patrol in the park across the road and his duties were the same. As far as I know these guards were on duty on the night of 2 Dec 44. They were on from 1900 hrs until reveille. The guards were changed every three hours. It is the duty of the orderly corporal to inspect the guards. I lived in billets in town, I had my meals there.

The orders were that ambulances were not to be used except to carry wounded. I received order from FARNBOROUGH to send an ambulance with Pte DERAICHE to FARNBOROUGH to attend a court martial. I believe that one civilian was carried. At no times were ambulances used to carry civilians on recreational transport.

I cannot remember signing any work ticket for the accused to test vehicles. I don't recall warning them on parade that they needed work tickets. I did not think it was necessary. I never in SWINDON or elsewhere stopped my vehicles to see if they had a work ticket, but I often took the number and when I returned to camp asked Sgt YEATMAN respecting the authority. I took alternate duty at night with the Sgt staying until 1030 p.m. I never signed a pass for Sgt YEATMAN to be off. Sgts can stay out till midnight without a pass. They had my telephone number if any emergency arose. I was never telephoned.

I cannot recall how often I saw either of the accused on parade but I did see them.

I inspected the workshop daily when I was there. There is no necessity for either of the accused to do any night work. When Mr CRAIG was there they had more vehicles and the ambulances were going night

and day. While I was there the ambulances were not moving much.

I never signed a work ticket for either of the accused to go and scrounge parts.

RE EXAMINATION BY PROSECUTING OFFICER

Other ranks usually come into the orderly room to get their work tickets. The Part I Orders are accessible to them there.

I gave no direct order to either of the accused to fix the spotlights on that vehicle that night. I am not a mechanic but it seems to me possible that spotlights could be adjusted in daytime.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

THIRD WITNESS FOR THE PROSECUTION

Capt HM LAURENCE of 4 SRD, RASC, being duly sworn states:

Going to my billets about 2315 hrs on 2 Dec 44 I heard a crash nearby and went in the direction from whence it came. I went to see if any help was needed. My billet is at 12 Whitworth Road, Swindon. When I got around the corner I found a jeep and an ambulance had collided and the driver of the jeep appeared to be injured. He was an American. After examining him on the side road with other people who were present, I asked one of the soldiers with the ambulance to take him to hospital with their ambulance and they told me they could not on account of the damage. I then asked to pull the ambulance on the side of the road and got the man in to keep him warm. I told them I was going down to a nearby fire station to ring up an ambulance to collect the injured man. This I did and when I came back I found the ambulance and the injured American had disappeared.

I spoke to two soldiers about taking the injured man in the ambulance when they told us the ambulance had been injured.

It was not a particularly dark night. As a result of a telephone call which I received next morning, I went up to the Cdn lines about two miles outside SWINDON. I got there between 1100 and 1200 hrs. I was asked to inspect a parade to see if I could identify any of the men I had seen at the scene of the accident. I think there were approximately 40 men on that parade. I inspected them going around all three ranks. I did see one man on that parade whom I had seen the night before, and I identified him. This is the man pointing at the accused Pte McPHAIL. I saw another man on the identification parade who I was a bit uncertain about, but I went back to the parade a second time and I was then certain of the second man. I now say that the accused DERAICHE is the second man whom I saw on the night of the accident. He is the second man whom I identified at the parade.

CROSS EXAMINATION BY DEFENDING OFFICER

On the identification parade I did not have either of the accused moved out of the ranks. Neither of them in my opinion knew that I had identified them. They did not hear what I said to Lt RINEHART.

When I saw the ambulance on the night of 2 Dec there was a lot of petrol under the ambulance and under the jeep, the jeep being somewhat underneath the left of the ambulance. I could not say whether or not the driver of the jeep had been drinking. I saw no evidence of drink.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

INV

FOURTH WITNESS FOR THE PROSECUTION

Mr Frederick CRUMPLET of 106 Kingsdown Road, Upper Stratton, Swindon, Wilts, being duly sworn states:

On 2 Dec 44 at about 11.00 p.m. I was riding my bicycle along Cricklade Road in SWINDON and an ambulance passed me going very slowly. I followed close behind. I thought the ambulance would turn right at the corner but the ambulance pulled in the kerb its front wheels being turned as though he were going to turn into a road on the right. Then another vehicle came from the opposite direction and collided with the ambulance. After hearing the crash, I put my bike down on the opposite side of the roadway and I went over to the ambulance expecting there were some wounded being carried in it. Two ladies got out and I did not notice how they were dressed, I thought they must be there to attend the wounded.

I went around the left side of the ambulance where the jeep had run into it to see what had happened. Then saw two soldiers trying to push the jeep back from the impact. I helped them push the jeep back. We shoved the jeep back and parked it on the other side of the road and there was a man in uniform lying on the verge across the pavement and the two females were leaning by him to see what could be done for him. I knelt down too. Then an officer came along and he ordered one of the soldiers to put the injured man in the ambulance where he said it would be much warmer. The soldiers put the wounded man in the ambulance. The ambulance then moved off with the wounded man. I would not know these soldiers if I saw them again.

CROSS EXAMINATION

The ambulance was moving at between 10 and 15 miles per hour when I was following it on my bicycle. I did not see the lights of the approaching jeep but I could not have seen it as I was behing the ambulance. There were no lights on the jeep after the crash. I don't know how fast the jeep was going and I heard screeching of brakes and tires and there was considerable impact.

In the opinion of the C urt it is unnecessary to comply with RP 83 (B)

FIFTH WITNESS FOR THE PROSECUTION

Miss Peggy Rudman of 10 Hurst Crescent, Pinehurst, Swindon, Wilts, being duly sworn states:

Some weeks ago I went to a dance with my sister in Harding Hall, Gorse Hill, Swindon. We came out of the dance at 11.00 p.m. We were with Don and Frenchie. That is Don pointing at McPHAIL and that is Frenchie pointing to DERAICHE.

We got into the back of the ambulance with Frenchie and Jean. Don drove the ambulance. We started to drive home. I looked through the sliding panel and found that we had gone too far so I told Don to turn back. He made a slight turn and then there was a crash. We got out of the ambulance and we went around to the front and there was an American there by the front of the ambulance. There was an officer there and he took the American on the grass on the side of the road and then my sister and I went over to where the American was lying. He appeared to have a bad cut on his head. I helped to wipe the blood off his head. The American got up and went back to his jeep and then my sister and I went home.

I had met Don and Frenchie before twice on some previous nights.

I was present at an identification parade at Old Town Police

Station at SWINDON. I did not identify them as being present on that parade. They were on the parade, I saw them there.

CROSS EXAMINATION BY DEFENDING OFFICER

I did not notice any loud crash when the jeep hit the ambulance, but the ambulance doors were closed.

I think we were driving fairly slow.

In the opinion of the Court it is unnecessary to comply with RP 83 (B)

SIXTH WITNESS FOR THE PROSECUTION

Miss Jean RUDMAN, of 10 Hurst Crescent, Pinehurst, SWINDON, being duly sworn states:

On the night of 2 Dec 44 my sister and I and Frenchie and Don came out of a dance. It was about 11.00 p.m. That is Frenchie pointing to DERAICHE and that is Don pointing to McPHAIL.

I had known Frenchie about three weeks before this date. I met Don a couple of nights after I met Frenchie.

My sister and I and Frenchie got into the back of the ambulance. Don went to drive. We started off and we were going along when my sister pulled the sliding panel down and we told Don that we passed our turning. He said he would take the next turning. Then we got to Stratton X-roads and we stopped. We went forward a little and then we stopped again and then there was a bump. We got out of the back of the ambulance. We went around and we saw an American. He was being helped out of his jeep which had run into the ambulance. Someone took the American onto the grass and laid him down. We stopped there for a bit and then my sister and I left.

CROSS EXAMINATION

My home is on the way from SWINDON to the Cdn camp where Don and Frenchie lived. I live not far from STRATTON X-roads. The ambulance was stopped before the jeep hit it. We had not been driving very fast.

In the opinion of the Court it is unnecessarty to comply with RP 83 (B)

SEVENTH WITNESS FOR THE PROSECUTION

Mr Stanley James SKEDDON of 40 Lindon Ave, Pinehurst, SWINDON, Wilts, being duly sworn states:

One afternoon early in Dec, the accused DERAICHE came into my home. During the conversation an accident was mentioned. My wife asked DERAICHE which accident it was and he turned to the wife and said that Jean RUDMAN could tell her all about it. Jean RUDMAN and her sister Peggy were also present in my home, and Jean RUDMAN then told the wife about the ambulance and the jeep. They had been coming home from a dance, had missed a right turning, that while they were turning a jeep had hit the ambulance, and that when they got out there was an American on the side of the road with blood on him. They said they did not stop long. The accused did not deny anything we said. During the following day DERAICHE told the girls not to worry, that there was not much said and there was nothing to worry about. I had seen DERAICHE before at a

cafe which I had been running at Cricklade Road. I did hear the name of Don mentioned as driving the ambulance but I never saw him.

EIGHTH WITNESS FOR THE PROSECUTION

C121948 Pte FRASER, AK, 2 MAC Incr to No 1 Cdn Adm Tpt Coy, being duly sworn states:

On the night of 2 Dec 44 at about 2330 or 2345 hrs, I went to the vehicle park together with the accused whom I now recognize. We looked at all the vehicles, we saw an ambulance which was damaged on one side. The carrier for the petrol tank was damaged. I did not notice its number.

CROSS EXAMINATION

I never drove an ambulance. I never noticed any ambulance going out without a work ticket, but I was working in the kitchen. I don't know of an ambulance ever being used for recreational transport, I went into town in a 60-cwt that night.

In the opinion of the Court it is unnecessary to comply with RP 83 (B)

NINTH WITNESS FOR THE PROSECUTION

Arthur John BARNBROOK, PC 111, SWINDON, Wilts, being duly sworn states:

On Saturday 2 Dec 44 at 2330 hrs I was on duty at Gorsehill Police Station, SWINDON, when I received a telephone message that an accident had occurred at Upper Stratton X-roads, SWINDON. I immediately went there arriving at 2340 hrs where I saw Capt LAURENCE who informed me that an accident had occurred. I saw an American jeep parked on a piece of waste ground on the offside of the road. This jeep had been very badly damaged at the front. I also found 4 beer bottles on a piece of waste ground, 3 empty and one full. (Beer bottles marked Exhibit 2).

The American military police arrived with their jeep, Pte FOSTER. We then proceeded to Stratton St Margaret Hospital and in consequence of what I was told by the orderly I went to Stanton Fitzwarren, Hants Copse. Later I saw two lines of ambulances and examined them and found one CA 4236273 which was damaged. There was a cut on the near side panel which correspond with the bonnet peak of the jeep if a jeep had hit it there. The petrol carrier just underneath the chassis and the petrol carrier tank which is on the same side was punctured at the rear. At the scene of the accident there was quite a drop of petrol on the road.

On the following day I accompanied Capt LAURENCE and the American military police to Stanton Fitzwarren. There was an identification parade and Capt LAURENCE identified two men. He said nothing in the hearing of these two men whom he identified. I later assisted Sgt Hammond of the SIB in his investigation

In the opinion of this court it is unnecessary to comply with RP 83 (B)

The prosecutor stated he did not feel it necessary to call the following witnesses:

A103064 Pte EARNSEY, JJ.
B89356 Pte BUTTS, EH.
D138858 Pte JUSSEAUME, R.
L154284 Pte NEVARD, RA.

The Defending Officer said he did not require them for cross examination.

The Prosecutor said that 20316224 Pte LOVE, RVL, was not available as he was outside of ENGLAND.

TENTH WITNESS FOR THE PROSECUTION

Maj JH CORNELL, No 1 Cdn Adm Tpt Coy, being duly sworn states:

I submit in evidence printed copy of ORO 3510. (Order marked Exhibit 3).

I also produce MT Drivers Regulations authorized by the said ORO. (MT Drivers Regulations marked Exhibit 4).

I am Maj JH CORNELL, Officer in Charge of workshop, No 1 Cdn Adm Tpt Coy, of which 2 MAC in an Incr.

I examined vehicle CA 4236273 on 30 Dec 44 for the purpose of making out an estimated cost of repair and I found the following:

Left side of body damaged
Petrol carriers damaged
Petrol tank damaged

Labour, 16 hours at three shillings an hour equals £2.8.0.

CROSS EXAMINATION

Q. Why did it take so many hours to repair these three things on the ambulance?

A. The left lower body panel was dug in. That necessarily means we have to remove it to straighten it, which takes a long time removing all the screws. That takes a body man. It also has to be painted. The petrol carrier has to be removed and straightened. It takes a lot of work to fix a petrol carrier. There is a great deal of work to do in repairing a gas tank, all of which would take 16 hours at three shillings an hour. Sixteen hours was an estimate, but I am sure if we checked it up it took longer than that.

In the opinion of the Court it is unnecessary to comply with RP 83 (B)

ELEVENTH WITNESS FOR THE PROSECUTION

D105030 Pte LAVIGNE, HC, 2 MAC Incr to No 1 Cdn Adm Tpt Coy, being duly sworn states:

I was the orderly NCO for the detachment on 2 Dec 44. I went on duty some time in the afternoon and I came off the following morning.

There was a trip authorized to TAPLOW during my tour of duty. There were no other trips authorized except the recreational trip to SWINDON with the 60-cwt. There was no authorized trip for vehicle CA 4236273.

CROSS EXAMINATION

I think I went to the SWINDON detachment in October and I was

there until after 2 Dec 44. I was a despatcher when Lt RINEHART was there. Either Mr RINEHART or the Sgt signed the work tickets. Lt RINEHART gave me permission to sign work tickets if he or the Sgt were not there. I did not sign any on the night of 2 Dec. I think Lt RINEHART signed the ticket for the recreational transport.

I remember something about DERAICHE coming to FARNBOROUGH on 1 Dec.

I do not know of any vehicle going out from there without a work ticket. I think the accused took out vehicles on test runs without work tickets. It was generally taken for granted that they were allowed to take vehicles out on test runs without work tickets. If they want to test a vehicle they could go to SWINDON, that is approximately four miles away. I think STRATTON X-roads is about half way between the camp and SWINDON.

I have seen a few Part I orders on the file in the office. They are on the wall on the right-hand side facing the outside door.

RE-EXAMINED

I could not say whether it was accepted by the officer that the accused could take cars out for tests without work tickets.

I imagine that anybody coming in would have to ask to see Part I Orders before they were allowed to read them.

In the opinion of the Court it is unnecessary to comply with RP 83 (B)

Lt RINEHART, SECOND WITNESS FOR THE PROSECUTION, recalled, still under oath states:

The distribution of MT Drivers Regulations (Exhibit 4) as laid down by this unit is one MT Drivers Regulations per vehicle. I did not have a chance to check while I was there whether this was being complied with. I have seen some in the front part of vehicles at SWINDON.

CROSS EXAMINED

Q. Of the 93 men in your detachment, how many are drivers?

A. Approximately half or perhaps a little better are drivers. I don't know whether either of the accused have driving licenses. I did not examine the drivers' licenses in the detachment.

The Prosecutor produced in evidence certified copy of Unit Part I Order No 53 marked Exhibit 5 by Court. The Prosecutor produced certified copy of Unit Part I Order No 17 marked Exhibit 6 by Court.

In the opinion of the Court it is unneces sary to comply with RP 83(B)

THE PROSECUTION IS CLOSED

EVIDENCE FOR THE DEFENCE

FIRST WITNESS FOR THE DEFENCE

E42314 Private Normand Roger DERAICHE, being duly sworn states:

I have never seen MT Drivers Regulations (Exhibit 4) before. They were never issued to me. I have been in ENGIAND about two years. I am a qualified driver. I was never issued with any drivers regulations. They were never read on parade to me. I never saw Part I Orders at SWINDON detachment. I never go on parade. Sgt YEATMAN told me I did not have to go on parade.

I often go on road tests. Some times you will drive a vehicle 30 miles without finding trouble. I never got a work ticket for going on a road test. I recognize this work ticket (Exhibit 1). I saw this work ticket on 30 Nov. I went to the Orderly Room. I was a witness in a court martial at FARNBOROUGH, I was to take the other witnesses and I drove the car down to FARNBOROUGH on 1 Dec. Lt RINEHART gave me the work ticket and the log book. There is no copy of Exhibit 4 with the log book. When I got the work ticket there was no officer's signature on it. It was signed by Capt VAN LUVEN at FARNBOROUGH at about 1600 hrs on 1 Dec 44. It was noticed that the ticket was not signed. There is no repqir required for the ambulance which we drove down here in.

In the afternoon of 2 Dec 44, it was Saturday, someone came for McPHAIL and myself.

At about supper time we went in the kitchen, there we saw Lt RINEHART and he said he had received an order from CMHQ to have the spotlights repaired in every vehicle, so that they would turn on the left ditch 20 feet in front of the vehicle. I told him we would have to work at night and that we could not adjust it in daytime. Me and McPHAIL went back to the hut and we would work that night and adjust the spotlights. We waited until it was dark. At about 2000 hrs we went to our tool shed and took some tools and we went over to the park across the road. We decided to take CA 4236273 because McPHAIL wanted to test the seal beam as he had previously worked on it. McPHAIL said: "I don't think it's really good like that. We had better take it on road test where we will pass other vehicles and see how it works". I went to the tool shed and got the "On Test" sign. I put this sign in front of the ambulance and we went to SWINDON. That is about 3½ to 4 miles.

Our ignition cut off. It took us at least 1¼ hour to find the trouble, and we took Cricklade Road to go back to camp.

I said to McPHAIL "I have somebody to see at the dance". I saw my girl Jean RUDMAN and her sister Peggy. McPHAIL stayed outside. I danced a couple of dances with her. I saw McPHAIL come at the door. He said "It's time to go, come on". I said "Let me dance the last dance". The girls came out with us. I said to McPHAIL "We will take the girls home, it is on our way, we have to pass where they live". He said "OK". They got in the ambulance with me and McPHAIL drove. We went down the road and the girl said he missed the turning. I said to McPHAIL "You missed the road". He said he would turn at the next intersection. He missed the next intersection because we had to pass a bicycle. He went to turn around, something hit us. We were just stopped when we were hit. I had not seen any vehicle approaching. I could have seen through the slide if it had lights. I heard the crash and I and the girls got out of the ambulance. I saw the American in front of the vehicle. I looked in the jeep, there were no lights

on the jeep. I saw the ambulance with a gas tank busted. I asked the American what had happened. He said "Look at my head, I have a sore knee. I took him on the grass and my girl and I laid him down. The officer told us to take the American to hospital. The American told us he would be paying for this for the duration as he was on the loose. We then took the American to hospital.

We made no accident report because we thought we could repair the ambulance ourselves. We could have done that in two hours each.

I saw many guys drive an ambulance to SWINDON if they wanted to go there. I never heard it was against the rules to take vehicles without a work ticket. I had to take a civy to SWINDON. That was one of the witnesses who was at the court martial. I asked the assistant adjutant for a chit to authorize me to carry the civilian. The Sgt told me I would have to wait for this chit. The assistant Adjutant told me I did not need a chit to carry a civilian in No 1 Adm Tpt. He said "Go ahead".

Q. Who gave orders to repair vehicles?

A. The driver would come in if there was anything wrong, he would tell us to fix it.

CROSS EXAMINED

I qualified as a driver mechanic in Bordon, England, early in 1944. There was no driver in our unit. I was only taking a test down there and they passed me. I never took a driver mechanic's course in ENGLAND.

Q. Do you ever read Part I Orders?

A. They did not show Driver Mechanic Regulations. At SWINDON I never read Part I Orders, I never saw an order in the hut.

No officer ever authorized me to take out a vehicle on tests without a work ticket.

I cannot read English but I talk it. I went to Grade 5 in school in Quebec. No officer ever told me that I could take a vehicle on tests without work tickets. They have seen me out on plenty of occasions, but they never stopped me.

SECOND WITNESS FOR THE DEFENCE

H95806 Private Donald Norris McPHAIL, No 2 MAC Inor to No 1 Cdn Adm Tpt Coy, being duly sworn states:

I have been at SWINDON about four months before 2 Dec 44.

I have heard the evidence of DERAICHE and it is true but I would like to and wish to explain how the accident occurred. I was going to turn right into the cross street but a bicycle came along and that put me beyond the intersection. I thought I could still make the road to the right but when I partially turned I realized I could not. I stopped. It was a wide road and I intended to back up and make the turn to the right. I saw no light on the jeep that hit me. I could have seen them come over a long distance.

DERAICHE did say to RINEHART that the testing of spotlights would have to be done at night. I did not hear the officer raising objection.

I had been quite busy while Lt CRAIG was there when the ambulances were moving all the time but was not busy when Lt RINEHART came when the ambulances were not moving so much.

I think it was proper to go out at night to test the spotlights. This can best be done on the road. It cannot be done within the park, as there were ambulances parked all along the kerb that Lt RINEHART referred to.

SWINDON is a very foggy area. The American traffic was heavy and the lights were bright, and our lights should be adjusted to counteract it.

I think that we made an average of 25 trips on the road on tests per week. We never used work tickets at any time while I was there. I was employed there as a fitter. I sometimes went to the American camp to get some needed supplies or welding without a work ticket, or to scrounge parts. I only had fitter's kit, no welding or other kit. I only had two work tickets all the time I was there. That was to enable me to go to NEWBURY salvage dump.

Q. Do you know this book (MT Drivers Regulations)?

A. I have not seen Drivers Regulations (Exhibit 4). I have no idea where Part I Orders are kept at SWINDON. I had no idea until today where they were kept. I was never on any of the regular daily parades at SWINDON.

At about 2000 hrs that night we decided we would fix the spotlights and we both walked down to the tool house. We picked up three wrenches, a screwdriver and a pair of pliers. We went down to the vehicle lines and backed CA 4236273 in position onto the road. We partially adjusted the light and decided to take it out on the road. We went back to the tool house and got the road test sign. Just before we reached SWINDON the ignition went off and it took a long time to find the difficulty.

I quite often had seen civilians in ambulances in the evenings.

CROSS EXAMINED

It would be dark enough to adjust spotlights after 1900 hrs, on 2 Dec 44. I can judge the distance of 20 feet more easily from a vehicle which is moving than from one which is stationary.

I was never authorized by anyone to take vehicles on tests without a work ticket but it is a known fact throughout the camp that it was done.

I was trade tested as a fitter in Canada and I took no course in England. I am still RCEME. I never took a driver's test in England.

I go to the orderly room an average of once a day. I never saw Part I Orders up there. I have read Part I Orders in other camps.

RE-EXAMINATION

I did not have an English driver's licence at the time of the accident. I got one after the accident. I was in the orderly room one day and the clerk was making application for some other licences. He asked me if I had one, when I said NO, he put me down for one. I have my licence but was never given MT Drivers Regulations. I had a driver's licence in Canada.

THIRD WITNESS FOR THE DEFENCE

K98470 Sgt YEATMAN, MFJ, RCASC, being duly sworn states:

I was the senior NCO and the only Sgt at SWINDON detachment. I went on parades and I never saw DERAICHE or McPHAIL on parade. There was quite a bit of work at the time and they were excused parades so they could do it.

I don't know whether the accused needed work tickets to go on test runs. I never signed any for them. I could not tell you whether they did in fact go out on tests from time to time without work tickets. I have seen them on the road on occasions when I had not signed a ticket. I was away on the night of 2 Dec 44.

Q. How do you fix spotlights?

A. I am a DM. It would have to be dark to fix spotlights properly. I think you could do it stationary if you had a level piece of ground to do it. You should have a wall or something white to fix spotlights. Where I have been it is the custom to try it on the road after it has been fixed.

CROSS EXAMINATION

When Part I Orders came in they were put in the Orderly Room on a file on the wall near the outside door. They were accessible to anybody who wanted to see them. Drivers would have to come to the Orderly Room to pick up their log book and ticket. They could read Part I Orders then.

ADDRESS BY THE DEFENDING OFFICER ON THE FINDINGS

With regard to the first charge, I think it has been brought out in the evidence of Lt CRAIG and Lt RINEHART that they tacidly approved vehicles going out on test runs and that on 2 Dec 44, Mr RINEHART made special mention to both the accused that as a result of recent orders the spotlights should be gone over, and after Private DERAICHE mentioning that this work would have to be done at night, had nothing else to say but "That is your job". He did not restrict them as to whether they should go. Four days previously he had seen them out on the road and without a work ticket and did not put a stop to it nor did he on that very night tell them that they needed a work ticket or remind them that they should have a work ticket. I think that this is brought out by Exhibit 1 brought in by the Prosecution, when they allowed Private DERAICHE to come all the way from SWINDON to FARNBOROUGH with an unsigned work ticket. We have the evidence of Sgt YEATMAN to state that he had seen both the accused out without work tickets and had not stopped them, and Private LAVIGNE stated that it was accepted practice that both the accused could go out without work tickets.

Regarding the second charge which reads that they were concerned with the improper use of WD vehicle thereby causing damage to that vehicle in the amount of £2.8.0, that is an alternative charge to the first one and insofar as they were testing this vehicle, I submit that it comes under the same argument that as a matter of fact they were tacidly authorized to use these vehicles in road test jobs without work tickets.

With regard to the third charge, I submit that at SWINDON conditions were such that civilians were being carried in ambulances without anything to the contrary ever having been published to the accused, that it was not unusual in SWINDON to see civilians riding in vehicles, and furthermore civilians were carried by the accused on the day previous to this accident happening and no chit was given to him giving him permission to carry these civilians. I think the Court can readily see that ORO 3510 was never brought to the notice of either of these men. You have under the evidence of Private LAVIGNE where he states that Part I Orders had to be asked for in order to be read and the evidence of the accused to the fact that Part I Orders were not posted in their huts.

ADDRESS BY THE PROSECUTOR ON THE FINDINGS

In respect to the first charge against the two accused persons I submit that regardless of the fact that they had reason to believe that there were other unauthorized trips from this detachment, that this would not excuse an unauthorized trip on their part. These two men have been working with vehicles for almost the whole time of their army career and would know or should know that they were required to have proper authorization before taking a vehicle away from vehicle park. As to the matter of it being necessary to go out on the road to adjust a spotlight it seems to me that adjustments of lights could be much more easily done from a standing vehicle. It has been brought out in the evidence that both the officers Lts CRAIG and RINEHART, that they had at no time given authority to take vehicles on road tests or for any other reason without proper authorization. It has been brought out by the various witnesses and by the witness for the defence that Part I Orders were available to all personnel at this detachment and it clearly states in these orders that all personnel will study MT Drivers Regulations.

To take from 2000 hours until 2300 hours to test a spotlight on a vehicle through the streets of SWINDON seems rather absurd. It has been brought out in the evidence of Lts CRAIG and RINEHART that ambulances were not to be used for recreational transport purposes. Yet the two accused persons did carry two civilians in the ambulance CA 4236273 and without authority.

I therefore submit that both these accused persons are guilty of both the charges, first and third.

THE COURT WILL BE CLOSED TO CONSIDER ITS FINDINGS

In the opinion of the Court it is unnecessary to comply with RP 83 (B)

PLEA OF MITIGATION IN THE CASE OF H95806 Private Donald Norris McPHAIL BY THE DEFENDING OFFICER.

McPHAIL is 29 years of age, single, parents living on a farm. He has two brothers and two sisters. He is the second eldest one of the family. He has a brother in the Navy.

In school he reached Grade 10. You have the date of enlistment and since that time has served in the armywwith a clear record.

I submit that having due to all the circumstances, due to orders given and the tacid approval that was given to taking out of vehicles,

although these charges look pretty serious, actually when you look behind them they are not serious at all.

PLEA OF MITIGATION IN THE CASE OF E42314 Private Normand Roger DERAICHE, BY THE DEFENDING OFFICER.

Private DERAICHE is 21 years old, He enlisted on 10 Jul 41 that means that he has now 3½ years in the army. He was 17 years old when he joined the army. He gave his age as 18 years old showing that he was quite anxious to join the army. His crime sheet actually is very light. This last entry he tells that he did this act because where he was sleeping was very cold, and he slept in the ambulance. He tells me that he has sore back suffering from kidney trouble. His category is L4. I think this charge which is the most serious is not very much.

These charges look quite terrific when you look at them but when you can see the circumstances behind these charges and I submit that on the second charge concerned with the improper use of a WD vehicle that the Court should not fail to judge the evidence which is produced to carry the third charge that is carrying civilians in the vehicle - that the second charge actually is just another wording of the first charge and I submit that these two charges are the same thing and that this second charge should not hold more water than the first one.

The accused has stated in the evidence he just reached 5th Grade in Quebec. He quit school when he was 14 years old and went to work immediately afterwards. It is I am quite safe in assuming after seeing the conduct of the detachment at SWINDON that he could feel that it was quite a proper thing for him to do to taking two civilians back from a dance which was on the way back to camp. According to the evidence the girls lived half way between SWINDON and the camp and actually they never reached SWINDON and turned around at the round about at the best place to turn to come back to camp.

THE COURT WILL NOW BE CLOSED TO CONSIDER ITS SENTENCE

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 th day of January 1945

D.R.C. Bedson
(D.R.C. Bedson) Lieut & Records Offr.,
No.1 Cdn Adm Tpt Coy, R.C.A.S.C.

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

H-95806 Private Donald Norris McPHAIL of the No.1 Cdn Adm Tpt. Coy, R.C.A.S.C.

NOTE.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be annexed to the proceedings.

See Para. 684, S.R., 1935.

*The numbers hereinstated should correspond with the number of Entries in the Conduct sheets, permanence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

1. The following is a fair and true summary of the entries in the Regimental and ~~xxxxxxxxxxxxxxxxxx~~ D.R.C. Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For Nil	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or,

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted,

or,

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

EXB
MM

3. The accused is not under sentence at the present time.

4. The accused at the present time is under sentence for [illegible] beginning on the [illegible] day of [illegible]

4. The accused has been in confinement, awaiting trial on the present charges for 811 days in Civil Custody, and 25 days in Military Custody.

Total [illegible] days.

Of which 811 days were spent in hospital [illegible]

5. The present age of the accused according to his attestation paper is 29

6. The date of his [illegible] attestation specified in his attestation paper is 24 Sep 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years, 3 months, days

8. The accused is entitled to deferred pay or gratuity in respect of [illegible] years' service.

9. The accused is entitled to reckon [illegible] years' service for the purpose of determining his pension, &c.

10. The accused is in possession of [illegible]

The Canadian Volunteer Service Medal & Clasp e.e.f. 5 Jul 44

11. *(If the accused is a warrant officer.)* The accused before he was made a warrant officer last held the regimental rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of , dated , and in his regiment (or corps or department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years,

In the rank of , years.

(Instruction.—*If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

(Continued overleaf.)

No. H 95806 Name McPhail, Donald Norris Corps R.C.O.C. No 10 Disct Depot, C.A. Date of enlistment 24 Sep 42 OC Badges ✓ 1st wef 24 Sep 44 Service or Proficiency Pay 1.50 3/17 MFM 6 (AFB 122) 40/PAS/136 (5412)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified True Copy.					
				D. R. C. Badson					
		Jan	45	Lieut and Records Officer 1 Cdn Adm Tpt Coy, R.C.A.S.C., Officer in custody of original document.					

Summary of Evidence in the case of E 42314 Pte.Deraiche N.R. and H 95806 Pte. McPhail D.N. No.2 M.A.C.Incriment to No.1 Canadian Administrative Transport Company R.C.A.S.C. soldiers of the Canadian Army Overseas.

By direction of the Commanding Officer the summary is taken on oath.

FIRST WITNESS:

C 121948 Pte Fraser A.K. 2 MAC Incr. No.1Can Adm Tpt Coy RCASC having been duly sworn states:

At about 2330 hrs on 2 Dec 44 I was standing in my billets at Hunts Copse preparing for bed, when Pte Jusseaume came in and told me that someone had 'phoned the orderly room about an accident. I then left my billets with Jusseaume and went to the kitchen. Deraiche and McPhail were in the kitchen and Jusseaume again mentioned the accident.Deraiche McPhail and myself then went to the vehicle park to see the ambulance, ~~which was damaged~~ This would be about midnight. We looked at the ambulance which was damaged on the left side about the petrol can carrier. I do not remember the number of the ambulance. We were in the vehicle park about five minutes. McPhail nor Deraiche made no mention of the accident in my prescence. I then returned to my quarters and went to bed. McPhail and Deraiche accompanied me to our quarters and we all went to bed.

The accused persons declined to crossexamine the witness.

Sgd.(A.K.Fraser)
C 121948 Pte Fraser A.K.

SECOND WITNESS.

Capt. H.M. Laurence - No. 4 SRD RASC having been duly sworn states.

At approximately 2315 hrs 2 Dec 44 as I was entering the gate at 12 Whitworth Road,Swindon, I heard a crash and went in the direction from whence it came. After proceeding approximately 50 yds. I came to Stratton Crossroads and found that an American Jeep and a Canadian Ambulancehad collided. I found that an American soldier had been injured. We helped him to the grass at the side of the road and I examined his injuries. After getting one of the occupants of the ambulance to pull the vehicle to the side of the road, I went back to the injured man and got the occupants of the ambulance tomove the injured man into the ambulance and told them I would go down the road to the Fire station which was approximately 150 yds away and telephone police also telephone for an ambulanceto take the injured manto the hospital as the occupants of The Canadian ambulance had told me that they did not have sufficient petrol in the damaged ambulance.

On my return to the scene of the accident, the damaged ambulance had disappeared and I was informed by some civilians who were present that they had taken the injured man to the hospital. Together with the civilians present I helped push the jeep to the side of the road. On the arrival of the police,I went home, after giving them my name and address

At approximately 1430 hrs 3 Dec 44 I was present at an identification parade at No.2 MAC No.1 Can. Adm. Tpt Coy RCASC at Hunt's Copse. I went up and down the ranks once and positively identified on man in the rear rank, but was a little undecided between a man in the center rank and a man in the front rank as being the second occupant of the ambulance I walked out of earshot of the parade and informed Lieut.Rinehart that I had positively identified a man in the rear rank as one of the occupants but was a little was a little undecided whether it was the mandin the center rank or the man in the front rank who had been the second occupant. He asked me if I would try to positively identify the second man and on second inspection I was quite satisfied that the man in the front rank and not the man in the center rank had been the other occupant of the ambulance at the time of the accident.

Lieut.Rinehart then informed me that the man I had positively identified on first inspection was Pte McPhail and that the man I had been a little undecided about was Pte Deraiche.

The accused persons declined to crossexamine the witness.

Sgd. (H.M.Laurence)
Capt. RASC.

THIRD WITNESS.

Mr.Frederick Crumpler, 106 Kingsdown Road, Upper Stratton, Swindon,Wilts.,having been duly sworn states:

On Saturday 2 Dec 44 at about 11:15 pm I was riding my pedal bicycle down Cricklade Road, Swindon into Kingsdown Road, Upper Stratton. Shortly after passing the fire station,Cricklade Road an Army Ambulance overtook and passed me travelling towards Cricklade. As I approached the junction I noticed that the ambulance had turned across the road, apparently the driver had missed the turning into Kingsdown Road. The ambulance had turned across the road with the front wheels against the kerb obstructing traffic coming from the opposite direction. I then heard a crash and on going to the ambulance found that a jeep had crashed into its near side.

Afterythe crash I saw two girls get out of the rear of the ambulance. I then walked around the other side of the ambulance to see what assistance I could give. I saw a jeep driven against the side of the ambulance and a man lying in the grass by the side of the road.

Just about this time an officer appeared and directed two soldiers to place the injured man in the ambulance and take him to hospital. The two soldiers moved the injured man into the ambulance and drove off. I then helped move the damaged jeep to the side of the road.

The two girls left the scene of the accident after the injured man had been placed in the ambulance.

Seeing that I could be of no further assistance I left for home. This would be about 11:40 pm.

Q 1. (Pte McPhail) What would you estimate the speed of the ambulance to be when it passed you?

A 1. No more than ten miles an hour.

Q 2. Was the night clear?

A 2. Yes,it was a moonlight night.

Q 3. You saw no sign of the jeep until after the accident?

A 3 No.

Q 4. Did you see the lights of an approaching vehicle,coming from the opposite direction?

A 4 No; I saw no lights.

Sgd.(F.Crumpler)

FOURTH WITNESS.

Stanley James Sneddon, 40 Lindon Ave.,Pinehurst,Swindon,Wilts having been duly sworn states:

I recognise the accused person Pte Deraiche also known to me as "Frenchie". I was present at an identification parade held at 1600 hrs 14 Dec 44 at the Old Town Police Station at Swindon. The purpose of the parade was to identify Pte Deraiche as the soldier with whom I had had conversation relative to an accident which occured on 2 Dec. 44. I identified Pte Deraiche as that man.

Regarding this previous conversation on or about the 5th of 6th Dec 44, Deraiche came to my house and Jean Rudman was present. Deraiche and Jean were discussing an accident which had occured between their ambulance and an American Jeep. My wife then asked Deraiche to tell her about it. Jean said that on the evening of 2 Dec 44 at about 11:00 or11:30 pm they, Jean and her sister Peggy, were coming home from a dance in Deraiche's ambulance. They had missed two turnings in the road which would have taken them home and were turning about in the road when a jeep ran into them. Jean said that she was in the back of the ambulance with her sister and Deraiche and someone else was driving. Jean further said that they saw an American from the jeep put on the side of the road. And then some woman in a fur coat came up and asked them if they had been in the jeep and if they had they had better " skip it". The girls then left.

The girls seemed to be worried and Deraiche told them that they had nothing to worry about if they didn't say too much.

Some days later when Deraiche was at my house he passed a remark that inquiries were being made about the accident.

I have known Pte Deraiche for sometime and he has be en in the habit of calling at my house occasionally with an ambulance and sometimes on a motorcycle.

The accused persons declined to crossexamine the witness.

Sgd. (S.J.Sneddon)

FIFTH WITNESS:
Mrs Evelyn Elsie Sneddon - 40 Linson Ave, Pinehurst, Swindon, having been duly sworn states:
I know the accused person Pte Deraiche also known to me as "Frenchie". I do not know the other man.
During the first week in December Deraiche came to my house to call on Jean Rudman. He told ~~me~~ Jean in my presence that he was on charge I then asked him what he had been up to. He told me that he had had an accident and he asked Jean to tell me the story. Jean said that on Saturday night 2 Dec 44 at about 11:15 pm an ambulance in which they had been riding had had an accident with a jeep. She said that a "Yank" had been hurt. He had a cut forehead and leg injuries. I asked her what they had done with him and she said that they had picked him up and taken him to hospital. She said that she and her sister Peggy had been in the back with "Frenchie" and that someone else she called "Mac" was driving.
I asked Frenchie a few times after that how the "Yank" was,he couldn't tell me. After the accident he had called at my house to see Jean
At a dance at Hardings Hall, Gorse Hill on 13th Dec 44 I saw Deraiche talking to Jean. I went up to them and asked "Frenchie" what his name was and he told me "Deraiche". This was after Jean had been interviewed by Sgt.Hammond. Jean told Deraiche about the interview in my presence. Deraiche told Jean not to split on him and he wouldn't split on her. I told Deraiche not to be a fool he might only get two years. He said he wanted to go home after the war and not to stay in the klink. Jean Told Deraiche that she wouldn't identify him on the identification parade.

Q 5.(Pte.Deraiche). Didnt I tell you that i thought I was on charge and not that I was on charge.

A 5 Yes.

Q 6. Didn't I ask Jean not to identify me before she volunteered not to do so.

A 6 All I heard was Jean say she wouldn't identify you.

Sgd.(Mrs.E.E.Sneddon)

SIXTH WITNESS:
Miss Peggy Rudman, 10 hurst Crescent, Pine hurst,Swindon, having been duly sworn states:
I know the two accused persons as Frenchie and Don.
(Witness points to Pte Deraiche as Frenchie and to Pte McPhail as Don)
On the evening of the 2 Dec 44 I was at a dance with my sister Jean Rudman at Harding Hall,Gorse Hill. After the dance ended at 11:00 o'clock pm we came out of the dance with Frenchie and Don and got into thier ambulance. I got into the back of the ambulancewith Frenchie and Jean and Don was driving. We started to drive home..I looked through the window in the ambulance and found that we had gone past the turning we should have taken. I told the driver to turn back. I think the driver tried to turn on the road. I then felt a crash against the ambulance. We got out of the ambulance and went around to see what had caused the crash. I noticed an American ~~xxx~~ soldier beside the ambulance holding on to his leg. I didn't notice the jeep. My sister and I took the American over to the grass on the side of the road. We saw that he had a cut on his forehead and he was holding his knee and he said that it hurt. The American then got up and appeared worried about his jeep. We, my sister and I, then left and went home.
I was present at an identification parade held at Old Town Police Station,Swindon, I didn't identify any of the soldiers on the parade. The two accused persons were on the parade. I didn't identify these two ~~pe~~soldiers because Frenchie asked me, at a dance held the previous Wednesday evening, not to identify him and I promised not to do so.

Q 7.(Pte McPhail) When you state that you looked out of the window in the ambulance you meant the slide which leads from the body of the ambu ance to the cab?

A 7. Yes.

Q 8. Were the lights on in the body of the ~~xxx~~ ambulance all the time?

A 8. Yes.

Q 9. When you opened the slide leading to the cab,did you see the lights of an approaching vehicle coming from the opposite direction?

A 9 No.

Sgd.(Peggy Rudman)

Seventh Witness:

Miss Jean Rudman, 10 Hurst Crescent, Pinehurst, Swindon. having been duly sworn states:

I know the two accused persons as Frenchie and Don - I know that Don's name is MacPhail. I do not know Frenchies last name.

My sister Peggy and I were at a dance held at Harding Hall Gorse Hill on 2 Dec 44. When the dance ended at 11: o'clock P.M. My sister & I with Frenchie and Don came out of the dance together. My sister and I and Frenchie got in the back of an ambulance Don got into the drivers seat. We then started home in the ambulance.

As we were going up the road my sister opened the slide leading from the body of the ambulance to the cab and looked out, and said that we had passed our turning. MacPhail said that he would take the next turning. We then went straight on and then I felt a bump against the ambulance. The ambulance was moving slowly at the time of the bump. After the bump the ambulance stopped. Frenchie then got out of the ambulance and Peggy and I followed him. We went around the front of the ambulance to see what had caused the bump, I saw someone holding an American soldier up. Whoever was holding the American took him out and laid him on the grass at the side of the road. My sister and I went over to the American to see what was wrong with him. We stayed with him for awhile and then my sister and I left to go home.

I was present at an identification parade held at Old Town Police Station Swindon on the 14 Dec 44XX I did not identify anyone present at that parade. The two accused soldiers were present on that parade. I didnt identify the two soldiers because Frenchie had asked me not too at a dance on the Wednesday night previous and I agreed not to identify them.

Q.10 QUESTION: (Pte Deraiche) - Wasnt the ambulance stopped at the time of the accident?

A.10 ANSWER: I don't know, I wasnt paying much attention up until the accident.

Q.11 QUESTION: (Pte McPhail) - Dont you think that I meant I would turn around and go back to the corner I had missed?

A.11 ANSWER: I thought you would take the next turning to the left.

Sgd(Jean Rudman)

EIGHT WITNESS:

A 105064 Pte Earnsey, J.J. 2 M.A.C. Increment, 1 Cdn Adm Tpt Coy, having been duly sworn states:

On the night of 2 Dec 44 I was in Stratton, Wilts. I had been visiting the pubs. I left Strutton between 2230 and 2300 hrs and walked back to camp. This would be about a mile and a half. When I arrived in camp I went right to my hut No 3. The walk to camp would take between HALF half an hour to three quarters of an hour. After I got into the hut I was talking and eating some lunch when McPhail and Deraich came in. I dont know how long I had been in the hut and I do not know what time it was.

Sometime later Deraiche asked me to make a statement that I had seen seen he and McPhail sometime after 2300 hrs and also that they came to bed at 2340 hrs. I do not remember whether he he asked me that night or the following day. I do not remember what time they went to bed that night.

After MacPhail and Deraich came in they left for somewhere and returned shortly afterwards:- The accused persons decline to crossexamine witness.

sgd (J. Earnsey)

NINTH WITNESS:

B-[illegible]356 Pte Butts, I.H. 2 MAC Increment, 1 Cdn Adm Tpt Coy having been duly sworn states:

On the night of 2nd Dec 44 I was driving the recreational lorry from our camp to Swindon. As previously arranged I was at the YMCA at about 2300 hrs to pick up the boys for the return trip to camp. I was in the YMCA and had a cup of tea. I did not see either Deraiche or McPhail in the YMCA.

They were not in the truck on the way back as far as I know. I arrived back at the lines about 2320 hrs. I went to the hut and talked for awhile and then went to the kitchen for something to eat. This would be about midnight or a quarter after. Deraiche and McPhail came in to the kitchen shortly afterwards. They had tea. We then left the kitchen and returned to our huts. We were all together including Deraiche and McPhail this would be about 0100 hrs.

After the identification parade held the following day. Deraiche came to me and asked me to state that I had picked McPhail and him up at the YMCA on the Saturday night and driven them back to camp in the recreational lorry. I agreed to do this.

Q.12 QUESTION: Are you sure that it was as late as 0100 hrs when we left the kitchen?

A.12 ANSWER: I am not sure but I think it was about that time. The accused persons declined to crossexamine witness.

Sgd(I.H.Butts)

TENTH WITNESS: Arthur John Barnbrook, P.C. 111 stationed at Swindon, Wilts. having been duly sworn states:

On Saturday the 2nd Dec 44 at 2330 hrs I received a telephonme message to the effect that an accident had occured at the upper Stratton Crossroads. I immediately went there arriving at 2340 hrs.

On arriving at the scene I saw Capt Lawrence and a lady, a Mrs Gilmour, 7 Parkland Ave., Bathroad, Slough. Capt Laurence informed me that a Canadian ambulance had been in an accident with a jeep which was then parked on a peice of waste ground by the side of the road. As a result of conversation with Mrs Gilmour I found four beer bottles, one being full on a peice of waste ground near the jeep.

I examined the road which is 39 ft wide and the point of impact of these vehicles was dead center of the road. The jeep was very badly damaged.

The American M.P's. arrived and in company with Pte Foster of the American Miltary Police. I went to Stratton St. Margaret Hospital and saw L/Cpl Sanderson. As a result of our conversation with him we went to Stanton Fitzwarren where we examined the two lines of ambulances and found one ambulance CA-4236273 damaged. It had a cut in the rear side panel which would correspond with the bonnet plate of the jeep hitting it. And petrol tank was punctured which would correspond to the petrol found at the scene of the accident. The petrol carriers at the side of the petrol tank had been bent back.

I saw the Cpl of the guard and reported this and he told me that no driver was assigned to this vehicle.

On the following day Sunday 3rd Dec 44 I was present at an identification parade held at Stanton Fitzwarren when Capt Laurence identified McPhail and Deraiche.

With Sgt Hammond S.I.B. I carried out a full investigation of the accident and was present when statements were taken. And I was also present at the identification parade held 14 Dec 44 at Old Town Police Station, Swindon.

The number of the American jeep is 14AB4688.

I produce the aforementioned bottles, (bottles entered as exhibit A and so marked)

Q.13 QUESTION: (Pte McPhail). What part of the petrol tank was punctured?

A.13 ANSWER: The rear of the tank near the bottom.

Q.14 QUESTION: What indications had you that the accident happened in the center of the road?

A.14 ANSWER: The mud that had fallen from the American jeep indicated this.

Q.15 QUESTION: On your examination of this ambulance at Stanton Fitzwarren on the night of 2 Dec 44 was there anything to indicate that an injured man had been carried in it recently?

A.15 ANSWER: Yes there were fresh blood marks on the right hand cushion in the ambulance; also some blood marks on the floor.

Q.16 QUESTION: Was there an ambulance at the scene of the accident when you arrived?

A.16 ANSWER: No.

Sdg(Arthur J. Barnbrook Conns. 111)

ELEVENTH WITNESS:

Lieut G.H. Rinehart, 2 MAC Increment, 1 Cdn Adm Tpt Coy, RCASC. having been duly sworn states:

I am the officer in charge of Swindon detachment, 2 MAC Increment, 1 Cdn Adm Tpt Coy.

Ambulance No CA 4236273 although assigned to Pte Russman is very seldom driven as Pte Russman is my batman. On 1 Dec 44 a work ticket was signed for this ambulance to allow Pte Derniche to drive it into Farnborough Hants. to attend a Court Martial. The vehicle returned that evening. There are no further trips authorized or recorded on the work ticket for this vehicle. On the morning of 3 Dec 44 I was informed by L/Cpl Lavigne that this ambulance had been in an accident the previous night. I had authorized no trip for this ambulance and none is recorded on the work ticket.

I investigated the accident and submitted a report to my Officer Commanding. This is work ticket 4/2/72 for ambulance CA 4236273

(Work Ticket received as exhibit and entered as exhibit B)

Q.17 QUESTION:(Pte MacPhail) Is not the fitter and D.M. at this detachment allowed to take vehicles out on test without an MI authorized work ticket?

A.17 ANSWER: A recent order published just before I took over this detachment states that no vehicle would go out on test without some other written authority. I maintain that Swindon Detachment is apart of No. 1 Cdn Adm Tpt Coy and therefore this order applies to this detachment. I have only been with this detachment a short while prior to the accident and I have noticed that the fitter and D.M. have been going out "on test" wtout other authority and I had intended to put a stop to it. But I have been occupied with many other details up to the time and didn't get around to it.

Q-18 QUESTION:(Pte Derniche) Did you give us an order on 2 Dec 44 to adjust the spotlights on the vehicles?

A.18 ANSWER: At approximately 1730 hrs I was in the kitchen when Pte. MacPhail and Pte Derniche came in for supper. I told them that I had noticed the spotlights on the vehicles were not properly adjusted in accordance with CARO's and that it would be their job to make the proper adjustments.

(G.H.G. Rinehart) Lieut.

Twelfth Witness:

20316224 Pte Lowe, R.V.L. - 466 Para Fld Arty Btn U.S. Army at present in 141st U.S. Gen Hospital having been duly sworn states:-

On the night 2 Dec 44, I was in Swindon Wilts in my jeep. About 2300 hrs I got in my jeep and started in search of a Fish and Chip Shop. I was travelling down Cricklade Road towards Swindon. I was travelling at about 35 m.p.h. I was sober. My lights had a blackout shield and didn't show a very strong light. The first I noticed was a Red Cross sign on the side of an ambulance The ambulance appeared to be about 20 to 25 feet away from me when I first saw it. This would be near the intersection of Cricklade Road and Kingsdown Road. I applied the barkes but I was too close and ran into the side of the ambulance. There was a crash. I sat there for a couple of seconds then got out and called out towards the driver to ask why he was parked where he was. Two soldiers appeared and came towards me . I then felt a pain in my left knee. Then two girls grabbed meand took me over to a grass lot and told me to lay down. Then a crowd of people gathered from somewhere. Someone then assisted me into the back of the ambulance. The ~~AMBULANCE~~ ambulance then drover off and then after a while stopped. Someone opened the back door and assisted me out of the ambulance and then someone helped me into the reception room at Stratton St Margarets Hospital, I dont know whether it was the same person who helped me out of the ambulance or not. Someone lead me over to the latrine.

When I was put in the ambulance two soldiers got in with me and were with me during the ride to the hospital. I was somewhat confused at this time due to the accident.

I do not know if I could recognise any one I saw at the accident. I am not sure if I recognise anyone at this summary.

My trip in the jeep was an unofficial trip.

Q.19 (Pte Deraiche) Are you quite sure it was two girls who took you over to the grass lot?

A.19 I am not sure as I was somewhat shaken by the accident.

Q.20 Before you hit the ambulance did you see any lights?

A.20 I didn't see any lights at all nor any reflections.

Q.21 Did you see the lights of the ambulance before it turned to the position it was in when you struck it?

A.21 No.

Q.22 Are you sure the lights were on on your jeep?

A.22 Yes the lights were on.

Q.23 How did the lights happen to be off after the collision?

A.23 I didn't notice whether they were or not.

Q.24 Did you admit at the scene of the accident that your trip was without permission?

A-24 Yes I beleive I did say something to that effect.

Q.25 How near were you to the left kert of the road when the accident occured?

A.25 I beleive I was to the left of the center of the road.

SDG(Robert V.Lowe)

THIRTEENTH WITNESS:

D-138858 Pte Jusseaume, R. 2 M.A.C. Increment, 1 Cdn Adm Tpt Coy having been duly sworn states:

I was night fireman at Swindon detachment 2 M.A.C. Increment on the night of 2 Dec 44 and I was on duty from 1800 hrs 2 Dec 44 to 0700 hrs 3 Dec 44

At about midnight 2 Dec 44 I went to the kitchen and Deraiche, McPhail and Butts were in the kitchen. I fixed the fires in the kitchen and by the time I had finished with the fires Deraiche McPhail and the others had gone.

I was in the kitchen about 10 or 15 minutes, then made the round of the huts fixing the fires. When I was firing the fires in Hut No 3, I noticed that Deraiche and McPhail were in their beds. This would be about 0020 hrs 3 Dec 44.

An identification parade was held at our camp the following day 3 Dec 44and that night Deraiche came up to me and asked me to make a statement that I had seen them (Deraiche & McPhail) in the kitchen between 2300 hrs and 2330 hrs on the night of 2 Dec 44. I asked Deraiche if he had been in the accident and he told me he hadn't been. I then agreed to make a statement as he had asked me to. The accused persons decline to crossexamine the witness.

SDG (R. Jussaume) Pte.

FOURTEENTH WITNESS:

L-154284 Pte Nevard, R.A. 2 M A.C. Increment, 1 Cdn Army Tpt Coy, having been duly sworn states:

On the 2 Dec 44 I was posted for guard duty at the vehicle park of 2 M.A.C. Increment, Swindon. My tour of duty was from 2300 hrs 2 Dec 44 to 0300 hrs 3 Dec 44.

A little while before 2300 hrs I reported to the orderly room and signed in for guard duty. L/Cpl Lavigne was in the orderly room at the time.

After having signed in for guard duty I didnt go on guard but returned to my billets and remained there until about 0100 hrs, I lived in the same hut as Pte McPhail and Pte Deraiche. They came into the hut while I was there I am not sure of the time as I have no watch but I beleive it was about midnight or a little after.

I went to my guard duty about 0100 hrs and I beleive I went to the orderly on the way there. Pte Godin the other guard was at the gate when I arrived on duty. He then left to go to the kitchen. He returned a few minutes later.

At about 0230 hrs a jeep drove up with an American M.P. and a police constable. They told me there had been an accident and wanted to look over our ambulances. I told them about two ambulances which had come in while I was on duty. We checked these but found no marks on them. I then took them to the orderly room and reported the matter to L/Cpl Lavigne.

The M.P. and constable asked to be allowed to check all the vehicles and L/Cpl Lavigne consented. I then went back to the vehicle park with the M.P. and constable and accompanied by Godin we checked all the vehicles. We found an ambulance, I beleive the number was 273, although I cant be sure, which had been damaged on the left side. The spare carrier had been bent and driven into the gas tank and the tank had sprung a leak. There was a cut in the side of the ambulance.

We then returned to the orderly room and either the M.P. or the constable told L/Cpl Lavigne the number of the ambulance and a description of the damage.

Just after I came on duty and while Godin was away. Deraiche McPhail and Fraser came down to the vehicle park and looked at the damaged ambulance. I followed them down. I noticed that the ambulance had been damaged. McPhail made a comment that the damage could be easily repaired or words to that effect. The three men then left the park.

Q.26 Wasnt it earlier than one o'clock when we went down to the park?

A.26 I am not sure but I seem to remember asking someone the time when I went on duty. But it could have been earlier.

Sdg (Pte Nevard,R.A.)

FIFTEENTH WITNESS:

D-105030 Pte Lavigne, H.C. 2 M.A.C. Increment, 1 Cdn Adm Tpt Coy having been duly sworn states.

On 2 Dec 44 I was orderly N.C.O. at Swindon detachment 2 MAC, my tour of duty commenced when I releived Sgt Yeatman at approximatley 1630 hrs I was on duty until the morning parade the following morning. Since the following day was a Sunday that would normally have been the noon meal parade. My duties were to receive any calls on the phone and to despatch any trips if they were required. There was only one trip called for, that being Pte Youngs trip to Taplow. There were no other authorized trips that day or night with the exception of the recreational lorry, that being authoriqed by either the officer or the sergeant.

I didn't see Pte McPhail or Pte Deraiche from last meal time until about midnight or there abouts when I saw them in the kitchen. I made no mention of the accident to them nor they to me. Neither McPhail nor Deraiche had told me that they were taking a vehicle on a road test.

About 2345 hrs or thereabouts I received a telephone message from Stratton St Margarets Hospital stating that one of our ambulances had delivered an American patient to the hospital and they wanted to know the name of the driver. I told them that as far as I knew we had no ambulances delivering American patients to that hospital. They then told me that the patient had been in an accident in which the ambulance had been involved. I told them that as far as I knew none of our ambulances MAA were out except one MAA on a trip to Taplow but that I would check our lines to see. I checked the number of vehicles but as far as I could tell all ambulances were accounted for although its difficult to make an exact count since sometimes when ambulances are sent to FELIXSTAW or returned from the workshop in Farnborough it is not always recorded on our vehicle board. I enquired of the guard at the time and he told me that an ambulance had gone out: Pte Godin was on guard then, I then went to bed by the phone having taken it for granted that it wasn't our ambulance involved.

About 0300 hrs I was awakened by one of our guards who had an American M.P. and a civilian constable with him. They asked if they could XXXXXXX check our vehicles to see if they could find the one which had been involved in an accident earlier that night. I told the guard to take them around.

They returned sometime later and told me that they had found an ambulance which they had reason to suspect had been in an accident. They told me the number which I dont remember but I beleive the last three numbers were 273. They told me that the petrol carrier had been damaged and other damage which I dont remember. I took the particulars and reported it the following morning to Lieut Rinehart the officer in charge of the detachment. The accused persons declined to crossexamine witness.

Sdg(H.C. Lavigne)

SIXTEENTH WITNESS:

Lieut W.H. Craig, 1 CASCRE Cdn Army, Overseas having been duly sworn states:

From approximately 19 Sep 44 to approximately 21 Nov 44 I was officer in charge of Swindon detachment 2 M.A.C. Increment, 1 Canadian Adm Tpt Coy, RCASC. At no time during that period were the fitter or D.H. of the detachment given authority to take vehicles on test runs without a work ticket properly signed by myself or by the despatcher which I would later ratify.

Q.27 (Pte Deraiche) Did you ever tell us that we could take vehicles out on road test without a work ticket?

A.27 It was laid down that no vehicle would leave the unit lines without a work ticket except to refuel at pumps.

Q.28 (Pte McPhail) Did you ever tell me personally that I was to have a work ticket for all test runs?

A.28 No. I don't recall telling you personally.

Sdg(W.H. Craig Lt.)

The accused persons were cautioned as follows: "Do you wish to make a statement or to give evidence on oath" you are not obliged to say anything or to give evidence, unless you wish to do so, But whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused persons elect to make a Statement.

R-42314 Pte Demaiche, N.R. No 2 MAC Increment, No 1 Cdn Adm Tpt Coy, RCASC a soldier of the Canadian Army, Overseas states:

On 2 Dec 44 at 1730 hrs we went to the kitchen for supper where we saw Lieut Rinehart, the officer in charge of our detachment. He gave us an order to adjust the spotlights on the vehicles. He told us to ajust the spotlights to the left ditch twenty feet ahead of the vehicle. I told him that we would have to work nights in order to do this because we could not adjust the lights during daylight.

After supper we went back to the hut (Hut No 3) we were to late to take the recreational lorry into town so we decided (McPhail and I) that we might as well work on the lights. We rested on our beds for awhile then about 2000 hrs we went down to our tool shop and taking some wrenches, screw drivers etc we went down to the car park. We took 27\ and put the lights on. We backed onto the road. We then adjusted the spotlight and McPhail said to me "I dont think its really good like that" and I said "We'll try it out on the road" I said " I will go and get the "On Test" sign" I got it and put the sign on the vehicle. We then drove down the main road to Swindon. By that time it would be about 2100 to 2115 hrs.

Before we approached the roundabout the Ignition cut out. I said to McPhail" whats the matter" We tried to start the motor but it wouldn't start. The lights were still on and the starter worked, and the horn worked. We took the engine cover off, and tested for a spark at the plugs. We worked on the motor about an hour trying to find the trouble. We finally located the trouble being the main ignition wire which had become disconnected just below the switch. We fixed the trouble and started. This would be about 2215 to 2230 hrs.

We turned around at the roundabout and we took the Cricklade road back towards camp. As we passed the dancehall, Harding Hall, Gorse Hill, I said to McPhail "I have to stop here and see someone for a minute". He said"O.K. dont stay too long". I went into the dance and saw my girl friend. I had a couple of dances with her. Just before the last dance McPhail came into the dance hall and asked me to leave. I said "Let me dance the last dance" He said "O.K."

After the last dance I left the dance with my girl friend and her sister. I said to McPhail "lets drive the girls home its on our way or something like that.

McPhail waasnt sure of the way and missed the turning. I was in back with the girls. I opened the slide between the body and cab of the ambulance and I looked out the front and said to McPhail "You have missed the road" he said " he would turn at the intersection." He was meeting a lot of bicycles and although he was driving quite slowly he couldn't turn sharp enough, on account of approaching bicycles, to make the intersection. I never saw the lights of any approaching vehicle.

Just as the ambulance stopped I heard and felt a crash, I said to the girls "Someone has hit us" I opened the door at the back and got out I went around to the side and saw an American soldier in front of the ambulance and a jeep against the side of the [redacted] ambulance . I looked at the front of the jeep and its lights weren't on. I went to the back of the jeep and the tail light wasn't on. I looked at the switch and the switch was turned off.

I went towards the American soldier and asked him what had happened and he said "I've got a sore knee and look at my head" I took him by the shoulders and led him over to the grass at the side of the road. By this time my girl friend and her sister were beside the Yank and helped me to lay him down on the grass.

I went back to the ambulance and said to McPhail. "Lets take the jeep off the road". This we did with the help of a civilian. [redacted] I then backed the ambulance to the left side of the road. I turned off the spotlight and left the side and tail lights on. I then went back to the American. I saw the gas on the road and thought at that time our main petrol tank had been punctured and the other one on the right side was empty.

An English Officer told me too take the American to a hospital. I told him I had not enough gas as our tank was broken. He said he would go and phone for an ambulance.

By this time McPhail had looked at the gas tank and found out that there was sufficient gas to take the American to the hospital and to return to camp. The English officer hadn't returned. I went to where the American was and I told the girls to go home. McPhail and I picked up the American and he asked us to let him see his jeep. He looked at the jeep and said he would be paying for this for the duration as he was on the loose or words to that effect.

We then put him in the back of the ambulance. McPhail got into the back to help lift the American into the ambulance. I was at his head and McPhail was at his feet. I smelled beer on his breath. I told McPhail "This guy has been drinking". McPhail stayed in the back and I drove to the hospital.

McPhail and I took him into the reception and saw the soldier there and I told him that the American had just had an accident. He pointed to a chair and told the American to sit down. The English chap stayed with the American and we left. We talked together and decided it wasnt necessary to make an accident report because the Yank was on a buckshee trip. And we could repair our ambulance in ten or 15 minutes. I drove down to the car park and we took our tools out and took "On Test" sign off and took the tools and the sign to the tool shed. We then went to our hut to get our cups so we could have tea at the kitchen. We went to the kitchen and had our tea. Someone said that a phone call had come in about an accident. We saw Fraser and I said "lets go and see the ambulance". We went to the car park and looked at the ambulance. McPhail said it was easy to repair. Then I said lets go to bed. This would be about twelve to twelve thirty. We went to bed

I have read this and it is true.

Sdg(N.E. Derniche)

The accused person Pte McPhail elects to make a statement.

H-75806 Pte McPhail, D.M. No 2 MAD Increment, 1 Cdn Adm Tpt Coy RCASC a soldier in the Canadian Army, Overseas states:

I have heard Pte Derniche's statement read out and corroborate it as the truth and I make this additional statement. After I had passed the corner I should have taken the Cricklade Road, I went to Kingsdown intersection to turn. On the way I met several bicycles and as I approached the corner there was a bicycle coming towards the intersection from the other direction and by the time he got by me I was beyond the intersection when I made the right turn. So I stopped the vehicle with the front wheels against the curb. I saw no approaching vehicle lights.

Just as I was shifting to reverse gear I heard a crash and then noticed the jeep against the side of the ambulance. I immediately got out.

It has been a known fact by officers at Swindon that the fitters and D.M. could Road Test vehicles without a work ticket. I had been doing it for 4 months and nothing had been said.

My duty hours were all hours since I was the only fitter at the detachment.

I have read this and it is true.

Sdg (D.M. McPhail)

I certify that the foregoing Summary of Evidence consisting of thirty eight pages was taken down by me in the presence and hearing of the accused persons, and that Rules of Procedure 44(c) (d) (e) and (f) have been complied with.

R.A.Cooper, (Lieut)
Officer detailed to take the Summary of Evidence.

Farnborough, Hants.
26 Dec 44.

Additional evidence in a Summary of Evidence in the case of W-95806 Pte Marshall, D.H. No 2 M.A.C. Increment, 1 Cdn Adm Tpt Coy, RCASC soldier of the Canadian Army, Overseas.

SEVENTEENTH WITNESS:

Major J.W. Cornell, No 1 Cdn Adm Tpt Coy, RCASC having been duly sworn states:

I have this day 30 Dec 44 examined ambulance CA 4205875 and estimate cost of repair to be £2-0-0 ~~MAX~~ The damage was as follows.

Left side of body damaged.
Petrol carrier damaged.
Petrol tank damaged.
Labor - 16 hours @ 3 shillings per hour - £2-0-0

The accused persons declined to crossexamine witness.

Sdg (J.W. Cornell Major)

EIGHTEENTH WITNESS:

2nd Lieut Charles I. ~~Larkin~~ Larkin of 17 AB 496 Fd Arty U S Army. A written statement ~~purporting~~ of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence and marked Appendix A

Having regard to the exigencies of the service and loss of time involved attendance of this witness cannot in my opinion be readily procured.

Sdg (H.A. Cooper Lieut.)
Officer detailed to take the Summary of Evidence.

The accused persons do not demand the attendance of this witness for crossexamination.

The accused persons declined to make a further statement.

I certify that this addition to the Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c) (d) (e) (f) and (g) have been complied with.

Hcooper Lt
Officer detailed to take the Summary of Evidence.

Farnborough Hants.
30 Dec 44.

APPENDIX A

Material and Labor required to repair 1/4 ton truck [illegible]

Bumper (Front)	$	2.75
Filler Bumper Bar Wood		1.00
Glass-windshield Assy		6.00
Headlight Unit Assy		1.70
Guard- brush Assy.		5.00
Radiator Assy.		30.00
Panel Assy-hood Top		15.00
Fender Assy.L.H.		19.00
Front Spring		6.10
Body-water pump		1.45
Lamp-blackout marker		4.00
	$	96.00
Labor, one mechanic 8 Hrs @ $ .40 hrs		3.20
		99.70

Sdg (Charles Larkin) 2nd Lt., F.A. Motor Officer.

The Deputy Judge-Advocate-General, Canadian Military Headquarters, having advised that the convictions on the third charge are invalid, I hereby direct that the same is hereby removed and the accused relieved from all consequences of their trial thereon.

J.H. Roberts

(J.H.Roberts) Maj-Gen
Comd
Cdn Rft Units

In the Field,
5 Feb 45.

IN THE MATTER OF THE FGCM OF H-95806 PTE McPHAIL D.M. AND E-42314 GNR DERAICHE N.R. DATED 8 JAN 45.

Upon it appearing to me, an authority having power to mitigate, remit or commute the punishment awarded by the sentences herein, that the finding upon the third charge is invalid and has been set aside, I, having regard to the finding on the second charge, do mitigate the punishment as awarded by the court and confirmed by the confirming officer as follows;

The accused E-42314 Gnr Deraiche N.R. to undergo detention for a period of 80 days, and to be put under stoppages of pay until he has made good the sum of £1.4.0d., a portion of the damage occasioned by the commission of the offence on the second charge.

The accused H-95806 Pte McPhail D.M. to forfeit all ordinary pay for a period of 55 days, and to be put under stoppages of pay until he has made good the sum of £1.4.0d., a portion of the damage occasioned by the commission of the offence on the second charge.

Promulgated 5 Mar 45
in field
[illegible]
LONDON
21 Feb 45

Ernest G. Weeks

(E.G. Weeks) Major-General
i/c Administration
Canadian Military Headquarters.

PPR-118

PTE DERAIL P

RECORDED AT CMHQ IN AB 160. PPP-118

RECEIVED 3 JUL 1944 JAG BRANCH C.M.H.Q.

Correspondence to be FINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 12th day of May, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

H.57

CANADIAN ... 3 JUN 1944 C.H.Q. 2nd ECH.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

99

PROCEEDINGS REVIEWED 3 July 44

W L Ivels Lieut

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W R Pell	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	D I Rice	West NSR
Lieut	C M Forsythe-Smith	West NSR

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E5270 Pte Paul DERAIL, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty 8 mths S.H.L. ~~[illegible]~~ Confirmed Wpgs 30th May 43 E Bernatchez Brig	

*Question to be asked of accused, if he pleads not guilty (R. of P. 29 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) E Bernatchez Brigadier (Signed) W R Bell Major
Commanding 3 Can Inf Bde — Confirming Officer (d) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
*(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13 day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under~~ instruction)

*Omit if not applicable

were duly sworn.

Signed this 13th day of May 1943.
W R Bell Major
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 7 of M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded. The Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 20th day of May 1943
E Bernatchez Brig
Confirming Officer.

Promulgated and extracts taken in the case of E 5270 Pte. Paul DERAIL
(a) (Dated) 24th May 43 (Signed) Pay Insurance Lieut for A/Asst. P. 22e R.

Promulgated and extracts taken in the case of
(Dated) (Signed)

Promulgated and extracts taken in the case of
(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at R.N.R.

on the 13th day of May 1944 by order of

Brigadier J.P.E. Bernatchez

Commanding 3rd Cdn Infy Bde

dated the 12 day of May 1944

President.

Major W.R. Pell Cash & York Regt

Members.

Capt. D.I. Rice West N.S.R.

Lieut. C.M. Forsythe Smith West N.S.R.

, Judge Advocate.

Trial of* E 5270 Pte Paul Uerail

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. P.A. Tumblay

Counsel‡ or defending officer† Lieut. Alfred La Forte

At 0900 o'clock the Trial commences.

The order convening the Court is read, and is marked A, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* Yes

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] Form [illegible]

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

n/A wht

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Question to the accused.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Guilty

Answer.

Question.

Are ~~you guilty or not guilty of the second charge against you, which~~ you have heard read?

wht

Answer.

Question.

Are you guilty or not guilty of the third charge against you, which you have heard read?

Answer.

Question.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Answer.

The accused having pleaded Guilty to First charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

D

C H A R G E S H E E T

The accused R.5270 Private Paul DERAIL, a Soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:

62

1st Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, at about 2200 hrs 18 Mar 44, did absent himself without leave until he surrendered himself to Military police at CAMPOBASSO at about 0830 hrs 28 Apr 44.

Total absence: 40 days, 10 hrs, 30 mins.

(J.V. Allard) Lieut-Colonel,
Commanding Royal 22e Regiment.

In the Field
5 May 44

" TO BE TRIED BY FIELD GENERAL COURT MARTIAL "

(J.P.E. BERNATCHEZ) Brigadier,
Commanding 3 Can Inf Bde.

In the Field
[illegible] May 1944

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E 5270 Pte Paul Derail is found guilty of absenting himself without leave from 2200 hrs 18 Mar 44 until 0830 hrs. 25 Apr 44

†The summary (or abstract) of evidence is read, marked B3 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked B4, signed by the President, and attached to the proceedings.]

I certify that I have this sermon examined No. E 5270 Pte Paul DERAIL P Royal 22e Regt. and in my opinion he is fit/ to undergo trial by Court Martial

Station Dwche field

Date 13 May 1944

for J Brock Capt
(Medical Officer)

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

No

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut P.C. Tremblay is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B5 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes.

Cross-examined by the accused.

Instruction.—If in reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any compulsory punishment in addition to that to be awarded by the Court the prosecutor must ask the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused 8 months imprisonment with hard labour ~~and to pay for deficiencies in kit amounting to £2:2:10~~. Sentence

W R Tell Adjt

W.R. Kellogg B4

Plea in mitigation of sentence by Lieut. Alfred Le Tarte, defense.

"I want to ask the Court to take into consideration the fact that the accused enlisted in 1940 and arrived in England in 1941. He landed in Sicily and Italy, and remained with the regiment in action until 18th March 1944. The accused has never been Court-Martialed before. The accused surrendered himself. For these reasons I ask clemency from the Court."

A.B. 161 (Sheets)

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 26th day of April 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E.5270 pte Derail P.

DECLARATION

The Court declare E.5270 pte Derail P. R.22e.R. illegally absented himself without leave at 2200 hrs 18 Mar 1944, that he is still absent and that on 26 Apr 44 he was deficient of articles to the amount of: £ 2. 2. 10.

1004.

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

I, Capt. W.E. Wickes. Commanding 506 Ind. Mob. Pro. Coy. C.M. Police.

certify that No E.5070 Rank Pte. Name DERAIL F.

of the Royal R&nd Regt. Support Coy. surrendered himself to Canadian Forces.

No 7886453 Rank Sgt. Name Moore R.

of the 506 Ind. Mob. Pro. Coy. C.M. Police. at Campobasso.

at 0830 hrs., on the 28th day of April 1944 194

as a deserter (or absentee without leave).

Date 28th April 1944

Capt. DAPM.

O. C. 506 Indpt. Mob. Pro. Coy. C. M. P.
Commanding Officer of the person or portion of His Majesty's Forces to whom the Surrender was made.

A.B. 161 (Sheets)

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 26th day of April 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No E.5270 pte Derail P.

DECLARATION

The Court declare E.5270 pte Derail P. R.22e.R. illegally absented himself without leave at 2200 hrs 18 Mar 1944, that he is still absent and that on 26 Apr 44 he was deficient of articles to the amount of: £ 2. 2. 10.

H. Tellier Capt R.22e.R.
president

P.A.Tremblay Lieut R.22e.R.
Member

J.Laliberte Lieut R.22e.R.
Member

Names of President and Members

Signature of Commanding Officer (Syd) J V Allard
(J. V. Allard) Lieut-Colonel
Commanding Royal 22e Regt

CERTIFIED TRUE COPY

Certified true copy of Regt'l Books in my possession

Signature of Officer having custody of the Original Record

P A Tremblay Lieut

7 May 41

1004.

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (j)

I, Capt.W.E.Wickes. Commanding 506 Ind.Mob.Pro.Coy.CMPolice.

certify that No E.5270 Rank Pte. Name DERAIL P.

of the Royal 22nd Regt.Support Coy. surrendered himself to Canadian Forces.

No 7686453 Rank Sgt. Name Moore R.

of the 506 Ind.Mob.Pro.Coy.CMPolice. at Campobasso.

at 0830 hrs., on the 28th day of April 1944 194

as a deserter (or absentee without leave).

Date 28th April 1944

Capt. DAPM.

O. C. 506 Indpt. Mob. Pro. Coy. C. M. P.
Commanding Officer of the person or portion of His Majesty's Forces to whom the Surrender was made.

LIST OF WITNESSES FOR PROSECUTION

in the case of

B.5270 private Paul DERAIL, Royal 22e Regiment.

FOR PROSECUTION — N I L

FOR DEFENCE — N I L

LIST OF EXHIBITS

~~Exhibit 'A'~~ pas — ~~Record of Declaration of Court of Inquiry~~ pas
(~~Regtl books produced in Court~~)

Exhibit 'A' — Certificate of arrest under AA 163 (1) (3)

I hereby acknowledge receipt of a true copy of a Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge receipt of a true copy of a charge sheet upon which I am being brought into Court Martial.

I desire the services of an officer to represent me at my trial.

I desire the services of Any officer

if he is available.

Paul P. pte

In the Field
5 May 1944

1

SUMMARY OF EVIDENCE

In the case of E.5270 private Paul DERAIL, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

~~DERAIL~~

Evidence taken on oath by order of the Commanding Officer.

First Witness for the Prose-cution.

Captain J.B. Rousseau, Royal 22e Regiment, having been duly sworn, states:-

" I am Captain J.B. Rousseau, posted to the Royal 22e Regiment as Adjutent. I am Officer i/c Records of the Unit and hereby produce Record of the Declaration of a Court of Inquiry contained in Regimental Books in the case of the accused. I also produce Certificate of arrest under AA 163 (1) (j). This certificate is marked Exhibit "A" and signed by O.C. 506 Indpt. Mob. Pro. Coy. C.M.P.

J.B. Rousseau Captain.

The accused declines to cross-examine this witness.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

5 May 44.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of Procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

Officer taking Summary.

In the Field
5 May 44.

FIELD CONDUCT SHEET.

Army Form B122
Sheet No.

Date of Enlistment

*No. [illegible]5270 Name Derail P. Sq., Batty., or Company Corps CIC

Date of last entry in Company Conduct Sheet | No. and date of last drunk | G.C. Badges | Long Service and G.C. Pay | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET - Original not available					
				CERTIFIED TRUE COPY from Regtl books					
				[illegible] Lieut					

[P.T.O.

*Serial Number in case of enemy prisoner of war.

B5

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment
E.5770	PTE	DERAIL P.	R 22 R

The following is a fair and true summary of the entries of the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months	Since Enlistment
FOR	Times	Times
FOR	Times	Times
FOR	Times	Times
FOR	Times	Times

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

. The accused has not been previously convicted, or,

Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

. The accused is not under sentence at the present time, or The accused at the present time is under sentence for

_____ beginning on the _____ day of _____

. The accused has been in confinement, awaiting trial on the present charges for, NIL days in civil custody and 8 d in military custody, making a total of 8 d of which NIL days were spent in hospital.

. The present age of the accused according to his record of service 23

. The date of his attestation specified in his record of service 28 Feb 40

. The service which the accused is allowed to reckon towards discharge or transfer to the service is _____.

. The accused is entitled to deferred pay or gratuity in respect service.

. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is-possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (state any military decoration or award).

11. (If the accused is a warrant officer) The accused before he was made a warrant officer last held the regimental rank of .....

12. (In the case of an officer) The accused holds in the army the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated _____

Certified true copy of Regt & Books in my possession

J. Kennedy Lieut

7 May 44.

CERTIFIED TRUE COPY
(R. CORDEAU) Capt.

Spare copy
PPP 118

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 12th day of May, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer~~ "PEB"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[illegible]~~

~~*(i) Three Officers to form the Court)~~ "PEB"

~~*(ii) A Field Officer to President~~

~~[illegible]~~ "PEB"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W R Pell	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	D I Rice	West NSR
Lieut	C M Forthsythe-Smith	West NSR

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "P.E. Bernatchez" Brigdier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E5270 Pte Paul DERAIL, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty 8 Months IHL "W.R. Pell" Maj.	Confirmed ~~x~~ay 20th May 44 "P.E. BERNATCHEZ" Brig.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) "P.E. Bernatchez" Brigadier (Signed) "W.R. Pell" Major

Commanding 2 Cdn Inf Bde
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13 day of May 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
~~2. The witness~~
~~3. The interpreter~~
~~4. The officers under instruction~~
were duly sworn.

Signed this 13th day of May 1944.

"W.R. Pell, Major"
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

"WRP" Maj.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~"I direct that the soldier named in the margin be not committed to prison or detention barrack until further order."~~ "PEB"

Signed this 20th day of May 1944.

"P.E. Bernatchez, Brig."
Confirming Officer.

Promulgated and extracts taken in the case of E5270 Pte Paul DERAIL

(*a*) (Dated) 24 May 44. (Signed) P.A. Trembley Lieut Ass-Adjt R 22e R

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CERTIFIED TRUE EXTRACTS TAKEN FROM MFM 4.

No E5270 Name DERAIL, F. Sqn, Battery or Company — Corps C.I.C. Date of enlistment 28-2-40 GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/PAM/136 (5488)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 Apr 44			A 15(1) AWL 40 days 10 hrs 30 mins. Tried by F.G.C.M.		8 mos Imp with H.L.	28Apr 44	F.G.C.M.	Forfs 41 days pay FR&I 149 (1)(a) Forfs 245 days pay FR&I 149(1)(b) Forfs 15 days pay FR&I 149(1)(c)(i) Total forf of 301 days pay.

CERTIFIED TRUE EXTRACTS FROM MFM 4.

(J.L. Campbell) Captain,
for Officer i/c
Canadian Section, GHQ 2 Echelon A.A.I. (PTO)

CHARGE SHEET

The accused E.5270 Private Paul DERAIL, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:

"B2"
"WR Pell" Maj.

1st Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, at about 2200 hrs. 18 Mar 44, did absent himself without leave until he surrendered himself to Military police at CAMPOBASSO at about 0830 hrs 28 Apr 44.

Total absence: 40 days, 10 hrs, 30 mins.

"JV Allard"
(J.V. Allard) Lieut-Colonel,
Commanding Royal 22e Regiment.

In the Field
5 May 44

"TO BE TRIED BY FIELD GENERAL COURT MARTIAL"

"PE Bernatchez"
(J.P.E. BERNATCHEZ) Brigadier
Commanding 3 Cdn Inf Bde.

In the Field
12 May 1944

MEDICAL OFFICER's CERTIFICATE

I certify that I have this morning examined No E5270 "WRP"

Rank Pte Name DERAIL P. Royal 22e Regt.

and in my opinion he is fit to undergo trial by Court Martial.

Station....: In the field

Date.....: 13 May 44

"J Brook" Capt.
(Medical Officer)

A

Army Form A9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at R22R.

on the 13th day of May 1944 by order of

Brigadier J.P.E. Bernatchez

Commanding 3rd Cdn Infy Bde

dated the 12 day of May 1944

President.

Major W.R. Pell Carl & York Regt

Members.

Capt. D.I. Rice West N.S.R.
Lieut. C.M. Forsythe-Smith West N.S.R.

, Judge Advocate.

Trial of* E 5270 Pte Paul Derail

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. P.A. Tremblay

Counsel‡ or defending officer Lieut. Alfred La Forte

At 0900 o'clock the Trial commences.

The order convening the Court is read, and is marked A , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] K. & D., Ltd. [illegible] Form [illegible]

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

N/A "WRP"

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2, and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Guilty

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~

Question.

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

Answer.

The accused having pleaded Guilty to First charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E5270 Pte Paul Derail
is found guilty of Absenting himself without leave
from 2200 hrs 18 Mar 44 until 0830 hrs 28 Apr 44

†The summary (or abstract) of evidence is read, marked B.3. signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked B4. , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

"WR Pell" Major "B4"

Plea in Mitigation of Sentence by Lieut. Alfred Le Sarte, defence.

"I want to ask the Court to take into consideration the fact that the accused enlisted in 1940 and arrived in England in 1941. He landed in Scicily and Italy, and remained with the regiment in action until 18th March 1944. The accused has never been court-martialled before. The accused surrendered himself.
For these reasons I ask clemency from the Court."

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E5270 Pte Paul Derail
is found guilty of Absenting himself without leave
from 2200 hrs 18 Mar 44 until 0830 hrs 28 Apr 44

†The summary (or abstract) of evidence is read, marked B.3., signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked B4., signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ? — *Question to the accused.*

No — *Answer.*

"WHP" — *Evidence as to character.*

"WR Pell" Major "B4"

Plea in Mitigation of Sentence by Lieut. Alfred Le Sarte, defence.

"I want to ask the Court to take into consideration the fact that the accused enlisted in 1940 and arrived in England in 1941. He landed in Scicily and Italy, and remained with the regiment in action until 18th March 1944. The accused has never been court-martialled before. The accused surrendered himself.
For these reasons I ask clemency from the Court."

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut P.A. Tremblay. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked B5 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes.

Cross-examined by the accused.

[illegible]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused 8 months imprisonment with hard labour. "WRP"

Sentence

"W.R. Pell" Major

"B3"

SUMMARY OF EVIDENCE

"W.R Pell" Major

In the case of E.5270 Private Paul DERAIL, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service.

Evidence taken on oath by order of the Commanding Officer.

First Witness Captain J.B. Rousseau, Royal 22e Regiment, having been duly sworn states:-

For the Prosecution.

" I am Captain J.B. Rousseau, posted to the Royal 22e Regiment as Adjutant. I am Officer i/c Records of the Unit and hereby produce Record of the Declaration of a Court of Inquiry contained in Regimental Books in the case of the accused. I also produce Certificate of arrest under AA 163 (1) (j). This certificate is marked Exhibit "A" and signed by O.C. 506 Indpt. Mob.Pro.Coy. C.M.P.

"J.B. Rousseau" Capt.

The accused declines to cross-examine this witness.

R.P. 83(B) complied with "PAT".

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of Procedure 4 (c),(d),(e),(f) and (g) were duly complied with.

"PA Tremblay" Lieut
Officer taking Summary.

In the Field
5 May 44.

No E.5270 Name Derail P. Sqn, Battery, or Company | Corps CIC | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/126 (3488)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET - Original not available					
				CERTIFIED TRUE COPY from Regtl books					
				"P.A. Tremblay" Lieut.					

(PTO)

163 B. Ste. Derby. W. M.

Correspondence to be PINNED here.

163 B

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 13th day of JUNE, 19 41

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN CORPS ROYAL ARTILLERY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial: *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*[redacted]

*[redacted]

*[redacted]

*[redacted]

[redacted]

President.

Rank.	Name.	Regiment.
Major	W.T. MCHUGH	8th. A.Fd. Regt. RCA

Members.

Rank.	Name.	Regiment.
Capt.	G.E. Simmons	R.C.A.S.C.
Lieut.	R.M. Ross	Cam.H.of O. (MG)
Judge Advocate Major.	A.W.Embury	H.Q. Cdn. Corps.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

*Signed (J.C.Stewart) Brigadier
Commanding C.R.A. Cdn. Corps.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No.76788 Private DERBY, W.M. R.M.R. (MG)	FIRST CHARGE Section 17 Army Act.	Guilty	Guilty	~~Finding & Sentence confirmed~~ I direct that the soldier be not committed to detention barracks until the order of a superior authority have been obtained 26 June 41 Col Hotchkiss Brig.
	SECOND CHARGE Section 40 Army Act.	Guilty	Guilty	
	THIRD CHARGE Section 15(1) Army Act.	Guilty	Guilty	I, the Colr Corps direct that the sentence of detention be suspended and that the case be reconsidered by a competent military authority within two months time in accordance with S.57A para (5) of the Army Act Col Hotchkiss Brig.
	(As per charge sheet attached)	To be put under stoppages of pay until he has made good the sum of £1-6-3 To forfeit 5 days pay under AR 1 (Canada) 149(1)(a). To undergo detention for a period of 28 days. Signed in the field this 20th day of June 1941. W Smith Lt Col Arthur Bury major Judge Advocate.		27 June 41 Chief Engineer for Cmdr. Corps Senior Combatant officer Corps in the U.K.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— not applicable

(Signed) (J.C.Stewart) Brigadier (Signed) W Smith Lt Col Judge Advocate
Commanding Corps Royal Artillery. Convening Officer (e) President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 20th day of June 1941, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
* (3. ~~The interpreter~~) Court stenographer
* (4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 20th day of June 1941.

W Smith Lt Col R.A.
President of the Court Martial
Arthur Bury major
Judge Advocate

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of AA C.I. 370 of 1918 have been complied with~~

~~Signed this day of 19~~

W Smith Lt Col

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

~~I direct that the order marked in the margin be not confirmed~~ I direct that the soldier named in the margin be not committed to detention barracks until further order. Col

Signed this 26th day of June 19 41.

Brigadier.
Confirming Officer

Promulgated and extracts taken in the case of 876788 Pte Derby W.M.
INCLUDING SUSPENSION OF SENTENCE OF DETENTION.

(a) (Dated) 2 July 1941. (Signed) A.E.Cobbe LT COL
COMMANDING R.M.R.(M.G.)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

D76788 Pte Derby,Warren Milford,a soldier of the Royal Montreal Regiment (MG) C.A.(O/S) is charged with when on active service

1st Charge When concerned in the care of Regimental money embezzling the same,

Sect. 17 AA

In that he at Sutton,Surrey on 24 Mar 41 when cook for the Officers' Mess of The Royal Montreal Regiment (MG)was concerned in the care of Regimental money,that is to say £1-6-3 in money received from D76520 A/Cpl Tracey,C.A. Officers Mess Steward,applied the sum of £1-6-3 to his own use with intent to defraud.

2nd Charge Conduct to the prejudice of good order and military discipline,

Sect 40 AA

In that he at Sutton on the 24 Mar 41 made use of a document purporting to be a genuine pass, well knowing that it was not genuine.

3rd Charge Absenting himself without leave,

Sect 15(1) AA

In that he at Sutton,Surrey,absented himself without leave from 2100 hrs 24 Mar 41 until apprehended by Canadian Military Police in London at 1430 hrs 29 Mar 41.

(J.A. Calder)Lt. Col.
Commanding R.M.R. (MG)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

J. C. STEWART, BRIG.,
C.C.R.A., Can Corps.

Proceedings of A FIELD GENERAL COURT MARTIAL held at Sutton on 20th. June 1941 in the case of No.76788 Private DERBY, W.M., Royal Montreal Regiment.(MG)

President:- Major W.T. McHugh, 8th.A.Fd.Regt.RCA.

Member: Capt. G.E.Simmons, R.C.A.S.C.

Member: Lieut. R.M.Ross, Cam.H.of O.

Judge Advocate: Major A.W. Embury, H.Q., Cdn. Corps.

Officers under instruction:-

Lieut. K.A. Mackenzie, R.M.R.(MG)
Lieut. M.A. Willis, R.M.R.(MG)

Prosecuting Officer: Capt. W.B. Stevens, R.M.R.(MG)

Defending Officer: Major. D. Campbell, R.M.R.(MG)

Court Stenographer: No.B.93703 Sgt. Warren, J.F. Cdn Corps

The order Convening the Court, the charge sheet and the Summary of Evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

The trial commences at 1200 hours.

The Convening Order is read by the Judge Advocate.

Q.1. Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over?

A.1. No Sir.

The President and members of the Court and Judge Advocate are duly sworn.

Q.2. Have you any objection the Sergeant Warren as shorthand writer?

A.2. No Sir.

Shorthand Writer, Sergt. Warren, J.F. duly sworn.

The charge sheet is read by the Judge Advocate.

Q.3. Are you guilty of not guilty of the first charge against you which you have heard read?

A.3. Guilty Sir.

Q.4. Are you guilty or not guilty of the Second charge against you which you have heard read?

A.4. Guilty Sir.

Q.5. Are you guilty or not guilty of the third charge against you which you have heard read?

A.5. Guilty Sir.

Rule of Procedure 35(B) complied with by Judge Advocate.

Judge Advocate read the Summary of Evidence.

The Court accepts the accused's plea of guilty to all charges.

Q.6. Do you wish to make any statement in mitigation of punishment?

A.6. I would like to make a statement myself Sir. On the First charge, Sir, I would like to say that I did not deliberately intend to take the mess money or to defraud the mess. I had some money of my own and the mess money together. I went out and I did not intend to use the mess money and when I discovered that I had spent some of the money I intended to return it, and as soon as I receive my pay I will return it. It is the first time I have had anything like this against me and I do not think I was in my right senses at the time. I had not been myself for two or three weeks, and I do not think I realized what I was doing.

Questioned by the Defending Officer.

Q.7. Is it not a fact Private Derby that you had access to the cash box which contained at time £40?
A.7. Yes Sir, I also had access to the bar and cash box.
Q.8. Any time you were given money to make purchases, I take it for granted that you were given a flat amount of £2 and you were expected to make the purchases and bring back a receipt?
A.8. Yes Sir, and I have never been short on any occasion.

Q.9. J.A. Until this occasion?
A.9. Until this occasion.

Q.10. Def. When you spent this money, did you not spend some of your own money at the same time?
A.10 Yes Sir.
Q.11. Did you offer to repay this money when you returned?
A.11. Yes Sir I spoke to Corporal Tracey.
Q.12. Did you offer to pay Corporal Tracey the money?
A.12. Corporal Tracey asked me if I intended to make restitution and I said yes. I heard nothing further until a month ago when he said that Major Murray had said no.

Defence to the Court:

The accused has asked me to mention to you his having been considerably distressed at the time due to unfavourable news he had received and he has asked me to let you have this letter which is confidential. It can be used by the Court as an Exhibit. EXHIBIT "B" I would like to point out the Accused's Crime Sheet. It is clear with the exception of one item of three days C.B. and the accused feels that he has performed a responsible job satisfactorily for a considerable length of time and that the Court will give consideration to these facts in their findings.

Q.13. Is there anything else you wish to add?
A.14. No Sir.

Q.14. Do you wish to give evidence yourself or to call any witnesses as to character?

A.14. Corporal Tracey or Major Murray will give evidence as to my character Sir.

1st.WITNESS No.D.76520 A/Cpl. Tracey C.A., R.M.R. having been duly sworn is questioned by the Defence.

Q.15. Corporal Tracey can you tell the Court in a few words what you know of Private Derby's character and past performance of duty?

A.15. I have always found him most trustworthy. There was a change in him, something seemed to upset him. He was a good cook.

Q.16. Would you as an individual be prepared to place confidence in Private Derby again?

A.16. Yes Sir, I would.

Q.17. You are conversant with the bad news that Derby received prior to his committing this offense?

A.17. I am Sir.

Q.18. And you can testify that Pte. Derby was considerably distressed during that period.

A.18. I can Sir.

Q.19. Do you think he acted differently during that period?

A.19. Definitely Sir.

2nd.WITNESS Capt. Stevens, R.M.R. having been duly sworn is examined by the Judge Advocate.

Q.20 Have you any evidence to produce as to the character and particulars of service of the accused?

A.20 I produce M.F.M. 6 the Conduct sheet of the accused. The accused has not been in close arrest at any time but open arrest since the crime was committed.

Q.21. Is the accused the person named in the statement?

A.21. Yes Sir.

Q.22. Have you compared the contents with the regimental Books?

A.22. Yes Sir.

Q.23. Are they true extracts from the regimental books, and is the statement of entries in the Conduct sheets a fair and true summary of those entries?

A.23. Yes Sir.

Q.24. To Defence: Do you wish to cross examine?

A.24. No Sir.

Court closed to consider the sentence.

Summary of evidence in the case of No. D76788 Pte. Derby, W.M. of the Royal Montreal Reg't. (MG) C.A.S.F.

By direction of the Commanding Officer the Summary of evidence is taken on Oath.

.....

1st Witness for the Prosecution

D76520 A/Cpl. Tracey, C.A. of the R.M.R. (MG) C.A.S.F. having been duly sworn states:- I am the Mess Steward of the Officers Mess of the R.M.R.(MG). On March 24, the accused left the Officers Mess, 40 Overton Road, Sutton after finishing duties as cook at approx. 1930 hrs. On checking up at 2230 hrs, he was not in his billet or bed. I went upstairs at 0630 hrs he was not in his bed and his bed had not been slept in. I then reported him absent to the C.S.M. H.Q. Coy. I did not see him till 18th April 41 at approx. 1300 hrs. The accused did not have a late nor leave pass. I had given the accused two pounds (£2-0-0) on the morning of the 22nd March, 41 for the purchase of foodstuffs for the Officers Mess and to pay the milk account. He gave me receipts for 15/9 covering purchases of foodstuffs. On 24th March, 41 at approx. 1600 hrs I asked the accused for the receipt for the milk bill, he stated he had left it upstairs in his other trousers, at approx. 1915 hrs I asked him as he was leaving the Mess for the receipt a second time he said," I have left it upstairs I'm going out now and dont make me go up and get it now I will give it to you when I come in." I contacted the milkman at approx. 1400 hrs on the 25th March and asked him if he had been paid he said no ~~and I also [illegible] him why, he said the accused said he would settle with him [illegible] he received the money from me. The milkman said he had given the bill to the accused on the [illegible] March outside 40 Overton Road, it was then he stated he would settle it the next day.~~

[illegible]

Pte. Derby: "How could you ask me for the milk receipt at 1815 hrs when you had left the Mess an hour or more before?"

A/Cpl. Tracey: I did not leave the Mess till at least 2030 hrs, why I remember so clearly was because Lieut. Weir had asked me to total up the Petty Cash book, also Pte. Crompton and Pte. Martin can vouch for my presence till 2030 hrs. The accused declines to further cross-examine the witness

.....W.A. Tracy.....
D76536 A/Cpl. Tracey, C.A.

2nd Witness for the Prosecution

D76018 Pte. Martin, G.M. of the R.M.R. (MT) C.A.S.F. having been duly sworn states:- I was in the Officers Mess 40 Overton Road all evening, Cpl. Tracey left the Mess about 2030 hrs on the 24th March, 41 which was after the accused had gone out.

The accused declines to cross-examine the witness.

.....G.H. Martin.....
D76018 Pte. Martin, G.M.

3rd Witness for the Prosecution

D77039 Pte. Crompton, C. of the R.M.R. (MT) C.A.S.F. having been duly sworn states:- I was in the Officers Mess 40 Overton Road on the 24th March, 41 and I saw the accused leave the Mess between 1900 hrs and 1930 hrs, Cpl. Tracey was in the Mess for some time afterwards and I heard Cpl. Tracey say to the accused before he went out something about a receipt for a milk bill which had been left upstairs there was also talk about a bill that the accused had paid that afternoon.

The accused declines to cross-examine the witness.

.....C. Crompton.....
D77039 Pte. Crompton, C.

Statement of Evidence in the case of D76780 Pte. Derby, W.M. of the R.M.R. (MT) C.A.S.F.

4th Witness for the Prosecution (Documentary)

L/Cpl. Vermilyea, T.D. of the Canadian Provost Corps. At London on the 29th March, 41 at about 1415 hrs. I was on patrol duty at No. 4 Beat in company with L/Cpl. Perry when I saw the M/M soldier. I asked him for his

pass. He produced one which was not satisfactory because the dates had been changed. I placed him under arrest and escorted him to C.P.C.H.Q. where I turned him over to the M.C.O. i/c cells to be detained.

A Written Statement of this witness purporting to be signed by him has been read to the accused and included in the Summary of Evidence;

Owing to the exigencies of the Service including the expense and loss of time involved the attendance of this witness is not in my opinion necessary.

The accused does not demand the attendance of the witness.

.....

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) elects to reserve his defence on two charges.

After being shown the pass attached to the Summary of Evidence as Appendix "A" admits falsifying it.

W. M. Derby

.....
D76788 Pte. Derby, W.M.

Certified that Rule of Procedure 4 (C) (D) (E) (F) & (G) have been complied with.

Taken down by me in the presence and hearing of the accused this Twenty-fourth day of April 1941.

In the Field.

H. Russell Jackson
Maj.

.....

The accused D76788 Pte. Derby, W.M. requests an officer to defend him.

If available Major. D.M. Campbell is requested.

H. Russell-Murray

.....

H. Russell-Murray Major.

List of Witnesses.

1st Witness for the Prosecution	D76530 A/Cpl. Treacy, C.A. The Royal Montreal Reg't. (MG)	In the Field
2nd Witness for the Prosecution	D76018 Pte. Martin, G.H. The Royal Montreal Reg't. (MG)	In the Field
3rd Witness for the prosecution	D77039 Pte. Crompton, G. The Royal Montreal Reg't. (MG)	In the Field
4th Witness for the Prosecution	L/Cpl. Vermilyea, T.D. Canadian Provost Corps.	[redacted]

Exhibit B
W. Phillips Major

Ex. (B)

19 Jun 41

To. Pres Ct. Martial
Case Pt. Derby

Subj Confidential Report.

The m/n soldier received a letter a few days prior to his alleged crime advising that his wife had given birth to a child, the father being his own brother.

The letter in question has been destroyed but I have verified the contents and believe the situation is as stated.

Under the circumstances the accused might not be responsible for his actions.

(D. H. Campbell) Major
R. M. R. (M. G.)

APPENDIX B

W. Phillips Major

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 6.1.65 Regimental THE ROYAL MONTREAL REGT. (M.G.) C.A.

PASS

No. 76788 Rank Pte (Name) Derby W. M.

has permission to be absent from his Quarters/Duty from March 29/41 to May 1-3 1200 hrs

for the purpose of [illegible]

(Station) [illegible]

(Date) [illegible] 8/3/41

Major Murray
Commanding

(P.T.O.)

* Destruction and [illegible] is to cause 24 hours [illegible] to be [illegible] to enable [illegible]

† Delete whichever is not applicable.

Exhibit B
Lt Hill Major

Ex. (B)

19 Jun 41

To. Pres Ct. Martial
Case Pt. Darby

Subj Confidential Repat.

The m/n soldier received a letter a few days prior to his alleged crime advising that his wife had given birth to a child, the father being his own brother.

The letter in question has been destroyed but I have verified the contents and believe the situation is as stated.

Under the circumstances the accused might not be responsible for his actions

(D H Campbell) Major
R.M.R. (M.G.)

APPENDIX "A" Lt Hill Major

If a Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ... Regimental THE ROYAL MONTREAL REGT (M.G.) C.A.

PASS

No. 76788 Rank Pte (Name) Darby H.M.

has permission to be absent from his quarters/duty, from March 1941 to May 31-3 1941 1200 hrs

for the purpose of [illegible]

(Station) [illegible]

(Date) [illegible] 8/3/41

Major [illegible]
Commanding
P.T.O.

* Destination not required unless [illegible] is to exceed 24 hours [illegible] to local [illegible] or is necessary to enable purchase [illegible]

† Delete whichever is not applicable.

Exhibit B
[illegible] Major

Ex. (B)

19 Jun 41

To. Pres Ct. Martial
Case Pt. Derby

Sub Confidential Report.

The m/n soldier received a letter a few days prior to his alleged crime advising that his wife had given birth to a child, the father being his own brother.

The letter in question has been [illegible]

[illegible] Major
P.S.

W. A. S.

No. D 76788 Name DERBY, W. M. Sqn., Battery, or Company HQ Cor No. 502 Exhibit C Corps [illegible] Certified copy Date of enlistment 7-11-39 G.C. Badges

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1. Signature O.C. Company, etc.

ROYAL MONTREAL REGIMENT
Service of
ORDERLY ROOM
C.A.S.F.

M.F.M. 6
(A.F.B. 122)
[illegible]
P.O. 1777-45-18

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
Intrefield.	7 Nov 40	Pte.	—	ABSENTING - 23 hours - 30 mins	D76520 Cpl TRACY.	3 days. C.B.	9 NOV. 40	Major. H.R. Murray.	AF 1 days Pay

(P.T.O.)

In the field,

June 20th. 41

This is to certify that I have examined D76788 Pte. Derby, W.M. of the Royal Montreal Regt.(MG) and find him fit to undergo trial by court-martial.

K R Mackenzie Capt.

.....

K? R. MacKenzie, Capt.
R.C.A.M.C.

WW·113

PTE DE REPENTIGNY R

WW-113

FIELD GENERAL COURT-MARTIAL

CPA96 (in lieu of AFA3) 40 P.S.S. 1698 (2804)

Convened by Order of Brigadier R.K. Ewing Comd 6 C.T.G. dated 25 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 62456	Pte	Lorenzo	De Rebeiro	Fus K.R.

Proceedings Reviewed

14 Dec 43

PROCEEDINGS OF TRIAL.

Held in the Fd (country) England on (date(s)) 26 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Jas, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the Commanding Officer.~~ The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

(1. KR Can 553. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to being tried by me as President or by any of the Members of the Court? Ans No.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~Jas, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	John Lewis	Lancers of C
Member	Capt	Paul Le Chasseur	Fus K.R.
Member	Lieut	Willie Hughes Fuller	S Sask R.
~~Judge-Advocate~~			
Prosecutor	Capt	Jean Paul Riviera	Fus K.R.
Defending Offr	Lieut	Eugene Joseph Burke	Fus K.R.

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused to be informed in open court by PRES that provisions of RP 59 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused D/62456 Pte De Rebeiro Fus K.R. before the Court.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or a bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (was) arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any change.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 62456 Pte Lorenzo De Rebeiro Fus K.R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date) ... (1).~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of one hundred and eight days.

(Sgd) ... Judge-Advocate, if any. 26 Nov 1943 Date awarded. (Sgd) John Lewis President. (RP 45, 52.) Capt

(See back of Convening Order as to assembly and disposal of person after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 53-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign hers personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm but ~~commute the~~ remit ~~two months~~ sixty days of the sentence.

~~I quash that the accused be not committed for trial and that all proceedings be cancelled.~~ (1. AA 57A. Delete if not used.)

(Sgd) ... Date 27 Nov 43 Commanding G S N Scouting Brig Comd 6 ~~Confirming Officer~~

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 62456 Pte De Rebeiro Fus K.R.	27 Nov 43	adjutant

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-86; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~as duly sworn~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~changes (his) (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex B1, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty ~~on one or more~~ of the charge(s), the proceedings are concluded by using Record Form E on p 3.

~~RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.~~

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (ii).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial on that proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

~~No here Loose Sheets of Record.~~

~~RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.~~

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record, per Notes, addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (4), RP 45, 120(4).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans ~~No~~ Yes I do. I Charles Lee R.N. Ex E1
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (~~copies~~) of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E2 and Ex E3 respectively.(4)
(1. *MFR 255 or AFB 2916.* 2. *MFM 6.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. No I would like to Express myself (called Ex E4) (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should prevent accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(4).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~on the date of the record~~.
(1. *When several accused tried separately see RP 94(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purposes, is to be awarded in cases of charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 64, 138, 182, RP 46-50, 69, 116, 119(A), KR Can 328, 330, 343-346. Overseas RO 309, 2323. MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 344.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 347. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D-62456 Pte Romeo De Repentigny, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas, is charged with:

A.A. Sec 15 (1) WHEN ON ACTIVE SERVICE [redacted] ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

In the Field, at about 1600 hrs on 1 Nov 43, being confined to barracks, absented himself without leave until he reported himself at 1650 hrs on 29 Nov 43.

Total time of absence: 19 days and 50 minutes.

.....
(J.G. Gauvreau) Lt-Col
C.O. Fus M.R., C.A.(AF)

In the Field
28 Nov 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
25 Nov 43

(G.S.N. Gostling) Brigadier,
Commander 6 Cdn Inf Bde.

[illegible]

K.R. (CAN.) PARA 597

I hereby certify that I have examined

No. 043454 Rank P.C. Derepentigny R.

of Sr. Fus. M.T. .....and in my opinion he is FIT/

or- ~~UNFIT~~ to undergo

G.S.

Trial by Court Martial.

Station In the Field

Date 24 Nov 43

G. Soucie Capt.

Medical Officer (R.C.A.M.C.)

JC

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-62456	Pte		ROMEO	De Repentigny	Fus M R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has XXXX committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Nov 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J. Runcie (Must be named. RP 106.)	Camerons of C (Unit.)

MEMBERS.

Capt	G. Lechasseur,	Fus M R
Lt (Rank.)	N.H. Hadley (Named or detailed. RP 106.)	S Sask R (Unit.)

WAITING MEMBER.

Lt (Rank.)	J.G. Derreault (Named or detailed, if any. RP 106.)	Fus M R (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)
(G.S.N. Gostling)

Brigadier (Rank.)

Date 25 Nov 43

Commanding 6 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Exhibit B.

SUMMARY OF EVIDENCE

In the case of D-62456 Pte Romeo De Repentigny, Les Fusiliers Mont-Royal, C.A.O., a soldier of the Canadian Army, Overseas:

The accused is informed of his rights.
The accused does not demand and the C.O. does not direct that the evidence be taken on oath.

First Witness for Prosecution D-114 955 Cpl Francois Petrin, Les Fusiliers Mont-Royal, C.A.O. after being duly warned states:

I am employed in this unit in War Auxiliary Service, at about 1600 hrs on 1st Nov 43 I noticed that D-62456 Pte Romeo De Repentigny was absent from his duty. I then reported as such.

D-114955 Cpl Petrin F.
Fus M.R., C.A. (O)

The accused declines to Cross-examine.

Second Witness for Prosecution D-62818 Cpl Gerard Bruyere, Les Fusiliers Mont-Royal, C.A.O. after being duly warned states:

I was Coy Orderly Cpl for H.Q. Coy on 30th Nov 43 when D-62456 Pte Romeo De Repentigny reported himself to me at 1650 hrs that same day. He was sober and properly dressed.

D-62818 Cpl Bruyere G.
Fus M.R., C.A.(O)

The accused declines to Cross-examine.

The accused having been duly cautioned in accordance with R.P. 4 (e) says:

" I have nothing to say."

D-62456 Pte De Repentigny R.
Fus M.R., C.A. (O)

The accused does not wish to call witnesses in his defence at this point.

I certify that the foregoing Summary of evidence consisting of one page was taken down by me in the presence of the accused and that the Rules of Procedure 4 (e) have been complied with.

(J.P. Thivierge) Capt.
Fus M.R., C.A.(O)

In the Field
22 Nov 43

Exhibit E.

Statement of Lieut R. J. Chevalier, Ins R.R.

I am Lieut Ruville Jacques Chevalier, a platoon commander in his Fusiliers Mont Royal. I have known the accused for one year and I consider him to be a good soldier and cannot understand why he has done this. I feel if he were given another chance he would prove that this was merely an unfortunate slip.

Exhibit E 2

(Substitute for A.F.B. 296)
or M.F.B. 355

STATEMENT OF CHARACTER AND PARTICULARS
OF SERVICE OF THE ACCUSED

No. D-62456 Rank. Pte Name DE Repentigny R. Unit Fus M. R.

Age 36 Married or Single Married No of Dependants 6

Date of Attestation 16 July 1940

No. of Days spent in close Arrest (To date of Trial)

Civil ____ Military 5 Hospital ____ Total 5

Dates of Promotions, Appointments and Confirmation of Rank, if any
A/L/Cpl 23/4/41 - A/Cpl - 14/6/41 A/Sgt
8/7/41 - Pte own Request 16/4/42 - A/Cpl
18/6/42 - A/Cpl - 23/6/42 Revert 2/9/42 [illegible]/9/42

A CERTIFIED TRUE COPY OF M. F. M. 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)
a Deplorary Captain Unit

Dated at: In the Field
This 26th day of Nov. 1943
To be dated and signed as for date of trial)

JR

Exhibit E3

No. D-62456 Name DeRepentigny R. Sqn., Battery, or Company H.Q.Coy Corps Fus M.R. Date of enlistment 16 Jul 4[illegible] G.C. Badges One Service or Proficiency Pay

M.F.M. 6 (A.F. B.122) 40/P & /8136 (2965)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. L.H. Benoit Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed on completion of two years service without any regt'l entry C.A.R.O. 2084 L.H. Benoit Capt.					
Field	28 Oct 1943	Pte		A.A. sec. 15 (1) A.W.L. from 1600 28 Oct 43 until he reported himself at 0730 hrs 29 Oct 43 Total of absence: 15 hrs 30 min.	Documentary	14 days pay 14 days C.B.	30 Oct 43 J.P.T.	Lt-Col. J.S.Gauvreau	One day Pay under F.R.A. I 149 (1)a
				CERTIFY TRUE COPY:	J P Thinerge Capt				

(P.T.O.)

Exhibit D4

Statement of Lieut. E. J. Boyer Fus. R.R.
Defending Officer

The accused has been in the Army since 16 July 1940 and in England since 2 March 1941. Prior to this charge he had gone A.W.L. for a period of 15 hrs 30 mins for which he was awarded automatic forfeiture 1 day's pay 44 days C.B. and stoppage of 14 days' pay. (Before that crime his R.F.M.C. had no entries and he was an exemplary soldier) The punishment which he considered very severe made him dejected and he went A.W.L. again when he had been gone for a period of 19 days he began to realise he was not playing the game so he returned & gave himself up. He has been an excellent soldier as witness his record. L/Cpl 23 Mar 41 Cpl 14 June 41 Sgt 8 July 41. Reverted at own request for attachment to Arm Services 16 Apr 42 again promoted L/Cpl 18 June 42 Cpl 23 June 42 Reverted 2 Sep. 1942. He has had considerable domestic trouble in Canada and has no parcels or letters sent to him by his wife. Has 1 son and 1 daughter in forces.

LIST OF WITNESSES

In the case of D-62456 Pte Romeo De Repentigny, Les Fusiliers Mont-Royal, Canadian Army Overseas.

PROSECUTION

D-114955 Cpl Petrin F.
D-62818 Cpl Bruyere G.

DEFENCE

Nil

LIST OF EXHIBITS

Nil

STATEMENT BY ACCUSED

I, D-62456 Pte Romeo De Repentigny, Les Fusiliers Mont-Royal Canadian Army Overseas, desire to have an Officer to represent me at my trial by Field Court Martial.

I desire the services of Lieut. Boyer M.J., Fus M.R.

I also acknowledge receipt of one copy of the foregoing Summary of evidence.

D-62456 Pte De Repentigny R.
Fus M.R. C.A. (C)

4/3-146

PIE DERFERD RL.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-107579 Pte Derford RL Cams of C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd	Guilty	Guilty.	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~Commencing on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 12 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer Penal Servitude for the term of three (3) years.

(Sgd) E K McDougall — Judge-Advocate, if any. 29 Sep 44 — Date awarded. (Sgd) R J Hamilton Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for condirmation.

Date 3 Oct 44 (Sgd) W H Calling Lt-Col Commanding HQ RCASC 2 Cdn Inf Div

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the sentence is not executed but that the accused be released from military custody.~~ (1)

(1. AA 57A. Delete if not used.)

Date 13 Oct 44 (Sgd) G G Simonds — Commanding The Generalofficer of the Canadian Militia Commanding First Cdn Army. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
107579 Pte Derford R L	20 Oct 44	K A Taylor Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

43-146

FIELD GENERAL COURT-MARTIAL

CFAMS (To direct of AFA3) C.G.P.S. S. 1808 (2864)

Convened by Order of Lt-Col WH Calling Comd RCASC 2 Cdn Div dated 27 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-107579	Pte	Derford RL	Cams of C	

Certified True Copy (W. Hawgh) Major DJA Cdn Sec GHQ 2 Echelon Army Gp

PROCEEDINGS REVIEWED Late D. J. A. Cdn. Sec. G.H.Q. 2 Echn, 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belguim. on (date(s)) 29 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1630 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~The Interpreter is sworn.~~ (1) Do you object to S/Sgt Elliott as shorthand writer? Ans No Sir
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R J Hamilton	2 Cdn ATk RegtRCA
Member	Capt	S F Hog	Tor Scot (MG)
Member	Lieut	E E McCullough	2nd/Pte Regt RCA
Judge-Advocate	Capt	K K McDougall	HQ 2Cdn Inf Div
Prosecutor	Lieut	T B Murray	QO Cam Highrs.
Defending Offr	Capt	A LePerre Qr	QO Came Highrs.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 68 (B) and fn 2 were not followed. See Di p 2.)

A8. The accused Pte R L Derford before arraignment make(s) (no) ~~a~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned ~~severally~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~B~~ C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii)*, Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses etc, offence. see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. N.G.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 25(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty ~~& Off~~ charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is opened, and the President announces that the submission is disallowed on the ~~Charges~~ charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. By oath & Statement. Do you intend to call witnesses on your behalf? Ans. Yes for both. Are they witnesses as to character only? Ans. Yes for both.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2-9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) ~~If Guilty~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No Evr.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "1" and Ex "2" respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Just that Bygone & Forgiving Offr.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences for civil offences by the law of England see AA 41(5), MML p 130. When accused MML p 66, 737-739. As to sentences assigned for civil offences see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

D.M. Hamilton Esq

CHARGE SHEET.

A-:07579 Private RALPH LEONARD DERFORD, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
AA Sec 12(1)(a) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he
in the Field, at 1900 hours on the 13th September 1944, when his platoon was in a forward position and engaging the enemy and after having been instructed to return to his platoon after evacuating a casualty, with intent to avoid taking further part in the engagement, did not return to his platoon until 1700 hours on the 16th of September 1944

SECOND CHARGE
AA Sec 15(1) W.O.A.S ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field at 0730 hrs 27 Aug 44 absented himself without leave until he surrendered at 0800 hrs 3 Sep 44

In the Field
27 Sep 44

"E L Thompson Lt-Col"
(E P. Thompson) Lt-Col.
Comd Camerons of C.

To be tried by Field General Court Martial.

"W N Calling"
(W.N. Calling) Lt-Col.
GPASC 2 Cdn Inf Div

In the Field
27 Sep 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-107579	Pte	Ralph Leonard	DEPPORD	Queens Own Cam Rifles of Canada

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 27 Sep 44 endorsed by me (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated attached hereto N/A
(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	R J Hamilton	2 A Tk Regt RCA

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G F Hoy	Cor Sqdn (MG)
Lieut	W F McCullough	2 A Tk Regt RCA

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J M A Graham	2 Div Tps Coy RCASC

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E V McDougall	HQ2 Cdn Inf Div

On Active Service in the Fd

in Belgium (Country.)

Date 27 Sep44.

"W H Calling" Lt-Col (Rank.)
(Signed personally. RP 105 fn 2.)
(W H Calling)
Commanding RCASC 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PASS (in lieu of AFAS) 40/P & S/1867 (1401))

(*See overleaf for oaths and notes for use on trial.*)

"R J Hamilton"

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this day examined No. A-107579

Rank Pte Name DEBFORD R I Unit QOCH of Canada

and in my opinion he is fit to undergo trial

by court-martial.

Field.

29 Sep 44

R M Robers Capt.

M.O. 21 Cdn F.D.S. RCAMC

"R J Hamilton"
Major

First Witness for the Prosecution

Lieut D J Lyons, Cam of C having been duly sworn is examined by the prosecution

Q. 1 Who are you ?
A.1 I am Donald James Lyons, A Pl Comd Queens Own Cameron Highrs.
Q.2 Have you in your platoon a man by the name of Derfore?
A.2 I have.
Q.3 Is he in this room?
A.3 Yes (Identifies the accused)
Q.4 Would you tell the court in your own words what happened on the 13th of Sep around 1200 hrs?
A.4 On the 13th of Se at a place called Braydennes Pte Derford was sent with a casualty to evacuate to the R.A.P. He did not return to the pl until approximately 1700 hrs on the 17th of Sep where he reported to me in the En rest area and I placed him under close arrest.
Q.5 Did you tell him to stay o t after he took the casualty back?
A. No I did not.
Q.6 Did you give him any kind of another order?
A.6 No I did not.

Cross examined by the Defence

Q.7 Where was it the action actually took place when Derford was absent from, what was the name of the place?
A.7 I could give the exact point on a map, it was near a house near a cemetery, it was called Braydennes.
Q.8 Here I have a signed statement by you that says Le Londres, they are separate places, will you tell us which it was?
A.8 It is between Braydennes and Le Londres, that is as close as I can come.
Q.9 Can you tell us whether there was free movement to the rear from your company?
A.9 I did not return to the rear myself, but there was periodic firing, machine gun and mortars, but it was not bad all the time.

Questioned by the court.

A.10 On this date and at the time in question was your platoon engaging the enemy?
A.10 At the time we were trying to move forward to take up a position ahead of R C Y.
Q.11 It is right in saying an engagement was going on?
A.11 Yes it was.
Q.12 Did you give the accused any instructions as to what he would do after he evacuated the casualty?
A.12 I did not sir, I was not on the spot when he was sent.
Q.13 Did the action continue after he had left?
A.13 Yes sir.
Q.14 When he returned was the action still in progress?
A.14 No sir.
Q.15 Be the accused was in your platoon?
A.15 Yes sir.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 93(3)

THE WITNESS WITHDRAWS

Second Witness for the Prosecution

B-139706 Pte Riley, T.L. Cam of C having been duly sworn is examined by the Prosecution

Q.16 What is your number rank and name?
A.16 B-139706 Pte T L Riley.
Q.17 What Pl are you in?
A.17 No 8 Pl
Q.18 Who is your pl comd?
A.18 Mr Lyons.
Q.19 In your Pl is there a man by the name of Derford?

A.19 Yes sir.
Q.20 Do you see him here?
A.20 Yes sir (identifies the accused)
Q.21 Can you tell us in your own words what happened about 1900 hrs on the 13th of Sep concerning yourself taking out a casualty?
A.21 On the night of the 13th of Sep Pte Derford and me was detailed to take out a casualty and we did it and on the way back Pte Derford stopped at a house he said for ten minutes, He said for me to go ahead he would catch up, that is the last I saw of him until he reported back to the coy two and half days later.
Q.22. Whodetailed you to take out the casualty?
A.22 There was no one detailed the just asked for two volunteers.
Q.23 Did you have any difficulty getting back to the Platoon?
A.23 At first I did then I found the wire and followed it back to the coy.
Q.24 How long did it take you to get back?
A.24 About an hour and a half sir.

Cross examined by the Defence

Q.25 After you returned to your platoon did the firing slacken or was it getting stronger?
A.25 I did not report to the Pl I reported to No. 7 No. 8 was away and was cut off. The firing and mortar kept up just the same.
Q.26 You could not get through to the Pl?
A.26 No sir, they sent out a patrol but they had to come back.
Q. 7 Did Pte Derford indicate to you that he was or was not coming back in?
A.27 He said he was coming in ten minutes.
Q.28 He said he would be back?
A. 28 Yes sir.

Questioned by the court.

Q.29 In the summary you state you were instructed to return to the Pl, who instructed you to return to the Pl, Was it an N.C.O. or who was it?
A.29 I think it was an N.C.O. sir.
Q.30 You difinitely heard someone say to come right back?
A.30 Yes sir, I heard someone say to come right back.
Q. 1 Did you yourself understand that you had to come backafter you went with the casualty?
A.31 I knew we had to comeback after we were through with the casualty.
Q.32 Can you tell us whether or not the accused knew that, did he speak to you about it?
A.32 No we did not speak about that.
Q.33 On previous occasions was it normal to come right back?
A.33 I guess so sir.
Q.34 How long have you been with the Platoon?
A.34 since the 8th of Auguse sir.

In the opinion of the court and the judge advocate it isnot2necessary to comply with the provisons of R.P. 83(3).

THE WITNESS WITHDRAWS

THE PROSECUTION IS CLOSED

First Witness for the Defence

The accused A 107579 Pte Derford R.T. States:

All I can remember is I stopped at the house for about three minutes then started on my way and the mortars started and I went in the house and stayed there for two days and then came out. My nerves were pretty well shaken so I had to have some time for them to quieten down, My mother was in an asylum for a long time and my brother had a nerv us breakdown in Feb and in 1940 I had nervous fits.

Second Witness for the Defence

Capt A LeMevre, Can of C having been duly sworn states:

The accused has been with the unit since the attack at Fontaine le Waine. He has carried out is duties and tasks in the pl and coy. He has changed pl some a number of times. He is a Bren gunner and has always had his Bren there. I would like to point out he has been in several actions and co pletely surrounded at times and did a very good job. I have fo nd out his mentality is such he is ver nervous and very excitea le and it is very difficult for him at times to comprehend the scene. I do know that the accused was tith his Pl and in action and just what happened there he has stated himslef.

The prosecution declines to cross examine.

Questioned by the court:

Q 35 Do you know if he has ever been to the M.O. about his nervous condition?
A.35 I really cannot say. I have no information about that at all.

In the opinion of the co rt and the judge adv$cate it is not necessary to comply with the provisions of R.P. 83(3)

THE WITNESS SITS DOWN.

The prosecution declines to make a closing address

Closing address of the Defence.

The point I wo ld like to bring out is that the accused did not refuse to return to his Pl and also his evidence is proof the pl was having a rough time and the shelling, mortar and firing at what timewas very intense. Before that he carried on in the Pl and did his job to the best of his ability. If possible I would like to have a Psychiatrist report on this man but the trouble is youcannot set that unle s the man is right in the middle nerves. He has been very nervous and is is very hard for him now to understand even small things.

Summing up by the J.A.

As the court realized the charge is very serious one. As far as the legal end of it goes, before you canvonvict a man on a charge of desertion you must in the first place prove his absence and you must prove in addition that he had the intention either to quit the service of his Majesty's entirely or as in the present charge he had the intention to avoid some particular service or action. That is what you will have to dicide now. You have heard the evidence and you will have to judge whether the accused left his pl when engaged with the enemy with the intent to avoid taking any further part in the action in which the pl was engaged in. Intent as far as proof goes can only be inferred from the facts that have been proved. It is now very often that you can prove a man's intention from an expressed declaration of intention from that man. In other words you must now judge whether the circumstances and facts proved this afternoon show that this soldier had the intent otc avoid the action in which his pl was involved. I think that is all I can advise you on as regrds intent.

There is not much more I can say, the facts are not greatly in dispute and I will close by reminding you, the court, that in British law a man is presumed to be innocent until proved to be guilty beyond reasonable doubt. I have defined reasonable doube in other cases the past few days as that kind of a real and substantial doubt which would make a reasonable man pull up and hesitate and consider whether the thing he is about to do is a sare and reasonable thing.

If there are no questions from the defending or prosecuting officer or the court, I would suggest the court close to reach a finding.

No questions.

Mitigation by the defence.

I do not believe there is anything further I can say other than what I have already said.

SUMMARY OF EVIDENCE "A" R J Hamilton

in the case of A-107579 Private RALPH LEONARD DERFORD, THE QUEEN'S OWN CAMERON HIGHLANDERS OF CANADA, a soldier of the Canadian Army Overseas

accused is informed of his rights.

The commanding Officer directs and the accused demands that the evidence be taken on oath.

FIRST WITNESS for the prosecution: B-139706 Pte T L Riley, Camerons of C having been duly sworn states:

"I am a Pte in No.8 Pl 6 Sec A Coy, Cams of C. On 13 Sep at approx 1900 hrs I was detailed with the accused toevacuate a casualty. The battalion was at that time engagint the enemy near LA PANNE. We were instructed to return to the platoon after the casualty had been evacuated. On returning the accused went into a hourse. He said he would be about ten minutes, I went on. I did not see the accused again till approximately 1900 hrs 16 Sep 44 after the action had finished".

The accused declines to cross-examine.

T L Riley
(B-139706 Pte Riley T.L.)

SECOND WITNESS for the prosecution Lt. D.J.Tyons Cams of C, having been duly sworn states:

"I am Platoon Commander of 8 Pl A Coy. Camerons of C to which the accused whom I now recognize belongs. On 13 Sep 44 at approximately 1900 hrs the accused should have reported backtothe platoon after having evacuated a casualty. He did not return and was absent until he reported to me at approx 1700 hrs 16 Sep 44 at LA PANNE when the battalion was at rest. I placed him under close arrest. During the period of his absence the battalion had seen considerable action".

The accused declines to cross-exmine

"D J Tyons - Lt."
(D J Tyons) Lt.

The accused having been duly cautioned inaccordance with RP 4(e) says:

"I wish to make a statement".

The accused A-107579 Pte R.L. Derford, having beenduly sworn states:

"On 13 Sep 44 at approx 1900 hrs I was detailed to assist in evacuating a casualty and return to the platoon. On the way back I stopped at a house as they offered me some ing to eat and drink. I tried tofollow the others and a little later out there was the odd shelling and mortaring so I went another house. I did not rejoin the battalion till 1700 hrs 16 Sep 44.

R J Derford
(A-107579 Pte Derford R.L.)

Certified that RP 4 have been complied with.

In the Field
20 Sep 44

"P W C Glossop Capt"
(P W C Glossop) Capt.
Officer detailed to the summary.

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

Substitute for AFB 296
WPB 335

No A107579 Rank Pte Name R L Berford Unit Camerons of C.

Age 25 years 3 months Married No of Dependents Two

Date of Attestation 3 Aug 43.

Number of days in close arrest awaiting trial. 12.

In the Field.
20 Sep 44

K R Taylor Capt

Officer i/c Records.

LIST OF WITNESSES

In the case of A-107579 Pte Ralph Leonard DEFFORD, THE QUEEN'S OWN CAMERONS HIGHLANDERS OF CANADA, a soldier of the Can Army Overseas.

PROSECUTION

B-139706 Pte Riley T. Cams of C
Lt D J Lyons Cams of C

DEFENCE

Nil.

List of EXHIBITS

Nil

STATEMENT OF THE ACCUSED

I-A-107579 Pte Defford R.L. certify that I have been given free-of-charge copy of documents, proceedings, etc, relating to my trial by Field General Court Martial.

I desire the services of Capt A LeFerre if he is available.

R L Deford.
(A-107579 Pte Defford R.L.

"A"

SUPPLEMENTARY
SUMMARY OF EVIDENCE

In the case of A-107579 Private RALPH RICHARD DERFORD, The Queen's Own Cameron Highlanders of Canada, a soldier in the Cdn Army Overseas.

The accused is informed of his rights.

The commanding officer directs and the accused demands that the evidence be taken on oath.

FIRST WITNESS for the prosecution B-144171 Cpl C.E. Schuette Camerons of Canada being duly sworn states:-

"I am an NCO in No 8 Pl A Coy, Camerons of Canada with which the accused whom I now recognize belongs. On 27 Aug 44 I was with the unit at BRIONNE. At 0730 hrs I saw Pte Derford eating breakfast. At 0800 hrs the same day when No. 8 Pl left BRIONNE to go into action Pte Derford was missing. I conducted an extensive search for him but couldnot find him. I did however find his MG lying on the ground. He remained absent until 0800 hrs 3 Sep 44. The unit was at this time out for a rest near DIEPPE. During the time Pte Derford was absent the unit had been in several severe actions.

The accused declines to cross-examine.

"Cpl C E Schuette"
(B 144 171 C.E. Schuette)

SECOND WITNESS for the prosecution: Lt D J Lyons, Camerons of Canada being duly sworn states:

"I am Pl Comd of No.8 Pl A Coy, Camerons of C, to which the accused whom I now recognize belongs. I took over comd of my pl at the CONCEST IN LONDRES at 1800 hrs 25 Aug 44. The accused was absent at the time and remained absent until he reported to me at approx 0800 hrs 3 Sep 44 in the on rest area near DIEPPE".

The accused declines to cross-examine.

"D J Lyons"
(D J Lyons) Lt.

The accused, having been duly cautioned in accordance with RP 4(e) says:

"I wish to make a statement".

The accused: A-107579 Pte R L Derford having been duly states:-

"On 27 Aug 44 at approx 0730 hrs, near BRIONNE I had breakfast, after which I left my Bren Gun in the Coy area and went at sleep in a barn in the company area. The company moved off and I knew nothing about it. In the afternoon I found myself on my own. I caught an Army Service Corps truck and I stayed with the Army Service Corps until I rejoined the battalion near Dieppe at approx 0800 hrs 3 Sep 44".

(R L Derford)
A/107579 Pte Derford R.L.)

Certified that RP 4 have been complied with.

In the Field.
20 Sep 44

"P W G Glossop" Capt.
(P W G Glossop) Capt.
Officer detailed to take the summary.

Sheet destroyed 3 Fe 44 L S Clue Capt.

No -107579 Name Derford RL. Sqn, Battery, or Company A Corps CIC Date of enlistment 3 Aug 40 Badges Service or Proficiency Pay

MFM 6 (AFB 122) 40/PAS/136 (2438)

Date of last entry in Company Conduct Sheet 17 Aug 43 No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No One Signature OC Company, etc L S Clue Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Chatham Ont	6 Mar 44	Pte		awl from 0200 hrs 6 Mar until 1755 hrs 13 Mar 44	Cpl Thompson	14 Days CB passes cancelled for one month	14 Mar 44	Lt-Col F.M.Ansel	forf 8 days p... FRI 149(1) (a

//

CERTIFIED TRUE COPY FROM DOCUMENTS IN MY CUSTODY.

"K R Taylor"
(K R Taylor) Capt.
Adjt Camerons of C.

(PTO)

4E5H.
Pl. DERKSON. R.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L2493 Pte Raymond Wilfred DERKSON, 1 Cdn Adm Tpt Coy RCASC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec ~~5~~ (2) AA	NOT GUILTY	Not Guilty	
2nd	Sec 40 AA (Alternative)	NOT GUILTY	Not Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... 17 Nov 44 (Sgd) Chas Roberts Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 23 NOV 1944 JUDGE ADVOCATE GENERAL'S BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 ..... DE-54

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3) 4/38B

Convened by Order of Maj-Gen JH Roberts, DSO MC Comd Cdn Rft Units dated 14 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
L2493	Pte	Raymond Wilfred	DERKSON,	1 Cdn Adm Tpt Coy RCASC

PROCEEDINGS REVIEWED JAG Judge Advocate Capt. 22 Nov 44

REVIEWING OFFICER, JAG

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for baths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans .....

The Interpreter is sworn.(1) Do you object to Lt A.H. Lindsay as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Brig	B.M. Wilson CBE DSO	HQ CRU
Member	Capt	R.J. McCarten	1 CASC RU
Member	Lieut	G.E. Dingman	1 CASC RU
Judge-Advocate			
Prosecutor	Lieut	D.R.C. Brown	1 Cdn Adm Tpt Coy
Defending Offr	Lieut	G.J. Richardson	1 Cdn Adm Tpt Coy

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NAD .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (any) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. Make an Oath. Do you intend to call witnesses on your behalf ? Ans. No. Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st and 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(*1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 208, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

THE ACCUSED ELECTED TO BE TRIED BY COURT- MARTIAL

CHARGE SHEET

The accused, L-2493 Pte Raymond Wilfred DERKSON, No 1 Cdn. Adm. Tpt. Coy. R.C.A.S.C., a soldier of the Cdn. Army Overseas, is charged with:

FIRST CHARGE
A.A. Sec 8 (2)

When on Active Service, using insubordinate language to his superior officer,

in that he

At Farnborough, Hants. on 7 Nov 44 after being given an order by B-80342 Sgt Hayes, J.S., his superior officer, did say "Go fuck yourself" and use other offensive language.

SECOND CHARGE
A.A. Sec. 40
(Alternative)

When on Active Service, Conduct to the Prejudice of Good Order and Military Discipline:

in that he

At Farnborough, Hants on 7 Nov 44 did use insubordinate language towards B-80342 Sgt. Hayes, J.S., his superior officer by saying "Go fuck yourself" and using other offensive language.

G.C. McArthur
(G.C. McArthur) Lt. Col.,
Commanding Officer,
No 1 Cdn. Adm. Tpt. Coy.,
R.C.A.S.C. C.A.(C)

Farnborough, Hants.
14 Nov 44.

To be tried by Field General Court Martial.

J.H. Roberts
(J.H. Roberts) Maj. Gen.
Comd., Cdn. Rft. Units.

In The Field.
14 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
L2493	Pte		Raymond Wilfred DERKSON.	1 Cdn Adm Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 NOV 44 endorsed by me, ~~(or by an offr of my staff for me)~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr;~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~a. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~b. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E.M. MILLER, ED EC	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A CAPT	FROM	1 CASCRU
A LIEUT	FROM	1 CASCRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 14 Nov 44

(Signed personally. RP 105 fn 2.)
(J.H. Roberts) Maj-Gen
Commanding Cdn Rft Units
Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (For Add. (to Secy of AFAS) 40/7 & 8/Lgot (4601))

(See overleaf for oaths and notes for use at trial.)

NO. 1. CDN. ADMINISTRATIVE TRANSPORT COMPANY R.C.A.S.C. C...(O).

Medical Officer's Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No. L-2493 Pte. DERKSON, R.W.
(rank) (name)
of No. 1 CDN. ADM. TPT. COY. R.C.A.S.C. and in my opinion he is fit to undergo
trial by Court Martial.

Station Farnborough, Hants.

Date 17 Nov 44

Sgd. R.W.M. Bethune Capt. RCAMC
(Medical Officer)
(R.W.M. Bethune) Capt. RCAMC

CASE OF

L.2493 Pte DERKSON R.W., 1 Cdn Adm Tpt Coy RCASC

D-3 PROSECUTION

FIRST WITNESS

B.80342 Sjt HAYES JS, 1 Cdn Adm Tpt Coy RCASC, having been duly sworn, states:

I recognize the accused. On 7 Nov 44 while acting as Ord Sjt I was standing in the kitchen in company with the Orderly Officer, and I noticed the accused [redacted] at one of the stoves in the kitchen making toast. I approached him and asked him what duties he was on, and he explained to me that he was on fatigue work in the kitchen and I thereby told him that I was of the opinion that the fatigue men eat after the regular meal parade and told him to go about his work. He then commenced to argue with me, thereupon I asked him how long he had been in the Army and did he not know an order when he heard one, and his reply was "this is not the fucking army". I don't remember the exact words of the rest he said. The next instant I told him to carry on with his work and he said, or rather, told me to go fuck myself. I asked him to repeat it and said "what did you say?" and he said "go fuck yourself".

NO CROSS-EXAMINATION

QUESTIONS BY THE COURT:

Q. What order did you give him?
A. I told him to carry on with his work, Sir.

Q. Was he not doing that?
A. He was making toast on his own behalf.

Q. Was he working under you in the kitchen?
A. No, he was working under one of the NCOs in the kitchen, who was not available at the time.

Q. What work did you have for him to do?
A. Part of his duties are to carry water, washing pans, etc. What particular duty he was on I don't know, but fatigue men were supposed to eat after the regular meal hour only. Another reason was no one is supposed to be in the kitchen outside of the cooks. Another reason, it came out on Pt I Order that there is no toast to be made in the kitchen.

IN THE OPINION O F THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

DEFENCE

The accused, having been duly sworn, states:

Q. Did you tell the Sjt to go fuck himself?
A. No.

Q. On the morning of the 7th were you detailed to carry water?
A. No, my instructions on kitchen fatigues were to peel spuds, and that doesn't start until after the meal and before that I had nothing to do except get my own breakfast. I was wakened up that morning at 6.30, and sent down to the kitchen to get my breakfast. I was making toast to have a sandwich, there was no one at the stove, and this is when the Sjt came up and asked me what duties I was on and I told him I was on fatigues, kitchen fatigues. He said he was of the opinion that kitchen fatigue men ate after breakfast, and he said to carry on with my duties so I took my mess tins and went out in the hall to wait until after the meal parade was finished to get my breakfast.

Q. What about the words he said you used to him? Did you say them?
A. No, nor no words like it.

Q. ANything else you wish to say?
A. No.

CROSS-EXAMINED

Q. Do you recall what you did say to the Sjt?
A. I told him I did not see where it mattered whether fatigue men ate before or after or between meals.

Q. Did you use any other language?
A. No, SIR.

QUESTIONS BY THE COURT

Q. Anybody else around at the time?
A. I don't know.

Q. What did you say to the Sjt?
A. I said nothing to the Sjt but what I have already said to the court Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

THE DEFENCE IS CLOSED.

STATEMENT BY THE PROSECUTOR ON THE FINDING

I have no further witnesses and the Prosecution submits that the evidence of Sjt Hayes is very clear and conclusive. He asked the accused to repeat his remark and he did so, and I submit that the evidence shows that the accused is guilty of the offences as charged.

STATEMENT BY THE DEF OFF ON THE FINDING

There were no witnesses of this statement being made, and the Defence contends that this is one man's word against another. I therefore submit that the Prosecution has not established a case, and if there be any doubt, the accused must have the benefit. It has also been given that an Orderly Officer was there, and if the accused had used these words, the Sgt would have asked the accused (when he asked him to repeat the statement) to do so in the presence of the orderly officer. In any event the Capt was there and has not been called as a witness.

THE COURT IS CLOSED TO CONSIDER THE FINDING

Summary of Evidence in the case of L-2493 Pte. Derkson, R.W., No. 2 M.A.C. Increment to No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken on oath.

FIRST WITNESS. B-80342 Sgt. Hayes, J. S., No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C., a soldier of the Canadian Army Overseas, having been duly sworn, states:

On 7 Nov 44 at approx 0707 hrs while carrying out the duties of regimental orderly sergeant in the Men's Mess, I noticed the accused whom I now recognize, making toast on one of the stoves in the Mess. I approached him and asked him what duties he was on. He informed me he was on fatigues. I told him that I was of the opinion that the fatigue men had their breakfast after the regular mail parade which was in progress. He then told me that he did not see what difference it made, and I told him to carry on with his duties. After more argument on his part, I asked him how long he had been in the Army, if he did not know better than to argue when given in order. He then said "This isn't the fucking Army", and added further abusive language concerning the unit as a whole. He next told me to "Go fuck yourself". Not being sure that I had heard correctly, I asked him to repeat his statement and he did so. I then asked him for his paybook, which he failed to produce, and I took his name and number and put him under open arrest. That is all I know of the matter.

The accused declines to cross-examine the witness.

Jack Hayes

The accused was cautioned as follows: "Do you wish to make any statement or to give Evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E) & (F) have been complied with.

D. R. C. Bedson Lieut.
Officer detailed to take the Summary of Evidence.

13 Nov 44
FIRBOROUGH, HANTS.

Summary of Evidence in the case of L-2403 Pte Derkson, R.W., No 2 M.A.C. Increment to No 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken on oath.

FIRST WITNESS B-00642 Sgt. Hayes, J.S., No 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C., a soldier of the Canadian Army Overseas, having been duly sworn, states:

On 7 Nov 44 at approx 0707 hrs while carrying out the duties of regimental orderly sergeant in the Men's Mess, I noticed the accused whom I now recognize, making toast on one of the stoves in the Mess. I approached him and asked him what duties he was on. He informed me he was on fatigues. I told him that I was of the opinion that the fatigue men had their breakfast after the regular meal parade which was in progress. He then told me that he did not see what difference it made, and I told him to carry on with his duties. After more argument on his part, I asked him how long he had been in the Army, if he did not know better than to argue when given an order. He then said "This isn't the fucking Army," and added further abusive language concerning the unit as a whole. He next told me to "Go fuck yourself." Not being sure that I had heard correctly, I asked him to repeat his statement and he did so. I then asked him for his paybook, which he failed to produce, and I took his name and number and put him under open arrest. That is all I know of the matter.

The accused declines to cross-examine the witness.

.....

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defense.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E) & (F) have been complied with.

(D.R.C. Hodson) Lieut.
Officer detailed to take the Summary of Evidence.

15 Nov 44
Farnborough,
Hants.

TRIAL BY COURT-MARTIAL

Lieut. G.J. RICHARDSON, #2 M.A.C. Increment to #1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. has been assigned to represent L-2493 Private Raymond Wilfred DERKSON at his forthcoming trial by Court-Martial.

SA-63.

Pte. Deroche, A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 18448 Pte Armand DEROCHE

Charge. (Insert "alternative" where applicable.)	Plea. (See notes p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	Not guilty	Not guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

~~At present under sentence for ... beginning on (date)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting general trial: a total of ... days, of which ... days were spent in hospital.(1)~~

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) N/A Judge-Advocate, if any. 25 Feb 45 Date awarded. (Sgd) E.A.A. Doiron Major President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding of Not Guilty confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 1 March 45 (Sgd) ... Commanding 5 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 SA-63

2 CDN INF DIV 28 MAR 1945 JUDGE ADVOCATE

FIELD GENERAL COURT-MARTIAL

CFA86 (1st issue of AFA3) 40-P & R-1696 (2004)

Convened by Brig P.E. Bernatchez DSO Comd 3 C.I.B dated 23 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 184, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R. or A/apptmt.	Full Christian Names.	Surname.	Unit.
G/18448	Pte	Armand	DEROCHE	C.Y.R.

~~CHARGE(S) PREFERRED BY OFFICER COMMANDING TROOPS~~

~~HEADQUARTERS OFFICER COMMANDING~~

PROCEEDINGS OF TRIAL.

Held at ~~HEADQUARTERS~~ Fd in (country) Italy on (date(s)) 24 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans ...

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans ...
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.A.A. Doiron. M.B.E.	R22R
Member	Capt.	C.H. Smith.	W.N.S.R.
Member	Lieut.	W.E. Brosseau	C.Y.R.
Judge-Advocate	N/A	R.E. Logan	
Prosecutor	~~Lieut.~~	~~C.E. Senechal~~	C.Y.R.
Defending Offr	Capt.	E.M. Leonard	C.Y.R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ~~is charged as follows~~ Armand Deroche before arraignment makes(s) (no) ~~his~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of insets p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ reconsiders the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

H 43 PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

~~D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence~~ yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans .....

Do you intend to call witnesses on your behalf?

Ans .....

Are they witnesses as to character only? Ans .....

(1. RP 155. 2. RP 40(A), see 60(C). 3. RP 40 fn 2. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, Bei(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part 2 of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(a). See Notes in Part 1 of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (a), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.A 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 351 or MFB 296. 2. Mod'm E. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove as such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purposes, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Oversea AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Charge Sheet

The accused, G18448 Pte Armand DeRoche, a soldier of the Carleton & York Regiment, Canadian Army Overseas, Central Mediterranean Force, on Active Service, is charged with:-

First Charge
Sec 40 A.A.

When on Active Service, conduct to the prejudice of good order and military discipline

in that he

in the field, in Italy, at approximately 2359 hrs 3 Feb 45 when in a forward area did shout aloud the password of the day and the reply thereto, thereby endangering the safety of His Majesty's Forces.

In the Field
16 Feb 45.

(J.P. Enser) Lt.-col.,
Comd Carlt & York R.

To be tried by Field General Court Martial

In the Field
13 Feb 45.

(J P E Bernatchez) Brigadier,
Commanding 3 Cdn Inf Bde.

Examined Major
President

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G18448	Pte		Armand	DeRoche	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 23 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Rank.	Must be named. RP 106.	Unit.
Major	E A A Doiron MBE	R22R

MEMBERS.

Rank.	Named or detailed. RP 106.	Unit.
Cpt	C H Smith	WESR
Lt	W E Brousseau	CYR

WAITING MEMBER.

Rank.	Named or detailed, if any. RP 106.	Unit.
Lt	F J Lane	R22R

JUDGE-ADVOCATE.

Rank.	Must be named, if any. RP 106.	Unit.

On Active Service in the Fd

in Italy (Country.)

E. Burnstotz (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 23 Feb 45

Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Each

[illegible] OFFICERS CERTIFICATE

KR(CAN) 357

I certify that I have this morning examined

No. G-18448 Pte DeRoche, A.

of the Carleton & York Regiment and in my opinion he is

fit to undergo trial by Court Martial

~~unfit~~

Station In the Field

Date 25 Feb 45

Escadron major
President

R J Bendyscaph
Medical Officer
R.M.O Carlt & York R.

G. 18448 Pte. Armand DeRoche C.G.R.

First Witness for Prosecution - duly sworn

Q. Will you identify yourself to the court Sir and state what you know about this case.

A. I am Major William C. Ott. O.C of Baker Coy C.G.R. On the 3rd Nov 45 at approx 2245 hrs Pte. Pinnell who was standing on guard outside my Coy H.Q. came in and ~~reported to me of hearing~~ reported to me ~~somebody~~ as a result of what he told me. I checked with my Platoons to find out if any of their men were coming in to Coy H.Q. None of them were. I ordered Pte Pinnell to return to his post and to shoot anyone he heard giving both the password and countersign. At approx 2255 hrs Pte. Pinnell accompanied by Pte. DeRoche who I now recognize entered my Coy H.Q. Pte DeRoche said "Major Ott reporting to you, Sir, a Bren Gun is firing up & down the road." I ordered him placed under close arrest and told Sgt Stethem who had then entered my Coy H.Q. to return Pte. DeRoche to his billet and that I would have him escorted to the Guard Room the following morning which

I did.

Cross Examination by Defence

Q. Major Ott, did you check the A/Tk. Det at this time.

A. No, I did not check the A/Tk Det.

Q. At 2230 hrs the night of 3 Nov it was very dark was it not.

A. Yes, it was extremely dark.

Question by the Court.

Q. Will you tell the Court what Pte. DeRoche's condition was when he reported to you.

A. On the night of 3 Nov when DeRoche entered my Coy H.Q. at approx 2255 hrs I noticed that the man had been drinking.

Q. What were his duties in your Coy prior to his being placed under arrest.

A. Pte DeRoche was a part of one of the M.G. Dets, attached to my Coy from Support Coy. The Commander of that Det, to my knowledge, was Sgt. Elliott.

Q. Was there a Bren Gun firing up & down the road.

A. ~~To the best of my~~ Noises could be heard very plainly that night and I heard no firing on or around that time.

(R.P. 83(b) complied with)

Second Witness for ~~dft~~ Prosecution. duly sworn

Q. Will you identify yourself to the Court.

A. I am C 104192 Pte Pennell H. J., A Coy 7th C.Y.R.

Q. Do you recognize the accused?

A. Yes I do sir.

Q. Will you state what you know about this case.

A. On the night of 3 Oct I was standing guard at Baker Coy Hdq. I went on guard at 2230 hrs. About 2245 hrs I heard someone coming down the road. He was hollering "Water, Water Spout, Carleton and York" I then went in and reported to Major Ott. I came back out and there was a man approaching. I challenged him, he answered and I took him in to Major Ott. I came back out on Guard.

Q. Did the hollering "Water, Water Spout, Carleton & York" hold any significance.

A. It was the password and countersign at that time.

Cross

Q. When you say you took the accused in to Major Ott do you mean you escorted him in or went in with him.

A. I went to take him by the hand at first and he said "No, no, I'm alright" and he started to come in. I opened the door to let him in the room then I went back out.

Cross Examination by Defence

Q. When you came back out from Cay HQ was the shouting still going on?

A. No, Sir.

Q. ~~As the~~ Do your challenge when you came out did the man approaching answer the pass-word correctly?

A. Yes, he did Sir.

Q. How dark was it that night?

A. It was fairly dark.

Q. Did you see the accused at the time of the shouting?

A. It was too dark to recognize his features but I could see a man.

Fred

Q. You can't ~~say~~ of your own knowledge say it was the accused who did the shouting.

A. No, Sir, I cannot.

Q. When you challenged the accused and went with him to Coy HQ was he apparently in a normal condition

A. He ~~was~~ appeared to be a little intoxicated.

Q. Had there been quite a bit of noise ~~before~~ previous to this occurrence?

A. There was, about ten minutes before I heard the shouting.

(R.P. 83(6) complied with)

Third Witness for Prosecution - duly sworn

Q. Will you identify yourself to the Court.

A. I am G 17291 L/Sgt. Stitham J. Spt. Coy attached to D Coy C.&R.

Q. Do you recognize the accused

A. Yes Sir.

Q. Will you tell the court what you know of this case

A. I was doing a shift of guard at 2230 hrs 3 Feb when down the road someone came hollering "Water Water Spout" which was the password & countersign at that time. The other sentry, Pte [illegible]

Pennell went in and reported to Major Ott. In the meantime he walked up the road again, then came back hollering the password & countersign again. Then a man came up to the post. He challenged him; he answered the pass: word. He then went in to Coy H.Q. I heard them say DeRoche. I then knew that he belonged to the other MMG in my section. I then went in to Coy H.Q. He was then reporting to Major Ott that there was a Bren Gun firing up & down the road. Major Ott then placed him under arrest and asked me to escort him to his billet which I did. I then returned to my post for the rest of my Shift on Guard

Q. When you heard this man shouting was he saying anything else beside the password & countersign

A. Once he did holler B Coy

Q.

[illegible]

Cross Examination by Defence

Q. When the man turned around and went back up the road, did he go out of your vision.

A. Yes, Sir.

Q. Sgt. can you say of your own knowledge that it was the accused who was doing the shouting.

A. No Sir, I can't.

Q. How dark a night was it?

A. You could only see about 15 or 20 feet

Q. Previous to this happening had there been quite a lot of noise going on?

A. Yes, a bit of M.G. fire.

(R.P. 83(6) complied with)

Eddie

The Defence Counsel makes a submission under R.P. 42 (a) Note 1. that the evidence produced by the prosecution is insufficient to establish a prima facie case against the accused. (See Note)

Submission upheld by Court

RMW

Argument on no Prima Facia Case

Gentlemen of the court, this case is based on the flimsiest of circumstancial evidence. and as such is hardly worthy of your consideration. Indeed I find it hard to understand why it ever reached a Court-Martial.

The pte. on guard has said he very definately that he could not say it was the accused who did the shouting, and also has stated that the accused when he did approach the post answered the challenge in a normal correct manner.

The lgt. also has stated very definately that he could not say it was the accused who did the shouting.

Further gentlemen why would a man from lpt. Coy in shouting what Reg't he was from and so on say B. Coy.

The Coy Cmd has said he checked his plts. at this time, but says he did not check the Vickers or Anti-Tank detachment for missing men.

Gentlemen I submit this case is on the flimsiest of circumstancial evidence, and the prosecution has established no case, that the accused should be called on to defend himself against

E.W. Leonard Capt

[illegible]

Summary of evidence in the case of G18448 Pte DeRoche,A. a soldier of the Canadian Army Overseas Central Mediterranean Force, on strength of the Carleton & York Regt.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for Prosecution

A104192 Pte Pinnell,W.J. having been duly sworn states:-

I am A104192 Pte Pinnell, W.J. of "B" Coy Carlt & York R., On the 3 Feb 45, at approximately 2245 hrs I was on guard at "B" Coy HQ. I heard somebody coming down the road shouting "Water-Water-Spout" which was the password and counter sign at that time and also "Carleton & York" I went in and reported to Major Ott Coy Comdr "B" Coy Carlt & York R. I then came back out and as I came out the man was approoning. I challenged him, he gave the password and then I took him in to see the Coy Comdr. Then I returned to guard.

W.J. Pinnell

The Accused declines to cross-examine this witness.

Second Witness for Prosecution

G17291 L/Sgt Stitham,J. having been duly sworn states:-

I am G17291 L/Sgt Stitham,J. Spt Coy (Vickers) Carlt & York R. attached to "B" Coy Carlt & York Regt. On 3 Feb 45 at approximately 2245 hrs I was doing guard at "B" Coy HQ when I heard somebody coming down the road shouting "Water Water Spout" which was the password and counter sign at that time and also Carleton & York. The other guard went in to report to Major Ott Coy Comdr "B" Coy Carlt & York R. while he was in reporting the man started back up the road. He then turned and came back and I challenged him. He gave the counter sign and then went into Coy HQ I did not recognize the accused until I heard the name "DERoche" mentioned I knew that it was one of the men in my sectionand went into Coy HQ. The accused was put under arrest by Major Ott and I escorted him to his billets.

J.H. Stitham

The accused declines to cross-examine this witness.

Third Witness for Prosecution

Major W.C. Ott Coy Comdr "B" Coy Carlt & York R. having been duly sworn states:-

I am Major W.C. Ott Coy Comdr "B" Coy Carlt & York R. At approximately 2245 hrs on 3 Feb 45 Pte Pinnell who was standing on guard outside my Coy HQ came to me and reported hearing somebody coming down the road from the general direction of my right forward platoon shouting "Water-Water-Spout" the password and counter sign of that date and also Carleton & York. I checked with my platoons to find out if any of their men were on their way to HQ. The platoons replied that none of their men were away. I then told Pte Pinnell to return to his post and to shoot any man that shouted the password and counter sign. Shortly after this at about 2255 hrs Pte DeRoche came into my Coy HQ and said,Major Ott reporting to you Sir, a Bren Gun is firing up and down the road. I placed Pte DeRoche under close arrest and gave instructions to Sgt Stitham, who had then entered Coy HQ to return the man to his billets and that I would have him escorted to the guard room the following morning, which I did.

W.C. Ott Major

The accused declines to cross-examine this witness.

Question to the Accused
Do you wish to make a statement or to give evidence under oath? You are not obliged to say anything, or give evidence unless you wish to doso, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused
No.

I certify that the foregoing summary was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

In the Field
Date. 6. Feb 45

Officer taking Summary

List of Witnesses
In the case of C18448 Pte DeRoche,A. a soldier of the Cdn Army Overseas, on strength of the Carlt & York R.

For the Prosecution

Major W.C. Ott - Carlt & York R.
A104192 Pte Pinnell,W.J. " "
G17291 L/Sgt Stitham,J. " "

For the Defence

NIL

List of Exhibits
In the case of C18448 Pte DeRoche,A. a soldier of the Cdn Army Overseas, on strength of the Carlt & York R.

NIL

Certificate by the Accused
I certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence, List of Witnesses, and list of exhibits pertaining to my trial by Court Martial.

I desire the services of Nil to defend me at my tri

A DeRoche

In the Field,
Date. 7. Feb 45

SG-114

Mr. DeRoche, A.

RECORDED AT CMHQ IN AB 160.

RECEIVED 15 MAY 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

(Replaces AFA3) CFAAB (In lieu of AFA3) as P & E (1940) (2004)

Convened by Order of BRIG. J.P.E. BERNATCHEZ Comd 3 CDN INF BDE dated 5 APR 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
G18448	PTE	ARMAND	DEROCHE

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH, CMHQ.

Held in the Fd in (*country*) GERMANY on (*date*) 6 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs ~~under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmc ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (duly) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~duly~~) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~duly~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 56(4). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter ? Ans ~~Nil~~

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer ? Ans ~~Nil~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 56(B). If objection, see procedure AA 51, RP 25, 71, (B, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	H.M. EISENHAUER	NWSR
Member	CAPT	S. BELZILE	R22R
Member	LT	C.F. ROWAN	CYR
~~Judge Advocate~~			
Prosecutor	LT.	J.A. PALMER	CYR
Defending Offr	LT.	R.B. SAVAGE	CYR

Questions by President: Is the Prosecutor a lawyer ? Ans Nil Is the Defending Offr a lawyer ? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See DI p 31.)

A8. ~~If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB para and name of the accused making the plea.)~~

A9. The accused is (duly) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~not~~) plead to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes. 3. RP 71(C), and use separate copies of CF A96 to record proceedings separately when more than one Charge Sheet see RP 62;)

A10. The Court (is ~~ordered~~ cleared), considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. H 64

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G18448 PTE ARMAND DEROCHE, CYR.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 19 A.A.	GUILTY	GUILTY	
2nd	Sec 8(2) AA	~~Not~~ GUILTY	GUILTY	
3rd	Sec 10(3) AA	~~Not~~ GUILTY	GUILTY	
4th	Sec 10(2) AA	~~Not~~ GUILTY	GUILTY	
5th	Sec 15(1) AA	~~Not~~ GUILTY	GUILTY	
6th				

(Note. As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (*date*) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: The court sentences the accused, G18448 PTE Armand DEROCHE to be imprisoned without hard labour for fifteen (15) months

6 DAYS Date awarded.

(Sgd) ~~J. Advocate~~ President. (RP 45, 50.)

(Sgd) Judge Advocate, ~~if any~~

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 20(2b) fn 6, 44(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) (J P E Bernatchez), Brigadier

Date 9 Apr 45 Commanding 3 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (AP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

G18448 Pte Armand DeRoche 10-Apr-45 [signature] Lt-Col

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 18448 PTE ARMAND DEROCHE, CYR.

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 19 A.A.	GUILTY	GUILTY	
2nd	Sec 8(2) A A	~~NOT~~ GUILTY	GUILTY	
3rd	Sec 10(3) A A	~~NOT~~ GUILTY	GUILTY	
4th	Sec 10(1) A A	~~NOT~~ GUILTY	GUILTY	
5th	Sec 15(1) A A	~~NOT~~ GUILTY	GUILTY	
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~(delete)~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court: The Court sentence the accused, G18448 PTE A Armand DEROCHE to be imprisoned without hard labour for fifteen (15) months

6 APR 45
Date awarded.

(Sgd) [illegible] President (RP 45, 50.)

(Sgd) ~~[illegible]~~ Judge Advocate, if any

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the findings(s) and sentence set forth in Part I is

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) (J P E Bernatchez), Brigadier

Date 9 Apr 45 Commanding 3 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

G18448 Pte Armand DeRoche 10-Apr-45 [signature] Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 15 MAY 1945 JAG BRANCH CMHQ

RECORDED AT CMHQ IN AB 160 5G-114

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AFA3) 40; P.A.S./1608 (29864)

PROCEEDINGS REVIEWED 24 May 45 Can Sec I Echo DJA

By Order of BRIG J.P.E. BERNATCHEZ Comd 3 CDN INF BDE dated 5 APR 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
G18448	PTE	ARMAND	DEROCHE

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date) 6 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 28/SM

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. Cf A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (not) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1330 hours trial commences.

A4. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO~~ (1) and ~~he~~ (2) is (not) fit to undergo trial by court-martial.(3)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused~~ Do you object to as interpreter? Ans ~~The interpreter is sworn.~~ (1) Do you object to as shorthand writer? Ans ~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	H.M. EISENHAUER	NNSR
Member	CAPT	S. BELZILE	R22R
Member	LT	C.F. ROWAN	CYR
~~Judge Advocate~~			
Prosecutor	LT.	J.A. PALMER	CYR
Defending Offr	LT.	R.B. SAVAGE	CYR

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DJ p 2.)

As to the accused

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 53), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB room and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and six separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. H 64

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 80, 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Nor (5)

(1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ Here

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 445. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans Nor

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)

(1. MFB 351 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ~~Nothing in mitigation of punishment~~ (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its perkins, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(f), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, G18448 Pte Armand DEROCHE, a soldier of the Carleton & York Regiment, Canadian Army Overseas, when on active service is charged with:-

st Charge
19. A.A.

When on active service, drunkenness

in that he,

in the field at approximately 1430 hrs 31 Mar 45 was drunk.

econd Charge
s 8(2) A.A.

When on Active Service using insubordinate language to a Superior Officer,

in that he,

in the field, at approximately 1430 hrs 31 Mar 45 when placed under arrest by Sgt. Argyle, said to Sgt Argyle "You are a cocksucker, you're no dammed good".

Third Charge
Sec 10(3) A.A.

When on Active Service resisting an escort whose duty it was to have him in charge,

in that he,

in the field, at approximately 1430 hrs 31 Mar 45 did struggle with Pte McIsaac and Pte Jackson in whose custody he had been placed.

urth Charge
c 10(3) A.A.

When on Active Service, resisting an escort whose duty it was to have him in charge,

in that he,

in the field, at approximately 1545 hrs 31 Mar 45 did struggle with Pte Manz and Pte Thornton in whose custody he had been placed.

fth Charge
s 15(1) A.A.

When on Active Service, absenting himself without leave,

in that he,

in the field, did absent himself without leave while under arrest from 2000 hrs 31 Mar 45 until he was apprehended by the Regimental Police at 2230 hrs 31 Mar 45.

In the field

Date 3 Apr 45

[signature] Lt.-col.,
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field

Date 5 Apr 45

[signature] Brigadier.,
Comd 3 Can Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PA3/1607 (2853)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G18448	Pte		Armand	DeROCHE	Carlt & York R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H M Eisenhauer	West NSR

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	S Belzile	R 22e R
Lt	C F Rowan	Carlt & York R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	L N Gervais	West NSR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 5 Apr 45

Commanding 3 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Hrs

MEDICAL OFFICERS CERTIFICATE

KR (CAN) 357

I certify that I have this morning examined

No. G18448 pte Deroche R.

of the Carleton & York Regiment and in my opinion he is this date

fit to undergo Trial by Court Martial

Station In the field

Date 6-4-1945

[signature] Capt.,
Medical Officer
R.M.O, Carlt & York R.

MEDICAL OFFICERS CERTIFICATE

KR(CAN) 357

PLEA OF MITIGATION

G-18448 Pte ARMAND DEROCHE
CARLETON YORK REGT.

The accused Pte Deroche has been in the army for over 5 years. He came overseas in July 1940 and served with Carleton York Regt and other Units.

The accused came to Italy in March 1944. He served with the Special Service Force for about 8 months and then rejoined the C.Y.R.

On the 31st Mar 45 the accused was not on parade but was at the RAP taking treatment for desert sores. He bought a bottle of Cognac of the Ratgut variety and began to drink. This Cognac of rather dubious quality so inflamed his brain that he did not know what he was doing and when his brain cleared he found himself to be in the Guard Room with charges 1-2-3-4 and 5 against him but does not remember committing these charges.

May it please the Court ~~to~~ in passing sentence to keep the above defence in mind. We need all warned of the dubious quality of Rot gut Cognac that was offered for sale to troops in Belgium. This man was drunk but his brain was so inflamed with this rotten cognac that he was not responsible for his later actions as to charges 2-3-4-5 The accused before this time had been able to hold his liquor and not get into ~~[illegible]~~ any serious trouble.

Plea of Mitigation (cont'd)

In passing sentence on the accused, may the Court weigh all these facts up in consideration of a lesser sentence

R. B. Savage Lieut
Defending Officer.

4. Apr. 45.

Exhibit "A" Hereto

Summary of Evidence in the case of G18448 Pte DeRoche, A., a soldier of the Canadian Army Overseas, on strength of the Carlt & York Regt.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for prosecution — Capt F. Peacock of Support Coy, Carlt & York R. after having been duly sworn states:-

I am Capt. F. Peacock, commander of the Carrier Platoon, Carlt & York R. At about 1430 hrs 31 Mar 45 in the Support Coy billet area I saw Pte DeRoche in a drunken condition. I instructed Sgt Argyle, W.E. to have Pte DeRoche placed under close arrest.

F Peacock Capt

The accused declines to cross-examine this witness.

Second Witness for prosecution — G32062 Sgt Argyle, W.E. of Support Coy Carlt & York R. after having been duly sworn states:-

I am G32062 Sgt Argyle, W.E. of carrier platoon, Carlt & York R. On 31 Mar 45 at about 1440 hrs Capt Peacock told me to place Pte DeRoche in the guard room. I detailed Cpl Graboski of the carrier platoon and two escorts to take DeRoche to the guard room. When I told DeRoche that he was under close arrest he said "You cock sucker, you are no God dam good" to me.

W. E. Argyle Sgt

Accused declines to cross-examine this witness.

Third Witness for prosecution — R132432 Pte Jackson, H. of Support Coy., Carlt & York R. after having been duly sworn states:-

I am R132432 Pte Jackson, H. of carrier platoon, Carlt & York R. At approximately 1430 hrs 31 Mar 45 Sgt Argyle called Pte McIsaac and myself for escort. We took DeRoche to the guard room. He refused to go but with a slight struggle we took him to the guard room.

H Jackson Pte

The accused declines to cross-examine this witness.

Fourth Witness for prosecution — G28241 Pte McIsaac, J.J. of Support Coy, Carlt & York R. after having been duly sworn states:-

I am G28241 Pte McIsaac, J.J. of Carrier Platoon, Carlt & York R. At approximately 1430 hrs 31 Mar 45 Sgt Argyle ordered Pte Jackson and myself to bring the accused to the guard room. The accused struggled at first but with a little force we took him to the guard room.

J. J. McIsaac

The accused declines to cross-examine this witness.

Fifth Witness for prosecution

M103160 Cpl Graboski, N.G. of Support Coy., Carlt & York R after having been duly sworn states:-

I am M103180 Cpl Graboski, N.G. of carrier platoon, Carlt & York R. On 31 Mar 45 at about 1430 hrs I was ordered by Sgt Argyle to take Pte DeRoche to the guard room with two escorts Pte McIsaac and Pte Jackson. We had a little trouble taking him to the guard room but managed to get him there with a little force. I turned him over to the guard commander.

N.G. Graboski

Q. by accused.
Do you figure I was under the influence of liquor.

Answer
Yes, I think you were under the influence of liquor because you resisted being taken to the guard room.

The accused declines to further question this witness.

Sixth Witness for prosecution

L150528 Pte Manz, C. of C Coy., Carlt & York R after having been duly sworn states:-

I am L150528 Pte Manz, C. of 13 platoon, "C" Coy., Carlt & York R. On 31 Mar 45 I was a member of the Bn. Guard. At about 1430 hrs the Cpl of the guard sent me as an escort with the accused to his billet to get his blankets. When we arrived there he didn't want his blankets and he didn't want to come back. There was a Cpl in the room so I asked him to detail a man to help me take the accused back. The Cpl detailed a man and we had to drag the accused out of the room and to the guard room.

C Manz

The accused declines to cross-examine this witness.

Seventh Witness for prosecution

G21086 Cpl Charette, L. of "D" Coy, Carlt & York R., after having been duly sworn states:-

I am G21086 Cpl Charette, L. of 18Pl., "D" Coy., Carlt & York R. On 31 Mar 45 I became Cpl of the Bn. Guard at 1800 hrs. The former guard commander told me to keep a sharp watch on DeRoche as he had tried to escape before. During the night at about 1930 hrs I went to my billet to get my great coat and blankets. On my return the 2 i/c of the guard told me that DeRoche had escaped. The escape was around 2000 hrs. Then I took one guard with me and searched all around but we couldn't locate him. We went down to report to the Regimental Police and I informed L/Cpl Masterache of the Regimental Police that DeRoche had escaped. L/Cpl Masterache came with us and we looked for DeRoche till about 2225 hrs and still couldn't locate him. Then L/Cpl Masterache told us to return to the guard room and he would have a check up on his own. As I was on my way back to the guard room L/Cpl Masterache called me back to tell me that he had found DeRoche in a cafe. I took DeRoche back to the guard room. When I got him back to the guard room it was about 2230 hrs.

L Charette

The accused declines to cross-examine this witness.

Eighth Witness for prosecution

G32063 L/Cpl Bastarache, H.J. of the Regimental Police, Carlt & York R. after having been duly sworn states:-

I am G32063 L/Cpl Bastarache, H.J. of the Regimental Police. Carlt & York R. On 31 Mar 45 at about 2100 hrs the Cpl of the guard reported to me that Pte DeRoche had escaped from the guard room and I then immediately took two guards and the Cpl and we searched all the pubs and could not locate Pte DeRoche. Then at about 2230 hrs I was making my rounds of the pubs and I found Pte DeRoche and I handed him over to the Cpl of the guard.

H.J. Bastarache

The accused declines to cross-examine this witness.

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence on oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used in evidence.

Accused elects to make a statement.

I am G18448 Pte DeRoche, A. On 31 Mar 45 I was drinking and I guess I had too much. I don't remember anything that went on while I was drinking. When I sobered up I was in the guard room and was told of the trouble I had gotten into. If I had not been drinking I wouldn't have gotten into any trouble.

A. DeRoche

I certify that the foregoing summary was taken down by me in the presence of the accused and that Rules of Procedure 4 (c)(d)(e) and (f)have been complied with.

J.A. Pelletier Lt.
Officer Taking Summary.

List of witnesses in the case of G18448 Pte DeRoche, A., a soldier of the Canadian Army Overseas, on strength of the Carlt & York R.

For the Prosecution:

Capt. F. Peacock			Carlt & York R
G32062	Sgt	Argyle, W.E.	do
B132432	Pte	Jackson, H	do
G18241	Pte	McIsaac, J.J.	do
H103160	Cpl	Graboski, W.G.	do
L150528	Pte	Manz, O.	do
G21086	Cpl	Charette, L	do
G32063	L/Cpl	Bastarache, H.J.	do

For the defence NIL

CERTIFICATE BY THE ACCUSED

I certify that I have received free of charge a copy of the Charge Sheet, Summary of Evidence and list of witnesses pertaining to my trial by Court Martial.

I desire the services of an Officer to defend me at my trial

IN THE FIELD
Date 2 Apr 45

A. DeRoche

Schedule B

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G18448	Pte	Armand DeRoche	Carleton & York

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheet~~s~~ ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Sec 15(1) AA	times	(9) times
For Sec 11 AA	(1) time~~s~~	(1) time~~s~~
For Sec 40 AA	(2) times	(4) times
For Sec 19 AA	(1) time~~s~~	(1) time~~s~~

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

~~3. The accused is not under sentence at the present time.~~

or,

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 6 days in ~~Air Force~~ military custody, making a total of 6 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 24 yrs.

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 30 Mar 40

7. The service which the accused is allowed to reckon towards discharge is 5 yrs

8. The accused is entitled to reckon 5 yrs service for the purpose of determining his pension, etc.

9. The accused ~~is in possession of or entitled to no air force decoration, or air force reward for~~ military military is in possession of ~~or entitled to~~ (6). State any ~~air force~~ military decoration or reward. CVSM & Clasp

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held~~ Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the ~~Royal Canadian~~ Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, ~~to~~ the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the ~~rank~~ of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 3rd day of Sept 45

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Extract of 'C' Hrs.

MFM 6 (AFB 122) 40/PAM/130 (3420)

No G18848 Name DEROCHE A. | Sqn, Battery, or Company Sp. | Corps CIC | Date of enlistment 30-3-40 | GC Badges | Service or Proficiency Pay N/

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc [illegible] Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
SHEET NO 2 DESTROYED -30 SEPT 42 "DATE OF LAST ENTRY-NIL " CASES OF DRUNKENNESS "NIL"									
Field	29-11-40	Pte		AA Sec 15 (1) AWL from 2200hrs 29 Nov 40 to 2300hrs 29-Nov 40 (1 hrs)	Sgt Parsons	7 dys C.B.	30-11-40	McCull Major	
Field	18 May 41			AA 15 (1) AWL from 0800 hrs 18 May 41 to 0745 hrs 19 May 41. (23hrs 45 mins.	RSM Dalnard	7 dys Defaulters	20-5-41	Maje Akin	Forf. 1 dys pay
Field	23 May 41.			AA 15 (1) AWL from 1915 hrs to 0745 hrs 24 May 41.	23-5-41 Lt Hunter	Fer 3 dys Pay	29-5-41	Capt Mathiesen	Forf 1 dys pay
Field	1-7-11-41.			AA 15 (1) AWL from 0600 hrs 27 Nov 41 0600 hrs 27 Nov 41.	Cpl Tapley	14 Days CB	18 11 41	Lt Col- Lt-Col-	Forf 1 dys pay
Field.	29-11-41			AA 15 (1) AWL from 1430 hrs 29 11 41 to 0630 hrs 30 11 41.	Cpl Smith	72 hrs Det.	3 Dec 41	Redman.	
Field	23 12 41			AA from 2359 hrs 23 12 41 to 1900hrs 27 12 41.	Cpl Pamryy	14 dys Det.	2c Dec 41	LT Col Slack	

No 2

No G18448 Name Pte DeRoche A. | Sqn, Battery, Company Sp | Corps CIC | Date of enlistment 30 3 40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/130 (3420)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc [illegible] Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1-5-44	Pte	1	AA Sec 19 WOAS Drunkeness.	Documentry	admonished.		Major Clendenning	
Field	1 5 44			AA Sec 40 WOAS Prejud. etc. in that he was in improper possession of a pt 1 paybook.	Documentry	28 dys FP 28 dys Pay	4-5-44	Major Clendenning	
Field	20 12 44	Pte		AA Sec 40 Cond. prej. etc	Documentry.	14 dys CB.	22 12 44	McKenna Lt Col	
Field	1 9 Jan 45	Pte		Sec 11 AA Neglecting to obey camp order was evacuated for V.D. without proof of prophylactic treatment	Capt Zender	Fer 7 dys Pay.	12 Feb 45	Lt Col J Enser.	

Certified true copy of Particulars of Casualties of Pte DeRoche A Regt No in the field 13 Apr 45

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	28 5 42	Pte	AA	15. From 2230 hrs 28 5 42 to 2230 hrs 1 6 42.	Sgt Christie	28 dys Det.	2 June 42	Lt Col Lawson.	Forf 4 dys p
Field	28 4 43	L/Cpl		(1) WAOS was unattentive on Parade while on Junior Leaders Gas School. AA Sec 40	SSgt Hayes-Re. Grade Pte		29 4 43	Lt Col Lawson	Forf. 28 dys P
Field	20 4 43	Pte		(2nd. prej. etc. did use insubordinate language to a superior Officer	Capt Gammon	14 dys F.P.	3 Oct 43		Forf 14 dys Pay.
Field	20 4 43	Pte		(Con. prej. etc. did give a wrong name in place of his own. to an Officer. AA Sec 40.					
Field	18 5 43	Pte		AWL from 1600 hrs 18 5 43 to 1900hrs 21 5 43. AA Sec 15.	Sgt Young.	14 Dys	29 5 43	Lawson Lt Col	
Field	21 10 43	Pte		AWL from 2230 hrs 21 Oct 43 to 1900 hrs 22 Oct 43.	Cpl Davidson	21 Dys.	29 Oct 43	Major Lockwood.	
Field	22 10 43	Pte		AA Sec 40 WOAS in that he when checked by M.P. had his tunic unbuttoned and cap off.	Documentry.				Forf 21 Dys P

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

4A-12

Pte de la Roche CWP

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: P/88967 Pte Clarence William Patrick DeROCHE, 14 Cdn Fd Amb, RCAMC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA #1	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th	Guilty	Guilty	

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence of~~ ~~Detention~~ (beginning on ~~date~~) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Fine in confinement (~~ ~~£ s d~~ ~~) present trial - a total of days, of which days were spent in hospital (1).~~

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Nil

Sept 27-44 (Sgd) N.C. Pattison Major

(Sgd) ..... Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761; KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Noted

~~I direct that the accused be not committed to prison or detention barracks until further orders (1).~~

(1. AA 57A. Delete if not used.)

Date 28 Oct 44 (Sgd) D.C. Spry Major

Commanding 3 Can Inf Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 18 OCT 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160, 47A-42

FIELD GENERAL COURT-MARTIAL

CFA96 (To Sect of AFA31 40/P & R/160th 2804)

Convened by Order of Major-Gen D C Spry Comd 3 Cdn Div dated 26 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P/88967	Pte		Clarence William Patrick	DeROCHE	14 Cdn Fd Amb, RCAMC

PROCEEDINGS REVIEWED J.C. Campbell Major 19 Oct 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 27 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 11/86

A1. The President, Members, ~~waiting Member~~, JA, ~~if any~~, ~~and Offrs~~ ~~under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1425 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do~~ you object to ~~a~~ interpreter ? Ans

~~The Interpreter is sworn (1). Do you object to the shorthand writer ? Ans~~ ~~The shorthand writer is sworn (1).~~ ~~a shorthand writer ? Ans~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N C Pattison	9 Cdn Inf Bde DEP, RCAMC
Member	Capt	J P Rutherford	3 Cdn Inf Div Sigs
Member	Capt	J C Hunter	7 Cdn Fd Amb, RCAMC
Judge-Advocate	Capt	A C Hall	JAG 3 Cdn Inf Div
Prosecutor	Capt	J J Sloan	14 Cdn Fd Amb
Defending Offr		H A Proctor	HQ 3 Cdn Div

Questions by President: Is the Prosecutor a lawyer ? Ans Nil Is the Defending Offr a lawyer ? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See Dir p 23.)

A8. The accused ~~P/88967 Pte DeROCHE, C W P~~ before arraignment makes(s) (no) ~~(no)~~ plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in this to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does ~~each~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourned~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Proceedings page 15

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whichever part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(2)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s), the Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allows the accused to (are) found Not Guilty on the latter charge(s), and that, accordingly, the trial will proceed on the former, the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Make the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and announces to the accused that the findings of the Court on the ..... charge(s) being subject to confirmation, will be promulgated later; and~~
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(4).* 2. *AA 54(3), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, name, rank, unit and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 528. If above documents not produced, see RP 46 fn 1 para 3.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(4).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP 21(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 4(1)(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

H.C.P.

CHARGE SHEET

The accused -- F/88967 Pte Clarence William Patrick DeROCHE, 14 Canadian Field Ambulance, RCAMC, a soldier of the Canadian Army Overseas -- is charged with:

First Charge
Army Act
Sec 41

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

at about 1945 hrs 13 Sep 44 at Marquise, France, stole two bottles of cognac, the property of Mlle Lucienne Martin, Cafe Bolognais, Marquise, France.

In the field
14 Sep 44

(J Tanzman) Lt-Col
Commanding Officer
14 Cdn Fd Amb, RCAMC

Approved on behalf of the JAG Cdn Army Overseas in accordance with E R (Can) 540 and Overseas R O 4736.

In the field
26 Sep 44

(A C Hall) Capt
ADJA 3 Cdn Div

To be tried by Field General Court Martial.

In the field
27 Sep 44

(D C SPRY) Major-Gen
GOC 3 Cdn Inf Div

H&P.

FIELD GENERAL COURT-MARTIAL

AFA95 (In lieu of AFA8)
40/F&N/1697 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap 4 paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P/88987	Pte		Clarence William Patrick	DeROCHE	14 Cdn Fd Amb, RCAMC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Sep 44 endorsed by me, ~~or by an offr of my staff for me,~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons (I have) attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W C Pattison	8 Cdn Inf Bde Coy, RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J F Rutherford	8 Cdn Inf Div Sigs
Capt	J G Hunter	7 Cdn Fld Regt, RCA(SP)

~~WAITING MEMBER.~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	A G Hall	ADJA 8 Cdn Inf Div

On Active Service in the Fd

in France
(Country.)

D. C. Spry
(Signed personally. RP 105 fn 2.)

(Rank.)

(D C SPRY) Major-General
Commanding 3 Cdn Inf Div

Date 27 Sep 44

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE

27 Sep 44

I hereby certify that the undermentioned soldier was examined by me this date and is medically fit to undergo trial by F.G.C.M.

F/S967 PTE DE ROCHE C W

.....
Medical Officer

Notes of evidence

The accused having no objection G63158 Pte Richard J., 1 H Fd Amb is sworn as interpreter.

First Witness for Prosecution.

Mlle Lucienne Martin, Marquise, France sworn:-

On 13 Sept 44 at about 1930 I was working in the Cafe Boulognais in Marquise, when I saw two soldiers come out of the yard. The cellar door was open & they went down. I went out into the yard & I saw them come out of the cellar, i.e. one was coming out & the other was still in. The one coming out shouted to the other to come up & they came into cafe. I then went into cellar to see if any cognac was missing & I saw there were four bottles missing & I asked the two soldiers if they had taken it & they answered "No". Just then a bottle came out of one of the men's tunic. My mother came in & asked them to return the cognac. The accused said that he did

did not have any. I saw a bottle under his feet. There they left. I knew four bottles of cognac were missing for I had counted them at noon when there were ten.

XXM

The Cafe is owned by my mother. She also owns the stock. There were no labels on the bottles, no seals or foils. I have seen many like them for all over France they are alike. Marquise has been shelled a great deal & people enter the cellar. There was no shelling this day. There is a W.C in the court yard & a sign saying latrine. One cannot go from court yard to the road except through cafe. Pte Seroche had two in his Tunic. I did not see the bottle in his Tunic but I saw the form of it.

To Court when accused left. I could see the form of a bottle in his Tunic. My mother took the bottle that was under his seat. The accused said nothing. No one tried to take the bottle out of his Tunic for I was scared.

R. P 83 (b) complied with

Second witness for prosecution

G 147170 L/Cpl Jones R. G. 14 Cdn Fd. Amb. Swarn:-

On 13 Sept. about 1900 hrs I was in Cafe Boulognais in Marquise having a drink, when I saw Pte Estabrooks & Pte DeRoche leave the Cafe by the back entrance. They said that they were going to the toilet. About 5 minutes later I noticed they had not returned so I went out to see if I could see them. Outside was an entrance to a cellar. Deroches & Estabrooks were at foot of cellar steps. One of ladies that worked at pub were halfway down the stairs & speaking excitedly in French. The three then came up & entered cafe behind me. The lady locked the door & through an interpreter said some cognac was missing when DeRoche came into cafe the second time. I saw an object in tunic which was not there when he went out. When DeRoche & Estabrook came in they took a seat. The ladies were telling Pte Richard that these fellows had her cognac. Just then a bottle fell out of Estabrook's tunic. I asked DeRoche if he had any cognac & he said "No". When DeRoche &

Estabrook got up to go one of the ladies drew our attention to a bottle of cognac on floor by DeRoche's feet. She picked up bottle & said it was hers. Meantime she had a bottle that fallen out of Estabrooks Tunic.

Pte DeRoches accompanied us to the cafe & neither did I notice or hear of a bottle of cognac before he went to the toilet

XXM None

A. P. 83 (b) complied with

Third Witness for Prosecution

G. 47149 Cpl Raymond D.A. 1st Cdn Fd. Amb sworn.

On 13 Sept about 1915 L/Cpl Jones & Ptes Estabrooks, DeRoche & I entered Cafe Boulognais in Marquise. After a round of drinks, Ptes Estabrooks & DeRoche went out to a toilette. Mlle. Martin came in & locked door & Pte Richard interpreted for us. She said 4 bottles of cognac were missing. DeRoche & Estabrooks then came in & both denied all knowledge of it. When DeRoche got up to leave the Cafe his foot kicked over a bottle of cognac on the floor.

They then left cafe. As a result of what Mlle. Martin said, Cpl Jones & I went to another cafe a later came back.

De Roche first entered the Cafe with me & I had no idea that he had a battle at that time.

XXM I had been at Cafe Boulognais about three times before. You can get from road to court without going through cafe. The latrine is not marked. At no time did I see a battle or shape of a battle on the person of De Roche.

R. P. § 3 (b) complied with.

Prosecutor declines to sum up.

Def Offr sums up

1. Wine did not belong to Mlle Martin as alleged
2. No one saw acc. take the cognac
3. Cognac was open to other people
4. No proof that accused did not own the cognac

Judge Advocate

1. Reads definition of theft from M.M.L. Ch VII para 50
2. Doctrine of recent possession MML p 73 & p 124. Points out that doctrine founded on possession of stolen property being proved
3. Onus of proof & reasonable doubt.

COPY

CERTIFIED TRUE COPY.....

No. F88967 Name DEROCHE, CWP Sqn., Battery, or Company Corps R.C.A.M.C. Date of enlistment 26 Aug 41 G.C. Badges Service or Proficiency Pay F.M. 6 (F.B.122) 40/F.B./8136 (2965)

Date of last entry in Company Conduct Sheet 14 Jun 44 No. and date of last drunk 2 13 DEC 41 Period not reckoning towards freedom from extra fine N.A. Sheet No. 2 Signature O.C. Company, etc. Character FAIR

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Charlottetown P.E.I.	14 Nov 41	Pte	1st	Drunkenness (AA Sec 19)	Cpl Clark Cpl McNaughton	3 days CB	15 Nov 41	Lt-Col F.I. Andrew	
Ottawa	13 Dec 41	Pte	2nd	Drunkenness (AA Sec 19)	Cpl Gagnon Documentary	4 days C B	15 Dec 41	Lt- Col H. Buck	
In the Field	16 Mar 43	Pte	2	After being warned for piquet duty did render himself unfit for duty by previous indulgence in alcoholic beverages (AA Sec 40)	Cpl Niles H.L.	14 days F.P.	16 Mar 43	Major A.D.MacPherson	
		SHEET	No.1	DESTROYED 22 MAR 43 WITH ABOVE ENTRIES CARRIED FORWARD					
Field	13 Dec 43	Pte		AWL from 2359 hrs 13 Dec 43 to 0830 hrs 14 Dec 43 (8 hrs) AA15(1)	Sgt Biddle	14 days CB	14 Dec43	Lt-Col C.G.Wood	Forf 1 days pay FR&I 149(1)(a)
Field	14 Jun 44	Pte		Under influence of liquor while on duty. leaving unit lines(AA 40)	Sgt Biddle	28 days forf pay FR&I 149(2)	15Jun44	Lt-Col J.W. Merritt	

(P.T.O.)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number F38967 Rank Pte Name Deroche C.W.

Regiment (Or Unit) 14 Canadian Field Ambulance RCAMC

1. The following is a fair and true summary of the entries in the Conduct Sheets

[redacted]

[redacted]

Within Last 12 months — since enlistment or appointment

For A A Section 15 (1) (Once) Since A A Section 19 (1st)

For A A Section 40 (Once) Since A A Section 19 (nd)

For [redacted] Since A A Section 40 1

For [redacted]

[redacted]

NOTE: [redacted]

2. [redacted]

3. [redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 10 days in Military custody, making a total of 10 days in custody, of which Nil days were spent in hospital.

(p.t.o.)

5. The present age of the accused according to his record of service 21 Years

6. The date of his attestation specified in his record of service 25 August 1944

7. The service which the accused is allowed to reckon towards discharge is 3 Years 10 Months 23 Days

8. [redacted]

9. [redacted]

State any Military decoration or reward. CVSM and Clasp

10. [redacted]

11. [redacted]

12. [redacted]

S C H E D U L E

[illegible]

[illegible] Air Force Act [illegible]

[illegible]

[illegible] ..... [illegible] ..... Regiment

NOTE: -- A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.--

Description of Court by which tried	Date and Place of trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17 Seventeeth ..... day of September 1944 .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexedt to the proceedings.

SUMMARY OF EVIDENCE IN THE CASE OF No. F88967 Pte. Deroche, C.W. No. 2 Section, "A" Company, 14 Canadian Field Ambulance, charged with theft (AA Sec 41). and Conduct to the prejudice etc. (AA Sec 40)

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness - Mlle. Lucienne Martin, Marquisem France, sworn states:

Je suis Mlle. Lucienne Martin, Selli de Mmme Martin 25 Avenue Ferber, Marquise.

Ce soldat est sorti dans la cour, il a descendu dans la cave. Je suis sortie quand, il remontait de la cafe. Il est parti dans le cafe. Je suis descendu dans la cave. Ils manquaient quatre (4) bouteilles de cognac, donc une etait cache sous la banc et l'autre etait sarti de la veste du soldat. Ma mere a ce moment est rentre, alors elle a demande de rendre le cognac, ils n'ont pas voulu. Ils sont sorti en apportant deux bouteilles. Ces comarades sont venu les trouver pour leurs demander de rendre le cognac Ils n'ont pas voulu. C'est tout.

Martin Lucienne

The accused declines to cross-examine the witness.

Second Witness - G47149 Cpl. Raymond, D.A., No. 2 Section, "A" company, 14 Canadian Field Ambulance, sworn states:

I am Cpl. D.A. Raymond, G47149 of No. 2 Company, 14 Canadian Field Ambulance. On the night of September 13th, 1944, at about 1945 hours, L/Cpl. Jones G47170, Pte. Estabrooks G47238, Pte. Deroche F88967 and myself entered Cafe Bolognais. After buying a round of drinks, Pte. Estabrooks and Pte. Deroche went to the toilet. In the mean time four other soldiers came into the cafe, one of whom was Pte. J.Richard C63158 who interpreted for us. When Pte. Estabrooks and Pte. Deroche came back into the cafe, Mlle. Martin locked the door, and as I couldn't speak French, Pte. Richard interpreted. She then told me that four bottles of cognac were missing. I then asked Pte. Estabrooks and Pte. Deroche if they knew anything about it and their answer was "No". Then Pte Estabrooks bent over on the chair he was sitting on and a bottle of cognac fell from his tunic. He picked it up and at first refused to give it up. After a little argument, he gave the bottle to Mme Martin. Pte. Deroche was sitting behind the table, and although not seeing him with a bottle when he and Pte. Estabrooks got up to leave the cafe, his heel kicked a bottle over. Mlle. Martin then picked up the bottle from where Pte. Deroche was sitting. Mlle. then went to the cellar and came back and said there were still two bottles missing. I then asked Pte. Estabrooks and Pte Deroche if they knew anything about the other two bottles and the answer was "No". They then left the cafe. Mme. Martin then wanted to report them to our officer but she said that if the two bottles were returned she would forget about it. L/Cpl. Jones and myself then went to another cafe where I called Pte. Estabrooks outside and told him that if it was given up there would be no trouble. He then pulled out a bottle of cognac from his tunic saying they would not get it back. I told Pte. Estabrooks that they were asking for trouble and that I would report them. I then went back to the cafe and brought Mme. Martin to see our Commanding Officer, Major Norton of "A" Company, 14 Canadian Field Ambulance.

Cross-examined by the accused:

Q. Did you see the lady look into my tunic?
A. No.
Q. Was this bottle supposed to be on the bench or on the floor?
A. On the floor.

6/pl. D. H. Raymond

Third Witness - Mme. Gustave Martin, 25 Avenue, Ferber, France, sworn states:

Je suis Mme. Martin, G., 25 Avenue Ferber, Marquise.

Mercredi 13 September a environ (7.30) Sept heur et demi j'etait dans la rue alors j'ai vue qu'ils avaint avalent du cognac ici (montrant) cote droite) Apres j'ai ouvert sa veste et il a mis la bouteille sous le banc. J'ai repris la bouteille sans effort il en avait une qu'il m'a remis. C'est tout.

Martin G

The accused declines to cross-examine the witness.

Fourth Witness - G47170 L/Cpl. Jones, R.G., No. 2 Section, "A" company, 14 Canadian Field Ambulance, sworn states:

I, G47170, L/Cpl. Jones, R.G. on the evening of 13th September, 1944, left my billets accompanied by Cpl. Raymond and Pte. Estabrooks and proceeded to Cafe Bolognais. On our way there we met Pte. Deroche. He accompanied us to the cafe and upon entering we had a couple of drinks of cognac and beer. About fifteen minutes after we entered the cafe, Pte. Estabrooks and Pte. Deroche went outside saying they were going to the toilet. I heard one of the girls talking down in the cellar. The cellar door being at the back of the cafe, I had to pass it on my way back into the cafe and I looked down the cellar and saw Pte. Estabrooks and Pte. Deroche with the lady. The lady was talking to them in French and I could not understand what they were saying. I went back into the cafe followed by the lady, Pte. Estabrooks and Pte. Deroche. Upon entering, the lady went and locked the front door. In my absence, Pte. Richard and a couple of the boys had entered the cafe. As soon as she locked the door I knew that something was wrong. Pte. Richard being able to speak French, I told him to ask the ladies the trouble. She said there was cognac missing from the cellar and that Pte. Deroch and Pte Estabrooks had taken it. I looked over at Pte. Deroche, who was again sitting in the cafe and he had a large object under his tunic which looked like a bottle. The proprietress of the cafe insisted that these men had her cognac. While she was talking, the bottle slipped out of Pte. Estabrooks tunic onto the floor. I did not notice the actions of Pte. Deroche in the next few minutes. When Pte. Estabrooks and Pte. Deroche got up to leave the cafe, One of the ladies noticed a bottle of cognac by Pte. Deroche's feeton the floor. hen she called our attention to the bottle, I noticed that the object in Pte. Deroche's tunic had disappeared. The lady had picked the bottle up and said it was hers.Pte. Deroche did not object to her taking the bottle and he and Pte. Estabrooks left the cafe. I am satisfied that when we entered the cafe for the first time in the evening, Pte. Deroche did not have a bottle of cognac in his tunic. From the time that Pte. Estabrooks and Pte. Deroche left the cafe to go to the toilet and until the time I saw them on the cellar steps, to my opinion, it was not more than five minutes at the most. L/Cpl RG Jones

The accused declines to cross-examine the witness.

Fifth Witness - G63158 Pte. Richard, J., No. 2 Section, "A" company 14 Canadian Field Ambulance, sworn states:

I am Pte. Richard, J. of the 14 Canadian Field Ambulance. On the 13th of September, 1944, at about1930 hours, I was in the Café Bolognias, in which I saw Pte. Estabrooks and Pte. Deroche. A girl came in, I can't remember her name. She said some cognac was missing and she accused them of stealing her liquor. Then an older lady came in, whom I think was her mother, and saw estabrooks with a bottle in his hand and was pleading to get it back. One of the ladies went to Deroche and accused him and I saw a bottle under his seat. I saw the bottles but cannot say what the contents were, or whether they were full or empty.

J Richard

The accused declines to cross-examine the witness.

The accused was cautioned as follows:

Q. Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make a statement.

The accused does not call any witness or witnesses.

"Rules of Procedure 4(C), (D), (E) and (F) have been complied with. I certify that the foregoing Summary of Evidence consisting of 3 pages was taken down by me in writing in the presence and hearing of the accused this 14th day of September, 1944.

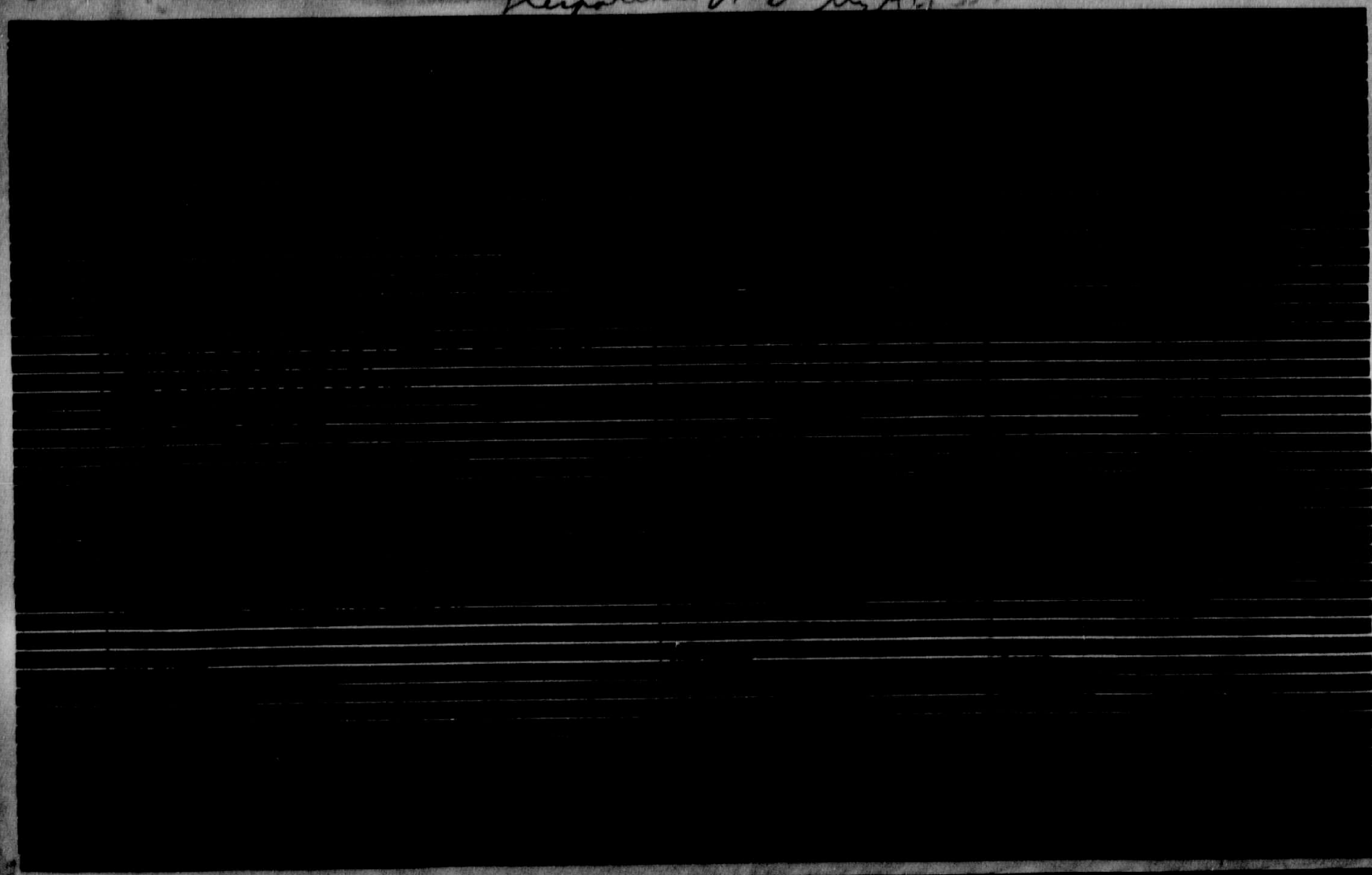
J. G. Dick Capt.
Signature of Officer taking Summary

6A-19 Pile. Durocher E (JOINT TRIAL with 6A-17 + 6A-18) Hesperiated DND by AGSA

[redacted]

52-160 Pte. Deroche E. Despatched DND by AG 5A

[redacted]



AAA-107 (case #2)

PTE DEROCHE E.I.

See L-114 for 1st case

Correspondence to be PINNED here.

Ceetified True Copy
R.D. Sullivan
Capt.

Spare copy

AAA-107

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELFTH day of JANUARY, 1944.

Whereas it appears to me, the undersigned, an officer in Command of SECOND CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~] "JCJ"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~[I am unable to appoint~~ — "JCJ"

*~~[Three Officers to form the Court]~~ "JCJ"

*~~[Field Officer as President]~~ "JCJ"

~~for the following reasons, namely~~ "JCJ"

"JCACampbell Major"
Judge Advocate

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be stated. In the latter event, the name, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	H.A. Tucker	L Edmn R

Members.

Rank.	Name.	Regiment.
Capt	H.W. Mulherin	PPCLI
Capt	C.J. Armstrong	L Edmn R
Lieut	J.G. Hogg	2 CIB Sp Gp

*Signed "J.C.Jefferson Lt.Col"
T/ Commanding 2 Cdn Inf Bde
Convening Officer.

Judge Advocate: Major J.C.A.Campbell R.C.A.; H.Q. 1 Cdn Div.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K70818 Pte Ernest Isadore DE ROCHE Seaforth of C.	1st Charge A.A.Sec 41 Committing a civil offence, that is to say Rape. "JCJ"	Not Guilty	Guilty	Ireserve confirmation of the finding and sentence for superior authority "J.C.J." Jan 16-43
	2nd Charge A.A. Sec 41 Committing a Civil Offence, that is to say Common Assault. "JCJ"	Not Guilty	Guilty	I confirm the finding and sentence. "P. J. Montague" Maj. Gen. Adm. Canadian Military Headquarters.
	3rd Charge A.A. Sec 41 Committing a Civil Offence, that is to say Robbery with Violence. "JCJ"	Not Guilty	Not Guilty	
			To Suffer Penal Servitude for the term of five (5) years. "HAT" 15 Jan 44	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "J.C.Jefferson (J.C.Jefferson) Lt-col
T/ Commanding Second Canadian Infantry Brigade
Convening Officer (e)

(Signed) "H.A.Tucker Major
President.

"J.C.A.Campbell Major"
Judge Advocate

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15th day of January 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)
5. The Judge Advocate

were duly sworn.

*Omit if not applicable.

Signed this 15th day of January 1944.

"J.C.A.Campbell Major"
Judge Advocate

"H.A. Tucker Maj"
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

*See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 3rd day of Feb. 1944.

(sgd) P. J. Montague Major General
Confirming Officer.

Promulgated and extracts taken in the case of K70818 Pte De Roche E.S.

(a) (Dated) 1 Mar 44. (Signed) P. H. Stehelin Major.
Officer Commanding
2 Bn I Cdn Base Reinforcement Depot

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

COUNTER NUMBER 546284

HOUR 12'15

OPERATOR'S INITIALS JG

RELIEVING OPERATOR GM

I respectfully request that Lieut. L.J. Pronger
be defending officer at my forthcoming
field general court martial.

"Pte De Roche E.I."

CHARGE SHEET . B 2 "JCA Campbell Major"
Judge Advocate

K70818 Pte. Ernest Isadore DE ROCHE, The Seaforth Highlanders of Canada, a soldier in the Canadian Army, Overseas, is charged with, While on Active Service,

First Charge: COMMITTING A CIVIL OFFENCE,
Sec. 41 Army Act — that is to say Rape, in that he, on the night of 4 Jan 1944 between the hours of 2200 hours 4 Jan 1944 and 0500 hours 5 Jan 1944 did rape Signora Maria Rosica, 50 Via Sofia, Ortona.

Second Charge: COMMITTING A CIVIL OFFENCE,
Sec. 41 Army Act — that is to say Common Assault, in that he on the night of 4 Jan 1944 between the hours of 2200 hours 4 Jan 1944 and 0500 hours 5 Jan 1944 did assault Signor Arnaldo Rosica, 50 Via Sofia, Ortona by striking him with his fist.

Third Charge: COMMITTING A CIVIL OFFENCE,
Sec. 41 Army Act — That is to say Robbery with Violence, in that he on the night of 4 Jan 1944 between the hours of 2200 hours 4 Jan 1944 and 0500 hours 5 Jan 1944 did rob Signor Arnaldo Rosica, 50 Via Sofia, Ortona of a watch, and at the time of such robbery did use personal violence to the said Signor Arnaldo Rosica, 50 Via Sofia, Ortona.

"A.J. Creighton"

A.J. Creighton Lt.-col.
O.C. The Seaforth Highlanders of Canada.

In the Field 7 Jan 44

To be tried by F.G.C.M.

In the Fd
12 Jan 44 "J.C.Jefferson Lt.-Col"

T/Comd. 2 Cdn Inf Bde.

"HATucker Major"

MEDICAL OFFICER'S CERTIFICATE

KR (CAN) PARA 557

I certify that I have this morning examined

No K70818 Rank Pte Name DeRoche, E.I.

of The Seaforth Highlanders of Canada

and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station In the Field

Date 15 Jan 1944

"E.Anderson Major RCAMC"

Medical Officer

"JCACampbell Major"

Judge Advocate

"HA Tucker Maj"

Army Form A 9

A

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Field General Court-Martial held ~~at~~ in the Field on the 15th day of January 19 44 by order of

Lieut-Colonel J C Jefferson

T/ Commanding 2 Cdn Inf Bde

dated the 12th day of January 19 44

President

Major H.A. Tucker L Edmn R

Members

Capt H.W. Mulherin P.P.C.L.I.

Capt G.J. Armstrong L. Edmn R.

Major J.C.A. Campbell R.C.A. HQ 1 Cdn Div. Judge Advocate

Trial of K-70818 Pte Ernest Isadore DeRoche Seaforths of Canada.

"JCAC" The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

The Court satisfy themselves that N.A. is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Lt. J.A. LaClaire Seaforth Highrs.

Counsel or defending officer Lt. L.J. Pronger Seaforths

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer NO

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"JCAC"

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Lieut. J. G. Hogg 2 C.I.B. Sp. Gp.

Do you object to U-1648 Pte Fabbri A. PPCLI acting as interpreter NO SIR
The interpreter is duly sworn. Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Not Guilty Answer

Are you guilty or not guilty of the second charge against you, which you have heard read?

Not Guilty Answer

Are you ghilty or not guilty of the third charge against you, which you have heard read?

Not Guilty Answer

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

N.A. Answer

The accused having pleaded Guilty to N.A. charge, the provisions of Rulr of Procedure 35(B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty", the Court will not proceed upon the record of a plea of "Guilty", until after the finding on that other charge.

"JCAC"

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have beenprejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer NO

The prosecutor makes an opening address (hands in a written address which is read, marked "JCAC", signed by the President, and attached to the proceedings.)

The prosecutor proceeds to call witnesses.

The prosecutor proceeds to call witnesses

First witness for prosecution) See attached

being duly sworn, is examined by the Prosecutor.

"JCAC"

D

The prosecution is closed.

DEFENCE

"JCAC" J.A. advised accused of his rights under R.P. 40 & fn 2.
Question to the accused. Do you apply to give evidence yourself as a witness?

Answer YES

Question Do you intend to call any other witness in your defence?

Answer YES

Question Is he a witness as to character only? Answer. NO

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40(C)(iv) and 41(A)(i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

- - - - - - -

(Where any evidence is given for the defence)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (see overleaf).

- - - - - - -

(Where the accused does not give evidence upon oath).

"JCAC" Question to the accused. Have you anything to say in your defence?

Answer The accused in his defence says *
(hands in a written address which is read, marked signed by the President and attached to the proceedings.)

"JCAC"

- -

* In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above).

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused K70818 Pte Ernest Isadore De Roche guilty of the first and second charges and NOT guilty of the third charge.

The finding of NOT guilty of the third charge is announced in open Court.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

- - - - - - -

The Court being re-opened, the accused is again brought before it.

Lieut. J.A. LeClaire, is duly sworn
is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness.

Yes, I produce temporary MFM 6 and MFB 355 relating to the accused

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked C & d , signed by the President, and annexed to the proceedings.

Question by the President — Is the accused the person named in the statement which you have read? Answer by the Witness. Yes

Question — Have you compared the contents of the above statement with the regimental books? Answer. YES

Question — Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. YES

Cross-examined by the accused. N/A

Do you wish to address the Court? Answer

YES see attached

"JCAC" — The Court is closed for the consideration of the sentence.

F

SENTENCE

See Schedule

The Court sentence the accused

Sentence

Prosecuting Officer — Lieut. J.A. Leclaire

Defending Officer — Lieut. L.J. Pronger

1st Witness Prosecution

Maria Rosica of Quintino Rannalli having been duly sworn states:

I am Maria Rosica of Quintino Rannalli. At approx. 2200 hrs on the 4-5 January there was a knock on the door and the lady of the house opened the door. There werewere 4 beds in the one room, all of them occupied. The man took the lamp that was in the room and visited all the beds, finally stopping at my bed. I was sleeping with my husband and baby. The accused whom I recognize took something from his belt about a foot long in his hand. He threatened my husband and I tried to protect him and screamed. The accused put his hand over my mouth. The people tried to leave the house but the accused stopped them by closing the door. The accused took the baby from me and handed it to my husband. Then he pushed me onto the bed and I started to scream and he hit me in the face. Before I was thrown onto the bed he told everyone to go to bed.

"JCAC" When he had me on the bed he tore off my pants and put into me. I told the man that I musn't be touched as I had a wound but he carried on. He got on top of me and did what any man would do. He got up and I got up and went over to my husband. The accused came over and kissed me and I was forced to return his kiss. Then the accused went to sleep. Myself, the husband and the baby (who had few clothes) left the house. I wasn't well and my husband was not allowed to have intercourse with me. That which he put into me was what a man has. I am forty years of age.

No cross-examination by the defence.

COURT My husband had been slapped in the face and punched by the accused at the same time as I was hit. He sat on a bed holding the baby while the soldier seduced me. When my husband, baby and myself left we went to the Second floor of the house.

"JCAC" R.P. 83(b) complied with.

II

2nd Witness Senor Arnoldo Rosica of 50 Via Sofia having been duly sworn states:--

I am Senor Arnoldo Rosica of 50 Via Sofia. I live with a family called Rannalli. I am 48 years of age.

I was asleep with my wife, baby, on the ground floor in a room with four bed. About 10 o'clock a soldier entered asking for cognac or marsala. I recognize the accused as the soldier who entered the room. The soldier demanded silence and pulled out a dagger. Rannali told the man there was nothing but wine and offered him a bottle which the accused refused. He walked about the room menacing the people with this weapon, especially the women. He finally stopped at my mother-in-laws bed. He made here get up and go and sleep with the Rannalli's in another bed. After this the accused came to my bed. He took the baby from my wife and gave it to me. Then he took my wife and put her on the empty bed. Then the accused took off my wifes pants and got on top of her and did what any

"JCAC" man would do.

Then my wife got up and came to my bed and the accused dropped off to sleep. My wife, baby and I left the room and went upstairs.

I gave him my watch to try and quieten him and later he took a watch out of a drawer which belonged to Mr. Rannalli. The accused felt the watch in my pocket and to keep him quiet I gave it to him. It was a Longines. Watch produced by Prosecution marked exhibit "A". The man left his watch in place of mine which he took. Watch produced by prosecution marked exhibit "B" is the one left by accused. The accused spoke to everyone in general when he entered the house. I received a few punches from the accused.

NO Cross-examination by defence.

COURT The accused hit me two or three punches, in the face. He used his closed fist when he struck me. I saw the man undo his trousers, take out his penis, spit on his hand to wet his penis and complete the act against my wife.

"JCAC" I was sitting on the bed with

III

the baby and could do nothing. I was struck by the accused before and after I gave him my watch.

Defence by permission of Court.

I did not have the impression that the man was drunk.

R.P. 83 (b) complied with.

3rd Witness Prosecution K-52853 Sgt Smith W.C., The Seaforth Highlanders of Canada having been duly sworn states:--

I am K-52853 Sgt Smith W.C. provost Sgt. Seaforth Highlanders of Canada.

I am billetted in the town of Ortona and am 28 years of age. My occupation is provost Sgt.

At about 0900 hrs 5 Jan 44 I was called on by the Adjutant to investigate a disturbance at 50 Via Sofia, Ortona. On arriving there I met Senor and Signora Rosica. As a result of information that I gathered, an identification parade of 2 sections of a platoon of D company, Seaforth of Canada was held at approximately 1500 hrs the 5 Jan 44. The accused was on that parade. He was identified first by Signo Rosica and secondly by Signora Rosica. I immediately took the accused into close custody. I took from him a Longines wrist watch which he was wearing. He stated that it was his property and he could prove ownership of it. The following day

"JCAC" while

a Summary of Evidence was being taken the watch in question was identified by Signor Rosica as his property The accused is present here before me and he is the man who was identified. I first saw the watch (Exhibit A) when I took the accused into close custody. I first saw this watch (Exhibit B) at 50 Via Sofia.

NO cross-examination by Defense.

COURT The identification parade was held as the result of complaint by Signor and Signorina Rosica.

R.P. 83(b) complied with.

1st Witness Defence

K-70318 Pte De Roche E.I., The Seaforth Highlanders of Canada having been duly sworn states:--

I am K-70318 Pte De Roche E.I. Seaforths Highlanders of Canada stationed in Ortona.

On the night of the 4-5 Jan 44. At approx 1800 hrs I left my own billet from there I went to another billet of my platoon. I entered the house and spoke to a few of the boys after a few minutes chat we decided to have a game of cards. There

IV

were four other men and myself who sat down to play After a hand or two of cards one of the boys who was in the house offered us all a drink which we received. From approx. 1830 until approx 2235 we sat and played cards and drank. I left at this time and proceeded from there across the street to my own billet arriving at my billet I took my jacket and head gear off, sat down on a chair by the fire. Finally dozing off to sleep. The next thing I can recall was the next morning at 0700 hrs when I was called. The day carried on as usual until about 1600 hrs when we were called out on a parade which I learnt was an identification parade. Just a few seconds before this parade took place, Maj Gowan, the Coy Commander explained to us the reason for this parade which I was picked out from by Signor & Signora Rosica. I had never seen either of the two before.

"JCAC" On January 3, 1944 I was up to "A" Coy of L Edmn Regt visiting a friend of mine.

Not owning a watch at that time and as he had one for sale I asked how much he wanted for it. He told me he would trade it for a bottle of good liquor. I told him I did not have it at that time and I would bring it from my billet about 1600 hrs. After being with him for a while and took a bottle of liquor back to my friend and made the trade, which he had a man witness so there would be no squabble. The man I made the trade with for the watch is Pte Olsom of the Loyal Edmonton Regiment "A" Company.

Cross-examined by Prosecution

The first time I saw the watch (Exhibit B) was at the Summary of Evidence.

COURT There was an extra piece of leather added to the strap, a piece of black leather under the watch, a streak on the crystal of the watch and it has no jewels. This watch is known as Exhibit "A".

"JCAC" "XXXX The rest of mine section were in bed and I was in the kitchen and the men were asleep in that room.

V

I was wakened in the morning and I was still in the chair in front of the fire. I had my jacket and head-dress off but that was all. We were drinking nothing but Sarti Cognac.

R.P. 83(b) complied with.

2nd Witness Defense — M-66580 Pte Olson V.A. The Loyal Edmonton Regiment having been duly sworn states:

I am M-66580 Pte Olson V.A. of the Royal Edmonton Regiment of "A" Company.

Myself and Pte. Warren and met De Roche and talked. He asked if I had a watch for sale. I told him to come to my billet at 1400 hours with a few bottles of liquor and I would trade him for a watch. De Roche brought up the liquor and we traded for the watch. I had to get this watch from Pte Makokis who I had loaned it to for guard duty.

The strap had been broken about 2 inches from buckle and had a black strap behind the watch. It was a Longines, with no jewels to my knowledge. The watch shown as Exhibit "A" is the watch.

"JCAC"
NO cross-examination by prosecution.

COURT — I had the watch about a week and a half and the strap was like that when I got it. I traded the watch for one bottle of liquor and he promised to bring more back but I don't know whether he did or not.

R.P. 83(b) complied with.

3rd Witness Defense — M-56893 Pte Makokis, J.L., The Loyal Edmonton Regiment having been duly sworn states:--

I am M-56893 Pte Makokis J.L. of The Loyal Edmonton Regiment "A" Company.

I borrowed a watch from Pte. Olson the night before for guard. He came and got it off of me before he sold it. He told me it was a Longines and I can now identify this watch now as (Exhibit A)

No Cross-examination by Prosecution

R.P. 83(b) complied with.

"JCAC" — Court adjourns at 1215 hrs. Court re-opens at 1345 hrs with same members present.

VI

Prosecutor applies under R.P. 86 to have Signor Rosica recalled in order to put further questions regarding identity of watch (Exhibit A).

Defense has no objection.

Court gives leave to recall witness.

Further evidence by Signor Rosica.

I have examined this watch and it is definitely the watch that was taken from me by the accused. My wife witnessed the taking of the watch and no one else at is was too dark in the room. I have never loaned the watch to anybody.

NO cross-examination by defense.

R.P. 83(b) complied with.

Summing up by Defense

The evidence of the prosecution has consisted of the statements of 2 persons with one tangible article introduced as evidence in the one watch. The wife first gave her evidence, she was overwrought and gave her evidence twice and a lot of new details came to light not stated previously. I suggest that if she gave her story again she would add more details. In view of her state of mind and these fresh editions I would ask the court to accept her story with some reserve.

"JCAC"

The husband gives evidence that he sits on the bed, holds a baby and watches his wife being raped. He comes to give evidence of assault on his person he seems very vague and uncertain.

The husband also swears on oath that he is robbed, of a watch which he identifies. The accused and two witnesses give sworn evidence that the watch is lawfully the property of Pte. De Roche. So we have the evidence of three persons against that of one. This watch was the one tangible exhibit given in evidence against the accused and I suggest that it is therefore impossible for the court to find the accused guilty of the third charge and the court is bound to consider the affair of the watch as calling into question all the rest of the evidence of the witness.

"JCAC"

VII

Summing up by Prosecution

It is my duty to point to the court certain evidence which has been brought before. In relation to the first charge the court has heard that the accused used force to obtain his desires in that he, firstly, threatened Signor Rosica with a knife like instrument. Secondly that he struck the women and she shows marks to bear out this evidence. The court has heard that the womens undergarments were torn off her and that against her protests of being physically unfit to have intercourse the accused however did committ penetration. This evidence of Signora Rosica was later corroborated by her husband who admitted having seen the deed committed whilst he was sitting on a near-by bed.

Strange as it may seem to our western customs, if not natural, it is at least possible that a man would take the attitude of the husband in this case.

Some hours later the accused was identified by both Signor Rosica and Signora Rosica separately. This leaves but little doubt in the mind that he was the person who perpatrated the crime he is charged with. In his defense the accused stated that at 2235 hrs after finishing his game of cards he went to his quarters where he sat in front of the fire and fell asleep. Although he admitted other persons living in those quarters he did not bring any witnesses to testify that between the hours of 2200 on January 4 and 0500 hrs Jan 5, the time which he is charged with being in the Rosica home that he was present in his own quarters. He also stated that he had been drinking therefore might easily have forgotten part of the nights events.

With reference to the second charge, it was heard from the evidence given by Signor Rosica the accused did strike him with his fist two or three times. This was corroborated by the evidence given by Signora Rosica

"JCAC"

Referring to the third charge contreverried evidence has been heard and I have no doubt that perjury has been committed by one party or another. But the fact that I wish to leave in the courts mind is how could Signor Rosica have described the scratch on the watch crystal if the said watch had not been his property because the fact remains that he had not seen that watch until it was given to him to identify when he gave his evidence. I believe the facts mentioned above are clear and sufficient to enable the court to render its judgement.

Summing up by Judge Advocate

As Judge Advocate it is my duty to summarize the evidence for the court and further to advise the court upon the law relating to the case prior to the court proceding to deliberate on their finding. In dedding questions of law a court martial should be guided by the advice of the J.A. This advice should not be disregarded except for

"JCAC"

weighty reasons. Any opinion I may express will be disregarded by the Court which will come to its finding solely on the evidence at the trial. Nothing heard before the trial must influence your minds. These are serious cases. I will give you the defn of rape. Refers to Page 113 Para 37 M.M.L. It is essential that all elements be proven. Refers to M.M.L. Page 122 Para 59 for defn of robbery with violence and refers to M.M.L. Page 113 Para 34 for defn of assault.

The J.A. sums up evidence for Prosecution and Defense pointing out the difference between the two stories concerning the watches.

In conclusion the J.A. states that the charges brought must be proven in evidence and if not proven an acquital will follow. It is a principle of English law that every man is innocent until proven guilty and that the accused must be given benefit of any reasonable doubt.

IX

Character Evidence

K-54081 Sgt. Smirle J.D. of The Seaforth Highlanders of Canada having been duly sworn states:--

I am K-54081 Sgt. Smirle J.D. The Seaforth Highlanders of Canada. I am pl. sgt. of Pte. De. Roche.

I knew Pte De Roche in England. He landed with the pl. in Sicily, he was at that time a L/Cpl. He was hospitalized twice and he has never caused me any trouble personally.

R.P. 83(b) complied with.

Mitigation in view of the good character asked for leniency. The accused is a soldier taught to kill which in turn probably affected other instincts.

For complete address see Exhibit E.

Court orders Exhibit "A" returned to the accused and the Exhibit "B" returned to Signor Rosica.

"JCAC"

EXHIBIT "E"

Statement in mitigation of sentence in the case of K-70818 Pte De Roche E.I. by Lieut. L.J. Pronger, defending officer

The accused has been given a 'good' character by his commanding officer on the application for court martial.

He has been given a good character by his pl sgt who has related that the accused landed in Sicily & has been with the bn since then except for 2 evacuations on medical grounds.

The accused has seen Italians, compatriots of the complainants, kill his comrades but a short while since, & if he therefore holds their persons rather cheaply it is not surprising, & in that respect he is like many other Canadians.

Since landing in Sicily it has been the business of the prisoner to kill. If this one primitive impulse is brought to the surface & exploited it is understandable that others should likewise emerge & that his self-control would be less that that of a person living a normal life in normal society. It is unfortunate that these other passions & impulses are not so desirable from an army point of view.

In view of his past services to his country & for the above reasons I ask the mercy of the court for the prisoner.

"JCACampbell Major"

Judge Advocate

"H.A. Tucker Maj"

No K-70818 Name DeRoche, E.I. Sqn, Battery, or Company D Corps Temporary "C" Seaforth of C Date of enlistment 42 GC Badges Service or Proficiency Pay $1.50 MFM 6 (AFB 122) 40/PAM/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									"WDR"
				Returned to Unit from hospital wef 31 Dec 43 m/n document not as yet received.					
				"J.C.A.Campbell Major" Judge Advocate					
				"H.A.Tucker Maj"					

(PTO)

"D"

M.F.B. 155
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

"J.C.A. Campbell Major"
Judge Advocate

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K70818	Pte	De Roche, E.I.	Seaforth of C

1. The following is a fair and true summary of the entries in the Conduct sheets / Service and General / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with. "WDR"

	Within last 12 months		Since enlistment or appointment	
For	M.F.M. sent to Cdn Sec GHQ 2 Echelon	times	Same as other side	times "WDR"
For	and not returned	times		times
For		times		times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~ "WDR"

There are no entries in the conduct sheets of the accused. "WDR"

~~Note—If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted "WDR"

~~Previous convictions of the accused by a Court-martial or by a Court of summary jurisdiction under the Army Act~~ or, ~~Section 47 of the Army Act, and dispositions of his case under A.C.I. 73, are set out in the schedule annexed to this statement.~~

~~3. The accused is not under sentence at the present time~~ "WDR"

~~The accused at the present time is under sentence of~~ or, ~~beginning on the~~ "WDR"

~~day of~~

4. The accused has been in confinement awaiting trial on the present charge, for 0 days in ~~his Force~~ civil custody, and 10 days in military custody, making a total of 10 days in custody, of which 0 days were spent in hospital. "WDR"

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years - 7 mos - 15 days "WDR"

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper 24 Oct 41 "WDR"

7. The service which the accused is allowed to reckon towards discharge is from 30 May 42 "WDR"

8. ~~The accused is entitled to reckon~~ ~~service for the purpose of determining his position on~~ "WDR"

9. ~~The accused is in possession of or entitled to~~ an air force ~~decoration~~, or in force reward ~~or~~ ~~for~~ military "WDR"

~~possession of or entitled to~~ ~~Style any air force decoration or reward~~ military.

10. ~~If the accused is a warrant officer.~~ ~~The accused has~~ ~~He was~~ ~~a warrant officer~~ ~~in the~~ "WDR"

~~the Regimental rank of~~

"H.A. Tucker Major"

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ~~Permanent Force~~ unit dated ..... and in his regiment (or corps) the rank of ~~dated~~ "WDR"

12. ~~The accused has served as a non-commissioned officer~~ continuously without reduction, to the ~~present date~~ "WDR"

~~Date of promotion~~

~~In the rank of ..... years~~

~~In the rank of ..... years~~

~~In the rank of ..... years~~

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Air Force Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of January 1944

"W.D.Reid" Capt.
W.D. Reid Adjt. The Seaforth of C.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

Summary of Evidence in the case of K70818 Pte. Ernest Isadore De Roche, The Seaforth Highlanders of Canada, a soldier of the Canadian Army placed on active service.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

K42546 A/L/Cpl. De Grazio, J., The Seaforth Highlanders of Canada is used as an interpreter and is sworn as follows. "I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to, touching the matter before this Court."

Sgd. L/Cpl J. DeGrazio

First Witness: Signor Arnaldo Rosica having been sworn states: "I am Arnaldo Rosica living at 50 Via Sofia in Ortona. On the night of 4 January 1944 at about 10 o'clock the accused whom I now recognise came into my house and asked for a drink of wine. He struggled with me and hit me with his fist in the face. Then he told my wife to get down on a bed and forced her down after a struggle. My wife was holding the baby and he took the baby away from her, gave it to me and made me sit down on a bed. He then had sexual intercourse with my wife against her will and afterwards went to sleep on the bed. My wife and I went upstairs and stayed there. The accused took my wrist watch a Logines which I now recoginse (Longines wrist watch produced and marked exhibit "A" to these proceedings) and also took another watch out of a bureau drawer, which belonged to Quintino Ranalli who also lives in the house. The accused left me his watch which was broken. He left the house at about five o'clock in the morning."

sgd. Arnaldo Rosica

The accused declines to cross-examine this witness.

Second Witness: Signora Maria Rosica having been duly sworn states: "I am the wife of Arnaldo Rosica and live at 50 Via Sofia Ortona. The accused whom I now recognise came into my house at about ten o'clock on the evening of 4 January 1944. He asked for a drink of wine. Then he picked up a lamp and went around looking at all the beds and stopped at my bed, and he made my husband and I get up. After I got up he kissed me. Then he made me get on another bed and he took my underclothes off. He hit me in the face with his hands, took my baby from me and gave it to my husband and told him to sit on another bed. He then forced me to have intercourse with him. The accused then went to sleep and slept there on the bed until about five o'clock in the morning. As soon as he went to sleep I ran upstairs with my husband and baby and stayed there."

Q. Did he actually gain entrance or penetration during the intercourse?
A. Yes, he did.

sgd. Maria Rosica

The accused declines to cross-examine this witness.

Third Witness: K52853 Sgt. Smith, W.C., having been sworn states: "I am K52853 Sgt. Smith, W.C., provost Sergeant, The Seaforth Highlanders of Canada. At about 0900 hours 5 Jan 44 I was ordered to investigate a disturbance at 50 Via Sofia in Ortona. On arriving there I met Signor and Signora Rosica who complained that a soldier had committed rape on Signora Rosica and had assaulted and stolen two watches from Signor Rosica. They described the soldier to me and said that they would recognise him again. An identification parade of two sections of 17 platoon "D" Coy, The Seaforth Highlanders of Canada was held on the afternoon of 5 Jan 44. The accused was picked from the line-up first by Signor Rosica and secondly by Signora Rosica. I immediately took him into custody and took from him a Longines wrist watch which he was wearing. He stated that it was his own property and that he could prove ownership. The watch in question is this watch now marked Exhibit "A"."

sgd. W.C. Smith.

The accused declines to cross-examine this witness.

The accused was cautioned as follows. "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make any statement or to give evidence.

Rules of procedure 4 (c)(d)(e)(f) complied with.

Taken down by me on this and three preceding pages, in the presence of the accused on this fifth day of January, nineteen hundred and forty-four.

sgd. J.H. Gowan Major
The Seaforth Highlanders
of Canada.

In the Field
5 January 1944

List of Witnesses in the case of K70818 Pte. De Roche, E.I.

Signor Arnaldo Rosica	50 Via Sofia, Ortona.
Signora Maria Rosica	50 Via Sofia, Ortona.
K52853 Sgt. Smith, W.C.	Seaforth of C

List of exhibits in the case K70818 Pte. De Roche, E.I.

Longines Watch (wrist) - Exhibit "A".

Officer Commanding
Seaforth of C

Sir:

I respectfully request that Lieut. L.J. Pronger be defending officer at my forthcoming Field General Court Martial.

Pte. De Roche, E.I.

5 & 16 Pte Derocho, E. I.

ON HIS MAJESTY'S SERVICE

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FIELD GENERAL COURT-MARTIAL

CPA96 (To Reg of AFA&R) 40/P & R/1 PWR (40701) 4/38B

Convened by Order of Brig G W Tarleton, DSO MC Comd Brussels Grn dated 7 Dec 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 70818	Pte		Ernest Isador	DEROCHE	2 Cdn L of C Pro Coy att Cdn Sec HQ Brussels Grn

PROCEEDINGS REVIEWED
17 Feb 46 A.J. Brodie Maj
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 10, 11 Dec 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnn RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See book of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1205 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to MISS G. SCHLOGEL as interpreter? Ans NO SIR

The Interpreter is sworn.(1) ~~Do you object to _____ as shorthand writer? Ans _____ The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F A Baillargeon	Gen List I Cdn C M Centre
Member	Capt	D I Macdonell	Cdn Scottish I Cdn C M Centre
Member	Capt	R G L Miles	RCA I Cdn C M Centre
~~Judge Advocate~~			
Prosecutor	CAPT	J W VARTY	1 CDN C M CENTRE
Defending Offr	CAPT	P T H O'NEILL	1 CDN C M CENTRE

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans YES(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused K 70818 Pte Ernest Isador DEROCHE before arraignment make(s) (~~no~~) ~~not~~ plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A94 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form P

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 1 Cdn Base Sub Gp
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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

~~B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning~~ of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by ~~using Record Form E on p 3.~~

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

~~C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 3.~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~his~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 4th and 5th charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the FIFTH charge(s), and allowed on the FOURTH charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (~~are~~) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. GIVE EVIDENCE AS WITNESS. Do you intend to call witnesses on your behalf? Ans. NO SIR. ~~Are they witnesses as to character only? Ans.~~
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E.1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(~~s~~) ~~if guilty~~ of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st 2nd & 3rd charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)~~
(1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. GIVE EVIDENCE MYSELF.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(~~s~~) as to Character and Particulars of Service(1), and certified true ~~c~~y (~~copies~~) of Conduct Sheet(~~s~~)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(~~s~~) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(~~s~~) and Conduct Sheet(~~s~~) in mitigation of punishment?(1) Ans. THROUGH MY DEFENDING OFFICER.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~(2).
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 60. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 90, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : K 70818 Pte Ernest Isador DEROCHE 2 Cdn L of C Pro Coy att Cdn Sec HQ Brussels Gra

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 41	NOT GUILTY	GUILTY	
2nd AA 41	NOT GUILTY	GUILTY	
3rd AA 41	NOT GUILTY	GUILTY	
4th AA 40	NOT GUILTY	NOT GUILTY	
5th AA 40	NOT GUILTY	NOT GUILTY	
B ~~6th~~			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date) .....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(f). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for ninety (90) days.

B ~~(Sgd)~~ ~~Judge Advocate, if any.~~ 11 Dec 45 Date awarded. (Sgd) C Barclaigeon President. (RP 45, 50.) Maj

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) ~~(1. AA 57A. Delete if not used.)~~

(Sgd) L. J. Flynn Lt Col

Date 23 Dec 45 Commanding T/Comd 2CBBGP Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K70818 Pte Ernest Isadore Deroche	16 Jan 46	L. A. Magee Capt

JAN 10 1946 DAMAGE AND PROTECTION OFFICE

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused K-70818 Pte Ernest Isador DEROCHE, 2 Cdn L of C Provost Coy, Cdn Sec H Q Brussels Garrison, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT

in that he

in the Field at Brussels Belgium, at approximately 2340 hrs 16 Nov 45, assaulted M. Jean Francois DONY by striking him the face with his fists.

SECOND CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT

in that he

in the Field, at Brussels Belgium, at approximately 2345 hrs 16 Nov 45, assaulted Mr. Jean Hubert TEMMERMANS by striking him on the body with his fist.

THIRD CHARGE
Sec 41
Army Act

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, COMMON ASSAULT

in that he

in the Field at Brussels, Belgium at approximately 2345 hrs 16 Nov 45, assaulted M. L P AUSLOOS by kicking him in the chest with his foot and by attempting to strike him with a chair.

FOURTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Brussels, Belgium, at approximately 2340 hrs 16 Nov 45, created a disturbance in the Cafe du Trone, 249 Rue de Trone, Brussels, by upsetting a billiard table and by fighting.

FIFTH CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Brussels, Belgium, at approximately 2345 hrs 16 Nov 45, created a disturbance in the Express Cafe, 238 Rue de Trone, Brussels, by pouring liquor on the counter, by knocking glasses on the floor and by fighting.

(L P Payan) Lt col
Comd
Cdn Sec HQ Brussels Garrison

in the Field
30 Nov 45

To be tried by Field General Court-Martial

(G W Tarleton) Brigadier
Commanding Brussels Garrison

In the Field
7 DEC 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 70818	Pte		Ernest Isador	DEROCHE	2 Cdn L of C Pro Coy att Cdn Sec HQ Brussels Grn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Dec 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

GLD

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F A TAILLARDON	Gen Staff 1 Cdn C M Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	D L MACDONELL	Cdn Scottish 1 Cdn C M Centre
Capt	R G L MILES	RCA 1 Cdn C M Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 7 DEC 45

G L Vanier (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G N TARLETON)

Commanding Brussels Garrison

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AFA48. (To take effect on AFA's 40, 7 & 8/1947 (Gen).)

(See overleaf for notes and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

I certify that No K 70818 Pte Ernest Isador DEROCHE, 2 Cdn L of C Repair Coy att Cdn Sec H Q Brux Grn

is* fit to undergo trial by Court-Martial.

Capt
Medical Officer of the Army Medical Officer.
HQ BRUSSELS GARRISON

10 Dec 45

*Insert "fit" or "unfit."

(a) Here insert name of—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(iii) Officer who took down the Summary of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President: one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(If the accused has elected to be tried under A.A. 46 (8), the fact should be recorded at the top of this form.)

3/62 M.F.B. 321
40/P & S/650

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)

I certify that I have this day examined K-70618 (No)

Pte. DEROCHE, E.I. 2 Can I of C Provost Coy and in my opinion is

~~unfit~~ fit to undergo trial by Court-Martial.

Station Brussels

Date. 11 Dec 45

Capt (Sgd)

Medical Officer

HQ (Unit)

1.

K 70818 Pte Deroche E.I. 10 Dec 45

2 Adm L of C Pro Coy

act Cdr Sec 4th Brussels Gen

Pleas - (1) not guilty

(2) " "

(3) " "

(4) " "

(5) " "

Besides pleading not guilty the accused makes a special plea in bar on the 4th and 5th charges.

Plea by Defending Officer p 14

Reply by Prosecutor p 15

Court is closed to consider the plea

Court is re-opened and President announces that the plea in bar of trial is disallowed and the trial will proceed accordingly on all charges.

~~2A~~ 1. 1A Special plea

Plea in Bar of Trial.

The defence submits that the fourth & fifth charges are improper on the grounds that they are multiple charges but are not listed as alternative. Both of these charges contain the allegation "by fighting." This allegation is fully covered by the first second & third charge in that the charge of assault covers the charge of fighting.

It is the submission of the defence that these charges should be thrown out summarily or changed to alternative charges.

P T H Mitchell Capt

Prosecutions reply to submission in bar of trial on 4th Charge

The defending officer has submitted that in view of the fact that the last two charges disclose a set of events similar to the first 3 charges they should be alternative charges or dismissed

However there is no evidence before the court to show that the fighting mentioned in the fourth and fifth charges was part of the offences of the first three charges. Therefore the charges are correct in law and if the court finds on the evidence that the fighting mentioned in the 4th & 5th charges are in fact part of the first three charges they have the power to make a special finding at a later time if the balance of the 4 & 5 charges are substantiated by the evidence

J. A. Warty Capt
Prosecuting Officer

AB

Dr M. Cattier 42 Rue d'Edimbourg Porte de Namur, Bruxelles having been duly sworn states.

I examined M. Jean Francois Dony on 17 Nov 45. I found a wound on his forehead with a slight swelling. The length of wound was 1½ cm and other swellings on forhead. Swelling of nose with blood inside. Swelling of inferior and superior lips with blue patches on inside. Swelling of right temple. Two impactions of right ear. M. Dony is well now and only suffers from nervousness. He is still my patient because of his nervousness ~~and right headaches~~. In my opinion this state is due to the blows he received.

Mr. Dony is fit to work ~~and~~ ~~has been~~ He was fit to work ~~th~~ 15 days after the accident.

No cross-examination

By the Court

Mr. Dony was patient of mine before 17 Nov 45. He did not suffer from nervous trouble then.

RP 83(B) complied with

2nd witness for prosecution

Madame Germain Thirion, 12 Rue de Verviers, Bruxelles, having been duly sworn states,

I recognize the accused. I saw him before on 16 Nov 45 between 1130 pm and 1145 pm. in Cafe de Trone. He was with 2 others soldiers. I was playing billiards. He came towards me and wanted to take billiard cue. I did not give it to him. He wanted to throw the billiard over

I am not sure whether it was once or twice. I threw myself on billiard table to prevent it. Then he was angry. He came towards me and took the billiard cue from me and I had to give way. Four of us were playing billiards, Mr. Dowy, manager of cafe, Mr. Timmerman and another gentleman. Mr Dowy helped me to keep table straight because accused tried to throw it over. The accused did not succeed in throwing table over. When accused took cue from my hand he went to the counter. I did not see where Mr. Dowy was. I heard him scream from counter where accused was. I only saw the other two in front me. I recognized Mr. Dowy's voice

I did not see Mr. Dony after he screamed because I went for Police. After Mr Dony screamed I saw Mr Timmerman take his hat and going towards the door. The accused went towards Mr. Timmerman who came from the counter to Mr. Timmerman and accused went into one of corners of the Cafe where there was a "fruit" stove. Then I fled. I only saw Mr. Timmerman take his hat and coat near the counter and go to the door. When he got to door the accused grabbed Mr. Timmerman like this (indicating front of coat) "the accused" said police" and threw him into the "corner" corner. and hitting him on his body with his fists. When I saw Mr Timmerman nearly falling down I took my coat and

went for the police. He did not fall because there was a wall behind him. I saw nothing else happen there. I think the accused was under the influence of drink.

Cross-examination

I never saw accused before 16 Nov 45. I was in cafe with accused approximately 10 minutes. I did not see accused since that night except here. I only saw him ~~in~~ once in cafe twice before here on a Saturday and Monday and now. When I saw him on Saturday here I heard there were some Cdns who were at cafe that night who were arrested but I did not know who they were.

I swear I never saw accused other than the times I have already mentioned here.

I saw accused at Hd 2 L of C Provost on the Saturday When I saw him there were about 10 or 11 soldiers. I recognized the accused because he frightened me so much on that night. We were three civilians to ~~[illegible]~~ identify the accused. We went in one after the other. I was the 2nd or 3rd in. I believe 3rd. The door was shut when others went in before me. When accused went towards the counter I did not see Mr. Dony.

B.

RP. 83(B) complied with

3rd witness prosecution

Mr. Jean Francois Dony, 249 Rue de Trone, Brussels, having been duly sworn states,

I ~~recog~~nize the accused. I saw him the ~~Wednesday~~ Friday 16 Nov 45 about 1140 pm at my place.

the Tavern du Trone. They came into my place. The accused came with 2 others. On entering the 2 small ones came in first and accused came in 3 paces behind them. At 2 was playing billiards with 3 others. They were, the small lady who was here this morning Mr. Tennerman, and a 3rd one who is usually called "Daisy." There were 2 or 3 balls left on billiard table and they came to interupt us. The 2 small ones and the accused. They took billiard cue from one of us and tried to play with balls on the table. Then we said leave us alone because we had nearly finished the game. Then I put remaining 2 or 3 balls in the holes. Then my wife took some of the cues and put them away. After that they wanted to play billiards and my wife

answered that it was not possible. Then the accused jolted the table and pushed it sideways while some people tried to put it straight. Then accused came and jolted the long side of billiard table. When I and someone else held it down behind the small lady and myself I saw that table was going to fall down. I threw myself with the small lady on the table to keep it from falling we succeeded in keeping table straight. I then went to the counter, and behind it. And from the entry of the counter to wash basin there are at least 2 metres. I felt some one coming behind me. when I reached the wash basin I turned around and saw accused. At that moment I turned around I received a blow on the forehead. I don't which first. It was the accused

who struck the blow. I still felt some more blows given by soldier in question. My wife came and said "Gentleman is it ~~that~~ like that." and the accused left. At that time I was still behind the counter and bleeding near the wash basin. I felt on the first blow I received. How I was I don't know. After the accused left the cafe. I was not there, ~~after~~ I went out by the special entrance to telephone at R.A.F. Mess for the English M.P.

Cross-examination

I went behind counter and felt someone behind me. I turned very quickly and got a blow immediately. I received blow on forehead. It was a very hard blow I fell down. I saw the accused hit me. I received the blow

immediately when I turned around and fell down but had time to see who it was because he was a ~~few metres~~ a good pace from me. A small instant elapsed from time I turned around until the accused hit me. I never saw accused before 16 Nov 45. I next saw him the same night at Cafe Express. I then saw him on 17 Nov 45 a Saturday at HQ. L of C Pro. about 1530 hrs. After I phoned at R A F bldgs. I did not dare go back to cafe I was walking about street without hat and coat. I went to HQ. Con L of C Pro to see if I could recognise the three who were there. I recognised the accused immediately because he was so tall. The 2 soldiers with him that night I think were not so tall. The accused had black hair.

It is possible the other soldiers had black hair. There were about 8 or 10 soldiers with accused on that Saturday at Provost. They were standing more or less forming part of a circle. Mrs Lambert of Express Cafe. The little lady who was a witness this morning and myself went to identify accused. Mr. Slous who came as witness ~~was~~ came also ~~there~~ later. I was first to go in. The others were in another place. It was a joining room but completely shut. The AP were with us in same room. When I went in to ~~[illegible]~~ identify the accused I heard the door shut behind me. I am sure of that.

Re-examination

I have already pointed out the accused in the courtroom I am

sure ~~of him~~ he is the one. AB B.
RP 83(B) complied with.

Mr. Willy Jean Hubert Temmerman
49 Chemin de Poste. Braine
L'Alleud near Waterloo having
been duly sworn states,

I recognize the prosecutor
and the accused. I saw
accused on Friday 16 Nov 45
between 1130 hrs and mid nite.
in Cafe Taverne du Trone. We
were playing billiards and they
came in. That is, the accused
and 2 other soldiers. They
were obviously under influence of drink.
They wanted to take the
billiard material and tried
to interrupt our game.
The manager of cafe came
to try and establish order.
The accused was cross.
He wanted to jolt over the table
He wasn't able to do that as

He followed the manager behind the counter. There he gave him hits on head. I saw that myself. After that I took my coat and went out of the bldgn. The accused hit the manager with his fists. I took my coat with intention of going out of the bldgn. At that moment the accused came and gave me some blows on my body with his fists. He pushed me into corner of the cafe and I fell over a bench. I got up. He let fall chair he had in his hand with which he hit me. Then he went back to his other 2 colleagues who were waiting for him. The accused did not hit me with the chair. Then I went out by the private entrance ~~in~~ to call Military Police.

Cross-examination

The counter in Cafe du Trone is about 1½m. (4'9") ~~high~~ and about 1 yd wide. There is about 1 m. 20. between counter and wall. I am ~~assumed~~ 1 m. 80. tall. I saw ~~him~~ give several blows to Dony and he fell down behind counter. I would say there were 5 or 6 blows I did not count them. I am certain that there were more than 3 blows while Mr. Dony was still standing. Mr Dony did not truth when he said he fell down after the first blow because when he received the first blow I believe he was sort of dazed. He was dazed enough to not know how many blows he received afterwards. Mr Dony is lying but perhaps not aware of the number of blows he received. I am

definite. I did not see Mr Dony fall down. I did not see him again because I took my coat. I was standing in front of the counter. I tried to interfere but could not get to it. The accused had a chair in his hand to hit me with. He did not hit me with it. He tried to hit me with it. No one stopped him. He could have hit me with it if he wanted to.

Re-examination

I do not think Mr Dony lied intentionally I do not think he knew what happened.

RP 83(B) complied with.

5th Witness Mr. L.P. Awsloos, 236 Rue de Dime, Brussels, having been duly sworn states: I recognize the accused whom I have seen on 16 Nov. at about midnight in the Café Express 206 Rue de Brom. I was setting at a table in the café having a drink with some other people. I heard Mrs Lambert refusing to serve three soldiers one of whom was the accused. She was behind the counter. She said "I don't want to give you any drink" that is all I heard her say. Then the accused opened the door of the Café and went behind the counter. It is a door inside the café. Mrs Lambert said to the accused "Do not throw over any more bottles." So as to help Mrs. Lambert I went behind the counter. The accused was pouring apéritif wine into the floor from bottles behind the counter. I said to him, "Be quiet" He pushed me, but did not answer. On the shelf was a plate with cheese and bread and to spare it I took it upstairs. I went onto the first flight of the stairs when I was held back by the accused who passed me on the stairs. He came onto the landing, turned around and kicked me in the chest. I was holding onto the bannister and did not fall. I felt the kick plainly. I went downstairs and so as to quieten things Mrs Lambert asked me to go out of the Café. When going towards the door to leave I was joined by the accused just as I wanted to go out. He got hold of me and threw me down violently on a bench and pushed a table onto my stomach. He took a chair and wanted to hit me with it, he raised it above my head so I

know he was going to hit me. The chair was stopped by a mirror on the wall as it was coming down. The accused had kicked me with his foot on the stairs. At this moment the Civil Police came into the Café' I got up and the accused left the café. The accused appeared to me to have been drinking but as to his sobriety only a doctor could say. When I first saw the accused he was in front of the counter. I was not watching him all the time he was in front of the counter. I don't know what happened when he first came, he was in front of the counter when Mrs. Lambert refused him the drinks, he then went behind the counter as I have said. I never noticed anything out of the ordinary in the Café after the accused left.

Cross-examination:

There was a light in hall below the stairs, but I am not sure if there was one showing from above. The accused kicked me and if I had not been holding on I might have fallen. I am not small myself. I told nothing but the truth when I made a previous statement about whether I was kicked hard. or not. I said then and now say I was not kicked hard. I also stated at the summary that the blow left no ill effects.

I saw the accused very clearly before he kicked me as he was right in front of me The landing is well lighted from below. I did not see what foot he kicked me with but I saw him turn around and it was light enough from the light below the

landing to see clearly but I did not notice whether he kicked me with right or left foot.

I said the accused turned a table upside down on me. He said the table was leaning against me, not on top of me. I would never have said I think it fell, because it did fall on me. I said the accused wanted to hit me with the chair. The mirror stopped it. It did not break the chair. It fell on the panel at the top of the mirror and that prevented it from falling on me.

The accused made the table fall. He moved it with his foot or his hand.

Re examination:

The chair was stopped by the panel. The accused hung onto the chair till the Police came in, I believe.

R.P. 83 (6) has been complied with.

Sixth Witness —

Madame Kelly Lambert — 238 rue de Trone — Brussels. having been duly sworn states — I recognize the accused — I saw him the day he came to my place Cafe Express at 2345 hrs on 16th Nov 45. Three of them came in and asked for Cognac — All 3 demanded Cognac — I refused to give Cognac because there is a law prohibiting the sale of Cognac in Cafes. They insisted — when I refused the accused took a bottle of wine which was on the counter and started pouring it in glasses, and he threw the glasses with wine on the floor. One of them asked whether I was frightened because they would not pay, I answered "No". The accused showed me his police book, in which was written K 108 and a name which I couldn't read very well. The name I think was De Roche — The no. was K 10818. The accused came behind the counter took one bottle from the shelf turned it upside down and said "No Cognac" He looked to see what it was and poured contents in floor, he did the same thing with a 2nd bottle — "~~[illegible]~~" The accused "~~[illegible]~~" he broke about ten glasses and knocked over three pots of wine — The 3 glasses fell on the floor and broke. He took 2 other bottles, looked at them and thought they were Cognac, as it had that colour, but it was port. He put them in his pocket, at that moment M. Ausloos came behind the counter

to take away, a plate with cheese & bread, he wanted to take it to the kitchen on the 1st floor, the accused went upstairs, to follow Mr. Ansloos, passed him and gave him a kick in the chest, with his foot. Mr. Ansloos went downstairs and I asked him to leave to avoid trouble, ~~I thought I as a woman, that the accused would when he saw~~ Mr. When the accused saw that Mr. Ansloos was going to leave, he got hold of Mr. Ansloos by the shoulders and threw him down on a bench with a table turned ~~over~~ over, and then he took a chair to hit Mr. Ansloos with. The Belgian police arrived — The chair did fall on Mr. Ansloos but was held back by a mirror — The accused had hold of the chair — which was going up but was prevented by the panel — The Belgian police did not want to do anything with it, because the Brussels police were not in their territory, ~~they had come~~ Mr. Military Police arrived afterwards. I was not there when they came, because I had a nervous fit and had been taken inside. The Belgian police had let go all 3. I clearly saw the accused kick Mr. Ansloos in the chest. The stairs are near my counter — From my counter I could clearly see what happened on the stairs as ~~they were~~ are right in front of it, to get to the stairs one has to open a door ~~in~~ near the counter. There ~~was~~ was a pump on the counter and clean glasses on either side of pump, there was also a bottle of wine, when the accused came in.

When the accused left, ~~there were broken glasses on the counter.~~ the glasses that were not broken were still on the counter

Cross Examination

The police came in and the accused probably dropped the chair - I was glad to see the police and didn't see him drop it.

R. P. 83(b) complied with.

Prosecution closed.

Cpl Sewell, L/Cpl MacIntyre, and Cpl Herchak, witnesses named in the summary are not called by the prosecution and these witnesses are not required by defence for cross-examination.

Submission by Defence p. 22A.
Reply by Prosecutor p 22B

The accused K70818 Pte Ernest Isadore Deroche 2 Cdn L of C Pro Coy having been duly sworn states.

On 16 Nov 45 approx 1900 hrs I was invited by

Non Prima Facie
[illegible]

It is the submission of the defence that no Prima Facie case has been established by the prosecution on the fourth & fifth charges.

The fourth charge alleges that the accused created a disturbance by upsetting a billiard table & by fighting. Both witnesses for the prosecution have stated that the accused did not upset the billiard table & it is the contention of the defence that fighting was covered in this case by the first & second charge. For the fifth charge there has been no evidence that the accused did pour liquor on the counter. In spite of efforts by the prosecutor the witnesses have not even hinted that there was any liquor poured on the counter. My thoughts on the fighting allegation in the charge are known

22 B

Reply to submission of Defending Officer as to the prima facia case on 4th & 5th charges, by the prosecution.

The witnesses have proved beyond all doubt that the accused did create a disturbance in the cafe du Tivoli & the Cafe Express.

On the fourth charge there is not any evidence to show that the billiard table was completely upset but there is evidence to show that the accused did partially upset the table and was attempting to overthrow it when it was brought back to an upright position by the presence of mind of the proprietor and a girl patron who threw their weight upon it to prevent same. I would ask the Court to make a special finding and delete the words "and by fighting" as these set of events are contained in the first and second charges.

On the fifth charge I would ask the court to use its powers to make a special finding and to delete the words by fighting as this is part of the events charged in the 3rd charge. There is evidence before the court to show that the accused broke glasses by smashing them on the floor. Also that the accused pawed apparently on the floor.

Therefore I submit that there is prima facia evidence in both 4th & 5th charges before the Court.

for Military Court.

22 A.
2

Non Prima Facie
[illegible]

It is the submission of the defence that no Prima Facie case has been established by the prosecution on the fourth & fifth charges.

The fourth charge alleges that the accused created a disturbance by upsetting a billiard table & by fighting. Both witnesses for the prosecution have stated that the accused did not upset the billiard table & it is the contention of the defence that fighting was covered in this case by the first & second charge.

For the fifth charge there has been no evidence that the accused did pour liquor on the counter. In spite of efforts by the prosecutor the witnesses have not even hinted that there was any liquor poured on the counter. Why thoughts on the fighting allegation in the charge are known

so I will limit myself to submitting
that the fourth & fifth charges
be dismissed forthwith

J. H. Wilkeil Capt

22 B.

Ready to submission of Defending Officer of no prima facia case on 4th & 5th charges, by the prosecution.

The witnesses have proved beyond doubt that the accused did create a disturbance in the cafe du Tunne & the Cafe Express.

On the fourth charge there is true no evidence to show that the billiard table was completely upset but there is evidence to show that the accused did partially upset the table and was attempting to overthrow it when it was brought back to an upright position by the presence of mind of the proprietor and a girl patron who threw their weight upon it to prevent same. I would ask the Court to make a special finding and delete the words "and by fighting" as this set of events are contained in the first and second charges.

On the fifth charge I would ask the court to use its powers to make a special finding and to delete the words by fighting as this is part of the events charged in the 3rd charge. There is evidence before the court to show that the accused broke glasses by knocking them on the floor. Also that the accused poured apperitiff on the floor.

Therefore I submit that there is prima facia evidence on both 4th & 5th charges before the court.

Jas Whitney Capt.

staff member of TAF Detn Bks.
to a party in their mess. At
about approx 1930 hrs I went
down to the mess which is
located on rue de le Trone
I was in there from then on
drinking with members of
staff and a few of our
own staff until approx
2300 hrs. when I felt my
evening had been sufficient
and I decided to return
to my Bks. The last thing
I can remember of this
evening was coming down
the elevator from the mess
From there on I remember
nothing of this evening
until I awoke in my
room at 1000 hrs. the
17 Nov 45 and was told
by L/Cpl Herchak 2 L of C Pro
Coy that I was placed
under close arrest.

We were drinking brandy, Cognac and German gin that night. I am not an habitual drinker.

Cross-examination

I had tasted German gin before. ~~I do~~ also cognac and Can brandy. I did not know that it is very dangerous to mix my drinks, but I do know now. I never drank 3 kinds of liquor before on same occasion, because my usual drink is beer which I drank in Canada and England. It never occured to me to drink those 3 drinks on any occasion before. They were served to me and I naturally drank them. I was at a party, the liquor was free, and being a married man it is better to drink there than paying for it and I assumed I could drink all I wanted to.

I have been a member of the Provo Corps since Apr 45. I have seen people drunk before. I know people get drunk on liquor. I don't think it's impossible for me to get drunk on liquor. I knew that of 2 drinks too much I would get drunk but as I previously stated I feigned I had sufficient and left. They do not encourage drinking in Provost Corps. I don't remember getting off elevator. ~~I left the mess~~ As far as I remember I came down elevator with 2 soldiers and an airmen. I don't know if Cafe Elpres and don't none are on the same street as the mess or not. I was never ~~there before~~ in either one before.

By the Court

I don't remember the police

entering the Express Cafe before ~~W~~ I left it. I don't even remember ~~[illegible]~~ being ~~[illegible]~~ there.

WP 83(B) complied with.

Summing up by Prosecution p. 26A.
" " " Defence p 26B.

E1

The accused K70818 Pte Deroche EI, 2 Cdn L of C Pro Coy having been duly sworn states.

I joined Army 24 Oct 41 with Seaforth Highs I was with them until I came to Pro Corps Apr 45. I came overseas as reinforcement in Jan 42 ~~[illegible]~~ was with Regt when they went into action in Mediterranean. Made both landings with them in Sicily and Italy until I was wounded on 27 Nov 43 by mortar ~~of~~ shrapnel. I did not return

26A (1)

The prosecution sums up as follows. AB

Mr President and members of the court

The First Charge against the accused has been ~~substantiated~~ proven by Mr Temmerman and Mr Dorry who both state that the accused struck Mr Dorry on the face with his fists Madam Thirion substantiates that she heard Mr Dorry scream from behind the counter and just after this the accused came out from behind the bar. Dr Cattigs evidence brings out the renousness of the injuries received by Mr Dorry at the hands of the accused.

The Second Charge against the accused has been proven by Mr Temmermans who states the accused struck him on the body with his fist This is substantiated by the evidence of Madame Thirion

The Third Charge against the accused has been proven by Mr Ansloos who states the accused kicked him in the chest with his foot and also attempted to strike him with a chair. The blow not landing because of a mirror shelf which it struck — the way down.

The Fifth Charge against the accused has been substantiated in so far as Madame Lambert states the accused knocked glasses from the counter onto the floor

The defence has not disproven any of the facts disclosed by the prosecutions evidence. And the evidence of the prosecution shows that the accused had been drinking. The evidence of the defence shows the accused was drunk and suffered a temporary loss of memory.

I would refer the court to page 25 section 42 of the Army Act in reference to drunkenness in relation to more serious offences and also to page 113 para 34 for the offence of assault.

Therefore I think the court will agree with me that the accused has committed an offence and should be punished for same

J. A. Warby Capt
Prosecutor.

126B. Summing up

May I point out to the prosecution in opening that the fact that the Court has found a prima facie case exists on a charge in no way infers that the charge has been proven.

The evidence on the first two charges are conflicting as the witnesses do not agree on points in evidence.

On the third charge the evidence of the two witnesses is so utterly perfect as to suggest to the Court that their evidence was rehearsed. Both have given evidence as to happenings during a drunken brawl in a manner which is amazing to me in its perfect corroboration.

On the fifth charge the accused of conduct to ~~the good order~~ prejudice of good order & military discipline in that he poured liquor on the counter & upset glasses. I will refrain from stating again my views on the inclusion of the words "by fighting"

There is no evidence of pouring liquor on the counter whatsoever & since when was it an act to the prejudice to upset a glass. I myself last Friday evening saw the member on the right & the Prosecutor both upset glasses in the mess but they were not charged with conduct to the prejudice

F. T. Hollis Capt

to them at the time, but after coming out of hospital I was funded to base depot where I was put on draft for England as an Anti-Tk instructor. I remained as such in Aldershot ~~from~~ until 12 Jan 44 & until 22 Feb 45 when I was posted as a foot drill instructor at 14 Pro Coy. Aldershot, whereupon I joined Provost in middle of Apr 45. From there I was put on draft for 4 Pro Coy which was overseas in NW Europe. While with them I've never had any occurrences like this. I left 4 Pro Coy 14 Sep 45 was posted to 2/4 Pro Coy CMP in Germany as an outrider to GOC 2-3 Div. From there I proceeded to England

on leave on 23 Sep 45. During my leave I was married on 27 Sep 45. On returning from leave I went to 2/4 Pro and was at my same job until 16 Oct 45 when I was posted to 2 Can L of C Pro Coy. I have got along there as a good soldier and this is my first time I have ever been up in front of a C.O. Just before I left 2/4 Pro Coy I received a telegram from home along with a Dr's certificate stating that my mother was in serious condition and not expected to live (she has since died) and it also stated that they were doing their best back there to get me home. I showed this to the C.O. and he told me that I was slated for re-pat and that my name had been funded to the DAPM.

for his approval. A few days before 16 Nov 45 my name appeared on Pt I Orders for re-pat to Canada on 3 Dec 45 which I know now has since been struck off

RF 83(B) complied with.

E3

Plea in Mitigation 29 A.

J. Baillargeon
Pres.

Mitigation. AB

Plea in Mitigation

It is not necessary for me to dwell on the fighting record of the accused, as he has stated it in evidence. I merely wish to point out that after 4 years service most of it overseas with a combatant regiment, he comes in front of this court with a clean record.

He has been punished enough by having missed his repat draft & I ask the court to be lenient & give the accused another chance so that he may return to Canada & resettle himself in civil life.

P. T. O'Neill
Capt.

A. Baillargeon Pres.

ARMY FORM B. 296 (WAR.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K 70818	Pte	DEROCHE EI	2 L of C Pro Coy-Cdn Sec H Q Brussels Grn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers here stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For ORIGINAL MFM 6 NOT AVAILABLE times.

For times.

For times.

For times.

EXHIBIT "D" Deschamps Jes

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet NIL

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for NIL

beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for NIL

days in civil custody ; and for 23 days in military custody, i.e., nil days in open arrest, 23 days in close arrest ; of which nil days were spent in hospital.

5. The present age of the accused is

6. The date of his attestation ~~commission~~ is 24 oct 41

7. The service which the accused is allowed to reckon is 4 yrs 1 month

8. The accused is in possession of** CVSM & CLASP; 39-45 star; Italy Star, Def Medal

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously without reduction to the present date —

Date of Promotion.

In the substantive rank of //////

In the war substantive rank of ////

In the acting rank of ////

*Strike out if not applicable.

**State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT OF

SUMMARY AWARD UNDER SEC 47AA AND OF CASES IN WHICH TRIAL HAS BEEN DISPENSED WITH OF ACCUSED

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		ORIGINAL AFM 6 NOT AVAILABLE		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this XXX 10th day of Dec 45

Adjutant

No. K 70818 Name DEROCHE E1 | Sqn, Battery, or Company | Corps C Pro C | Date of enlistment 24Oct41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/T&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET Nil entries ORIGINAL MFM 6 NOT AVAILABLE					

M. Alexandrino Capt

Officer ic Regimental Books and Documents

EXHIBIT "C"

C. Buchanan Pres.

(PTO)

Summary of Evidence

In the case of K-70818 Pte Ernest Isador DEROCHE of 2 Cdn L of C Provost Coy, Cdn Sec HQ Brussels Garrison a soldier of the Cdn Army Overseas.

Charge AA Sec 41 Common Assault.

By direction of the commanding officer this evidence is taken under oath.

REA VAN SCHOORISSE duly sworn as interpreter.

First Witness Doctor M Cattiez 42 Rue d'Edimbourg. (Porte de Namur) Bruxelles having been duly sworn states.

On the 17 Nov 45 I examined Mr Jean Francois DONY of 249 Rue de Trone Brussels. I found he had a gash on the forehead about 1½ centimetres long and very swollen as well. His two lips were swollen and had blue bruises. The right side of his head was swollen and hurt very much. His right ear was swollen. He had bruises all over his body mostly on legs and arms. The exterior bruises are healing but the patient still suffers headaches. He has fainting spells now & then. He will be laid up 15 days to one month maybe longer. It is difficult to say exactly how long due to his age which is 69.

RP 83 (b) complied with

The accused declines to cross examine the witness

signed M CATTIEZ (Doctor)
M Cattiez

Second Witness Jean Francois DONY 249 Rue de Trone Brussels having been duly sworn states.

On Friday 16 Nov 45 at approximately 2340 hrs. three soldiers entered my cafe the Taverne du Trone. The two small ones entered first and the accused whom I now recognize entered last. I was playing billiards the three soldiers came over and started playing around with the balls. I asked them to be quiet for a few minutes as the game wasn't over. They did didn't pay any attention so I placed the remaining billiard balls in the billiard case. One of the small soldiers took the lady I was playing with by the hand to get hold of the cue. The accused tried to upset the billiard table a few customers intervened. He managed to upset the table I placed the table upright again I went behind the counter. Near the sink I realized someone was following me. Then I turned around was struck on the forhead by the accused with his fist. I fell ~~the accused~~. I was only partially contious but I remember being struck once more by the accused. At least four blows in the face. My nose & my lips were bleeding as well as my forehead then my wife came. and said "gentlemen so that is that you are doing" "get out!" and the accused went ~~away~~ from behind the counter I went out to inform an airforce unit down the street who phoned the British C.M.P. I left the Royal Airforce unit and went to my cafe I saw the three soldiers leave my cafe. I returned to my cafe. The police arrived sometime later they looked around seeing no one they said they were going to inform the Canadian police about the case.

Ohio Witness Madame Nelly LAMBERT [illegible]

238 Rue de Trone Brussels having been duly sworn states.

I am owner of the Express Cafe 238 Rue de Trone. On Fri 16 Nov 45 at 2345 hrs. three soldiers entered my cafe. The accused was one of them. He asked for cognac. As I refused he took a bottle of wine from on top of the counter. I refused because I did not have any alcohol in my cafe as we are not allowed to sell it, and the accused was very drunk. I tried to take it out of his hand but he succeeded to pour the contents of the bottle in wine glasses on the counter. After with his arm he wiped all the glasses from the counter to the floor they all broke, approximately 10 glasses. As he still insisted on having cognac he showed me his military police book. I remember service number K 10818 and part of his name. Rocker or something similar. I told him being a military policeman was of no use to insist on drinking cognac in the cafe. He then entered the space behind the counter, found a bottle of appentiff on the shelf he poured the contents over the counter & said, "no cognac!" He took a second bottle & did the same. He then took two Porto bottles & put them in his pocket. I tried to take them out of his hand but it was useless. A small customer tried to intervene he went to leave the cafe upstairs with a plate, the accused followed him & kicked him in the stomache to make him come down the mans name is commandant Ausloos. I insisted on keeping the peace I asked Ausloos to leave the cafe which he did. The accused went after him and managed throw him amongst the tables. The accused

Second Witness Jean Francois DONY 249 Rue de Trone Brussels having been duly sworn states.

On Friday 16 Nov 45 at approximately 2340 hrs. three soldiers entered my cafe the Taverne du Trone. The two small ones entered first and the accused whom I now recognize entered last. I was playing billiards the three soldiers came over and started playing around with the balls. I asked them to be quiet for a few minutes as the game wasn't over. They did didn't pay any attention so I placed the remaining billiard balls in the billiard case. One of the small soldiers took the lady I was playing with by the hand to get hold of the cue. The accused tried to upset the billiard table a few customers intervened. He managed to upset the table I placed the table upright again I went behind the counter. Near the sink I realized someone was following me. I turned around. Then I was struck on the forehead by the accused with his fist. I fell ~~the accused~~. I was only partially conscious but I remember being struck once more by the accused. At least four blows in the face. My nose & my lips were bleeding as well as my forehead then my wife came and said "gentlemen so that is that you are doing" get out!" and the accused went ~~away~~ for behind the counter I went out to inform an airforce unit down the street who phoned the British C.M.P. I left the Royal Airforce unit and went to my cafe. I saw the three soldiers leave my cafe. I returned to my cafe. The police arrived sometime later they looked around seeing no one they said they were going to inform the Canadian police about the case.

On the following day I went to see Doctor Cattiez who treated me for my bruises & cuts. I was not bruised about the arms or legs. I still feel nervous have some ear trouble and faint my spells.

Cross examined by the accused.

Q. Was I drunk when I came into your cafe

Ans. You were under the influence of drink when you entered my cafe and didnt seem quite normal as you were staggering.

Q. Are you certain it was C M P who came to your cafe

Ans. Yes because they wore red caps. and were wearing great coats

RP 83 (b) complied with

signed J F. DONY

Other Witness Madame Nelly LAMBERT [illegible]

238 Rue de Trone Brussels having been duly sworn states.

I am owner of the Express Cafe 238 Rue de Trone. On Fri 16 Nov 45 at 23 45 hrs. three soldiers entered my cafe. The accused was one of them. He asked for cognac. As I refused he took a bottle of wine from on top of the counter. I refused because I did not have any alcohol in my cafe as we are not allowed to sell it, and the accused was very drunk. I tried to take it out of his hand but he succeeded to pour the contents of the bottle in wine glasses on the counter. After with his arm he wiped all the glasses from the counter to the floor they all broke, approximately 10 glasses. As he still insisted on having cognac he showed me his military police book. I remember service number K 10818 and part of his name. Rocker or something similar. I told him being a military policeman was of no use to insist on drinking cognac in the cafe. He then entered the space behind the counter, found a bottle of appentiff on the shelf he poured the contents over the counter & said "no cognac!" He took a second bottle & did the same. He then took two Porto bottles & put them in his pocket. I tried to take them out of his hand but it was useless. A male customer tried to intervene he went to leave the cafe upstairs with a plate, the accused followed him & kicked him in the stomache to make him come down the mens name is commandant Ausloos. I insisted on keeping the peace I asked Ausloos to leave the cafe which he did & the accused went after him and managed throw him amongst the tables. The accused

got hold of a chair & tried to strike Ansloos with it he did not succeed as the chair hooked up in a mirror, several glasses on a table were broken by this. At this moment several Belgian police arrived at my cafe. They left without taking any action. Some other Belgian police arrived after the soldiers left and they wanted for the Canadian police. I fainted at this moment when I came to I saw the Can police I told them what happened & gave them the military service number I still remembered.

Cross examination

~~Q Where was the first wine bottle~~

~~Ans On the counter~~

Q Where was commandant Ansloos when being kicked in the stomach

Ans. He was on the stairs facing upstairs the accused was ahead of him

Q Are the stairs in plain view of the cafe below.

Ans. No not from the cafe but from behind the counter, as the stairs & the counter face each other

Q Did I leave from in front of the counter or from behind the counter when I went after Ansloos.

Ans You left from behind the counter, I was also behind the counter.

Q Did you have a clear view of me kicking Ansloos in the stomach

Ans Yes I saw the movement of the accused leg. But I couldn't actually see the kick land as there were no lights on the staircase

Q Right or left leg.

Ans. I don't remember which. Lambert

RP 13 (2) complied with.

signed MADAME N LAMBERT

Fourth Witness C48706 Cpl SEWELL B. AB
Cdn Provost Corp. 2 Cdn L of C Provost Coy
Cdn Sec. HQ Brussels Gm having been
duly sworn states.

On Nov 17th 45 at approx 0100 hrs.
a telephone call was received at HQ L of C Provost
Coy. From information received I proceeded
to cafe de Trone accompanied by L/Cpl
MacIntyre. I saw the proprietor of the cafe
who was bruised about the face, he said
three Canadian soldiers had caused a
disturbance in his cafe. We left for
another cafe. cafe Express 238 Rue de Trone.
I saw the proprietor Madame Lambert, who
gave me the number of a Cdn soldier also a
name. I proceeded back to HQ contacted
Lt Mc Gimes with him I went through
the Provost nominal roll I found that the
number given to me by Madame Lambert
correspondent closely with that of a Cdn soldier
on the strength of 2 Cdn L of C Provost Coy. I
proceeded to TA & detention barracks where
I contacted the accused. He was in bed
he was drunk his breath smelt of
alcohol, he had been sick in a pail by his
bed. I placed the accused under arrest.

RP 831(b) complied with
the accused declines to cross
examine the witness,

signed. Cpl SEWELL B.
B. Sewell Cpl.

5

AB

Fifth Witness A56150. L/Cpl. MacINTYRE N.A.
Cdn Provost Corp HQ 2 Cdn L of C Provost Corp
Cdn Sec HQ Brussels Hrs. having been duly
sworn states.

On 17 Nov 45 at approx 0100 hrs on
information received by a telephone call I
proceeded on further information I proceeded to
to A cafe Express. I saw the proprietor
who showed me a name & number of a soldier
there was broken glass on the floor. I returned
to HQ 2 Cdn L of C Provost Corp. I saw Cpl
Sewell check the nominal roll. I saw a
number & name that corresponded with the
one the proprietor had given us. I proceeded
to TAF guardroom. I went to the
accused quarters I found him in bed
he appeared to be sick and drunk. Cpl
Sewell placed the accused under arrest.

RP 83 (b) complied with

the accused declines to
cross examine the witness

signed L/Cpl MacINTYRE N.A.

T A MacIntyre

to cafe de Trone I saw the proprietor he
had a bruise on his forehead & his nose was
scratched.

TAM

Sixth Witness. Madame Germaine THIRION 12 AB
Rue de Verviers Brussels. having been
duly sworn states:-

On Friday at about 2345 hrs on 16 Nov 45
I was playing billiards at cafe de Thoue with
the proprietor, Mr Temmermans, and another
gentleman. The accused whom I now
recognize entered the cafe with two other
soldiers he tried to take the cue out
of Mr Temmermans hands and then out of
mine. He got hold of one cue and I think
he played a bit before he upset the billiard
table. Mr DONY the proprietor, and I
intervened and prevented him upsetting the
table. I went to see one of the small soldiers
and asked him to prevent his comrade from
doing this, who stated the accused was too
big to handle. The accused again attempted
to upset the table, the proprietor intervened
again the accused came back to me & took
the cue from my hand. He went after
Mr Dony behind the counter. I couldn't
see what happened but I heard Mr Dony
scream. At this moment Mr Temmermans
tried to open the door the accused, pushed
him into a corner and upset a stove by doing
this, then I saw him strike Mr Temmermans
with his fist, on the body. Mr Temmermans
leant back against the wall. I left
to inform the police. When I put on my
gloves outside the cafe I noticed my ring
a gold ring with a diamond in the centre, surrounded
with rubies was missing from my right
hand third finger. I ~~think I lost it~~
~~when the accused~~ had my ring when I
was playing billiards before the accused
entered. When the accused took the cue
away from me I held on and he forced the
cue from my hands.

~~Cross examined by accused~~

~~Q~~ RP 83 (b) complied with

The accused declines to cross examine the witness.

signed

Thirion

G THIRION

Seventh Witness Mr L.P. Ansloos 236 Rue de Trone, Brussels, having been duly sworn states.

On Fri 16 Nov 45 at about midnight I saw the accused whom I now recognize enter the cafe Express he was with two other soldiers I was sitting at a table with a few other customers. The accused showed a paper to Madame Lambert who was standing behind the counter and I heard him asking for cognac. He insisted when Madame Lambert did not give him the drinks he wanted he opened the door to behind the counter and entered. I heard Madame Lambert say "you are going to stop pouring the contents of my bottle behind the counter on the floor" When I heard these words I got up to see what was happening and to help Madame Lambert if there was need. When I arrived behind the counter I saw the accused empty a bottle of apperetiff on the floor. I asked him to stay quiet. He pushed me without answering. I then saw a plate of cheese on the counter. I took the plate & went upstairs I got up the first part of the stair case. I was passed by the accused who got on the first landing turned around and kicked me in the chest with his foot. I grabbed the bannisters it stopped me from falling. The kick was not very hard it hurt me just like an ordinary blow. I had no ill effects from it. I went down stairs Madame Lambert asked me to leave the cafe to avoid trouble I went to the door followed by the accused I opened the door. The accused grabbed me by the neck with

his hands. Then he threw me violently on a bench in the cafe, and put a table on top of me. He took a chair & tried to strike me with it, but the chair was stopped by a mirror on the wall. The chair was on the way down as he tried to strike with it. I could see the accused. The chair did not break. The Brussels Police entered. The accused left the cafe.

Cross examined by the accused

Q Was I drunk

ans I cant say for sure but you gave me the impression that you were drunk

Q In what manner did I put the table on top of you?

ans When you threw me on the bench I think the table may have fallen on top of me.

R R 3 (b) complied with

[illegible]

signed L. P. AUSLOOS

Eighth Witness. Mr Willy Jean Hubert TEMMERMANS
49 Chemin de Poste Braine L'Allend JB
near Nivelle having been duly sworn
states.

On the 16 Nov 45 at approx 23 x 5 hrs.
I was in the cafe de Trone playing
billiards with the proprietor, a lady
and another gentleman. The accused
whom I now recognize entered the
cafe with two other soldiers. The first
attempted to take the cues and the
billiard balls from the players, from the
lady. The proprietor tried to keep good
order and the accused got angry. The
tried to upset the billiard table. The
proprietor was on the other side and
prevented him from doing this. The
accused followed the proprietor behind
the counter. I saw the accused
strike the proprietor several times
with both fists on the head on the
face and on the side. The proprietor
fell down behind the counter the
accused came back to the cafe. I took
my overcoat from the wall to leave the
cafe. When I got near the door the accused
stopped me and struck me several times
with his fist on the body. They were
not very hard blows, they did not hurt
me. I went to the lavatory and left the
cafe by another door. to across the street to
phone the police. The proprietor was there already
phoning. When the accused struck me I
landed in the corner the tables & chairs
in the corner were upset. I fell down on the
bench. I got up immediately the
accused had a stool in his hand facing me
the accused dropped the stool & I escaped. The
accused went back to his two companions
the stove was upset at the same time
as the chairs and tables. As the accused

was under the influence of drink I was fast and ~~could~~ the blows didn't hurt me I tried to avoid them. When I was on the bench the accused struck me on the body but it didn't hurt.

Cross examined by accused.

Q. When I struck the prosecutor was I between the prosecutor & yourself?

Ans. As soon was striking the prosecutor you were not between him & myself as I was in front of the counter and could see both persons.

R P & T Act complied with

signed. W.S.H. TEMMERMANS

the accused having been cautioned as follows

Do you wish to make a statement or give any evidence under oath? You are not obliged to say anything or give any evidence unless you wish to do so but whatever you say or any evidence you may give will be taken down in writing and may be used in evidence.

Declines to give evidence

I wish to call H52007 L/Cpl Herchak M to give evidence on my behalf.

Ninth Witness

H 52007 L/Cpl Herchak M Can Prov Corp HQ 2 Can I & C Provost Coy Can Lee HQ Brussels Garrison having been duly sworn states.

On 17 Nov 45 at approx 0015 hrs. the RA & guard room had a call to go and pick up some soldiers in a cafe. I proceeded to the cafe. I found the accused and two other soldiers there. I brought him from the cafe to the TA & billets I put him in bed. He was drunk. When I arrived at the cafe I took the accused away because he was drunk. I did not see any damage in the cafe. I did not notice anything on the accused I did not search the accused I did not look in his pockets but if he had had a bottle in them I would have noticed it as I took his clothes off at the TA & barracks. I placed the accused in the truck at the cafe myself. RP 83 (b) complied with

signed Herchak M.
L/CPL HERCHAK M.

The accused does not wish to call any other witness on his behalf.

I certify that the foregoing summary of evidence consisting of pages was taken down by me in the presence of the accused and that R P 4 (c) (d) (e) (f) & (g) have been complied with

Jas W Warty Capt
officer detailed to
take S of E

29 Nov 45.

Summary of Evidence in the case of K 70818 Pte Ernest Isador DEROCHE, of 2 Cdn L of C Provost Coy, Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas.

Charge: AA Sec 41 Common Assault

By direction of the Commanding Officer this evidence is taken under oath.

Rea Van Schoorisse duly sworn as interpreter.

FIRST WITNESS

Doctor M CATTIEZ 42 Rue d'Edimbourg (Porte de Namur) Bruxelles, having been duly sworn, states:

On the 17 Nov 45, I examined M Jean Francois DONY of 249 Rue de Trône, Brussels. I found he had a gash on the forehead about 1½ centimeters long and very swollen as well. His two lips were swollen and had blue bruises. The right side of his head was swollen and hurt very much. His right ear was swollen. He had bruises all over his body mostly on legs and arms. The exterior bruises are healing but the patient still suffers headaches. He has fainting spells now and then. He will be laid up 15 days to one month, maybe longer. It is difficult to say exactly how long due to his age which is 69.
RP 83(e) complied with

The accused declines to cross-examine the witness

"M CATTIEZ"

SECOND WITNESS

Jean Francois DONY, 249 Rue de Trone, Brussels, having been duly sworn, states:

On Friday 16 Nov 45 at approximately 2340 hrs three soldiers entered my cafe the Tavern du Trone. The two small ones entered first and the accused whom I now recognize, entered last. I was playing billiards. The three soldiers came over and started playing around with the balls. I asked them to be quiet for a few minutes as the game wasn't over. They didn't pay any attention, so I placed the remaining billiard balls in the billiard case. One of the small soldiers took the lady I was playing with by the hand to get hold of the cue. The accused tried to upset the billiard table. A few customers intervened. He managed to upset the table. I placed the table upright again. I went behind the counter. Near the sink I realized someone was following me. I turned around then I was struck on the forehead by the accused with his fist. I fell. I was only partially conscious but I remember being struck once more by the accused at least four blows in the face. My nose and my lips were bleeding as well as my forehead. Then my wife came and said, "Gentlemen, so that is what you are doing." "Get out," and the accused went away from behind the counter. I went out to inform an airforce unit down the street who phoned the British CMP. I left the Royal airforce unit and went to my cafe. I saw the three soldiers leave my cafe. The police arrived sometime later. They looked around seeing no one they said they were going to inform the Canadian Police about the case. On the following day I went to see Doctor Cattiez who treated me for my bruises and cuts. I was not ~~xxxxx~~ bruised about the arms or legs. I still feels nervous, have some ear trouble and fainting spells.

Q. Was I drunk when I came into your cafe?

A. You were under under the influence of drink when you entered my cafe and didn't seem quite normal as you were staggering.

Q. Are you certain it was CMP who came to your cafe?

A. Yes because they were red caps and were wearing greatcoats.

RP 83 (e) complied with "J F DONY"

THIRD WITNESS

Madame Nelly LAMBERT, 238 Rue de Trone, Brussels, having been duly sworn, states:

I am owner of the Express Cafe, 238 Rue de Trone. On friday 16 Nov 45 at 2345 hrs three soldiers entered my cafe. The accused was one of them. He asked for cognac as I refused, he took a bottle of wine from on top of the counter. I reused because I did not have any alcohol in my cafe as we are not allowed to sell it, and the accused was very drunk. I tried to take it out of his hand but he succeeded to pur the contents of the bottle in wine glasses on the counter. After with his arm he wiped all the glasses from the counter to the floor, they all broke. Approximately 10 glasses. As he still insisted on having cognac, he showed me his military police book. I remember service number K 10818 and part of his name. Rocker or something similar. I told him being a military policeman was of no use to insist on drinking cognac in the cafe. He then entered the space behind the counter and found a bottle of appertiff on the shelf, he poured the contents over the counter and said, "no cognac!" He took a second bottle and did the same. He then took two Porto bottles and put them in his pocket. I tried to take them out of his hand but it was useless. A male customer tried to intervene, he went to leave the cafe upstairs with a plate. The accused followed him and kicked him in the stomache to make him come down. The mans name is Commandant Ausloos. I insisted in keeping the peace. I asked Ausloos to leave the cafe which he did. The accused went after him and managed throw him amongst the tables. The accused got hold of a chair and tried to strike Ausloos with it. He did not succeed as the chair hooked up in a mirror. Several glasses on a table were broken by this. At this moment, several Belgian police arrived at my cafe. They left without taking any action. Some other Belgian Police arrived after the soldiers left and they waited for the Canadian Police. I fainted at this moment. When I came to I saw the Cdn Police. I told them what happened and gave them the military service number I still remembered.

Cross-examination

Q. Where was Commandant Ausloos when being kicked in the stomache?

A. He was on the stairs facing upstairs, the accused was ahead of him.

Q. Are the stairs in plain view of the cafe below?

A. No not from the cafe but from behind the counter, as the stairs and the counter face each other.

Q. Did I leave from in front of the counter or from behind the counter when I went after Ausloos?

A. You left from behind the counter, I was also behind the counter.

Q. Did you have a clear view of me kicking Ausloos in the stomcah?

A. Yes I saw the movement of the accused leg. But I could'nt actually see the kick land as there were no lights on the staircase.

Q. Right or left leg?

A. I don't remember which.

RP 83 (b) complied with.

"N LAMBERT"

FOURTH WITNESS

G 48706 Cpl SEWELL B Cdn Provost Corps 2 Cdn L of C Provost Coy, Cdn Sec HQ Brussels Grn having been duly sworn states:

On Nov 17th, 45 at approx 0100 hrs a telephone call was received at HQ L of C Provost Coy. From information received I proceeded to Cafe de Time accompanied by L/Cpl MacIntyre. I saw the proprietor of the cafe who was bruised about the face, he said three Canadian soldiers had caused a disturbance in his cafe. We left for another cafe. Cafe Exxpress 238 Rue de Time. From the proprietor Madam Lambert, who gave me the number of a Cdn soldier also a name. I proceeded back to HQ contacted Lt McGinnis with him I went through the Provost nominal roll I found that the number given to me by Madame Lambert corresponded closely with that of one soldier on strength of 2 Cdn L of C Pro Coy. I proceeded to TAF Detentidn Barracks where I contacted the accused. He was in bed he was drunk, his breath smelt of alcohol, he had been sick in a pail by his bed. I placed the accused under arrest.

RP 83 (b) complied with.

The accused declines to cross-examine the witness

"B SEWELL" Cpl

FIFTH WITNESS

A 56150 L/Cpl MacIntyre N A Cdn Provost Corps HQ 2 Cdn L of C Provost Coy Cdn Sec HQ Brussels Grn having been duly sworn states:

On 17 Nov 45 at approx 0100 hrs on information received by a telephone call I proceeded to Cafe de Time I saw the proprietor he had a bruise on his forehead and his nose was scratched. On further information I proceeded to Cafe Express. I saw the proprietor who showed me a name and number of a soldier. There was broken glass on the floor. I returned to HQ 2 Cdn L of C Provost Coy, I saw Cpl Sewell check the nominal roll. I sawx a number and name that corresponded with the one xx the proprietor had x given us. I proceeded to TAF Guardroom. I went to the accused quarters, I found him in bed, he appeared to be sick and drunk. Cpl Sewell placed the accused under arrest

R P 83 (b) complied with.

The accused declines to cross-examine the witness.

"N A MacIntyre"

SIXTH WITNESS

Madam Germain THIRION, 12 Rue De Verviers, BRUSSELS having been duly sworn states:

On Friday at about 2345 hrs on 16 Nov 45 I was playing billiards at Cafe de Time with the proprietor, Mr TEMMERMANS, and another gentleman. The accused whom I now recognize entered the cafe with two other soldiers, he tried to take the cue out of Mr Temmermans hands and then out of mine. He got hold of one cue and I think he played a bit before he upset the billiard table. Mr Dony the proprietor, and I intervened and prevented him upsetting the table. I went to see one of the small soldiers and asked him to prevent his comrade from doing this, who stated that the accused was too big to handle. The accused again attempted to upset the table, the proprietor intervened again, the accused came back to me and took the cue from my hand. He went after Mr Dony behind the counter. I could'nt see what happened but I heard Mr Dony scream. At this moment Mr Temmermans tried to open the door the accused pushed him into a corner and upset a stove by doing this, then I saw him strike Mr Temmermans with his fist on the body. Mr Temmermans leant back against the wall. I left to inform the police. When I put on my gloves outside the cafe I noticed my ring, a gold ring with a diamond in the centre, mounted with rubies was missing from my right hand third finger. I had my ring when I was playing billiards before the accused entered. When the accused took the cue away from me I held on and he forced the cue from my hands.

RP 83(b) complied with.

The accused declines to cross-examine the witness.

"G Thirion"

SEVENTH WITNESS

Mr L P ADSLOOS 236 Rue de Time, BRUSSELS, having been duly sworn states:

On Friday 16 Nov 45 at about midnight I saw the accused whom I now recognize enter the Cafe Express he was with two other soldiers. I was sitting at a table with a few customers. The accused showed a paper to Madam Lambert who was standing behind the counter and I heard him asking for cognac. He insisted when Madam Lambert did not give him the drinks he wanted he opened the door behind the counter and entered. I heard Madame Lambert say "You are going to stop pouring the contents of my bottle behind the counter on the floor". When I heard these words I got up to see what was happening and to help Madame Lambert if there was need. When I arrived behind the counter I saw the accused empty a bottle of appertiff on the floor. I asked him to stay quiet. He pushed me without answering. I then saw a plate of cheese on the counter. I took the plate and went upstairs. I got up the first part of the staff-case. I was passed by the accused who got on the first landing turned around and kicked me in the chest with his foot. I grabbed the bannisters it stopped me from falling. The kick was not very hard, it hurt just like an ordinary blow. I had no ill effects from it. I went downstairs Madame Lambert asked me to leave the cafe to avoid trouble. I went to the door followed by the accused, I opened the door. The accused grabbed me by the neck with his hand, then he threw me violently on a bench in the cafe, and put a table on top of me.

He took a chair and tried to strike me with it but the chair was stopped by a mirror on the wall. The chair was on the way down as he tried to strike with it. I could see the accused, the chair did not break. The Brussels police entereed. The accused left the cafe.

Cross-examined by the accused.

Q. Was I drunk?

A. I can't say for sure but you gave me the impression that you were drunk.

Q. In what manner did I put the table on top of you?

A. When you threw me on the bench I think the table may have fallen on top of me.

RP 83 (b) complied with.

"L P Ausloos"

EIGHTH WITNESS

Mr Willy Jean Hubert TEUGERMANS, 49 Chemin de Poste Braine L'Allend near Nivelle having been duly sworn states:

On the 16 Nov 45 at approx 2345 hrs I was in the cafe de Trone playing billiards with the proprietor, a lady and another gentleman. The accused whom I now recognize entered the cafe with two other soldiers. He first attempted to take the cues and the billiard balls from the players, from the lady. The proprietor tried to keep good order and the accused got angry. He tried to upset the billiard table. The proprietor was on the other side and prevented him from doing this. The accused followed the proprietor behind the counter I saw the accused strike the proprietor several times with both fists on the head, on the face and on the side. The proprietor fell down behind the counter. The accused came back to the cafe. I took my overcoat from the wall to leave the cafe. When I got near the door the accused stopped me and struck ~~in~~ me several times with his fist on the body. They were not very hard blows, they did not hurt me. I went to the lavatory and left the cafe by another door to across the street to p hone the police. The proprietor was there already phoning. When the accused struck me I landed in the corner the tables and chairs in the corner were upset. I fell down on the bench. I got up immediately the accused had a stool in his hand facing me the accused dropped the stool and I escaped. The accused went back to his two companions, the stove was upset at the same time as the chairs and tables. As the accused was under the influence of drink I was faster and the blows did'nt hurt as I tried to avoid them. When I was on the bench the accused struck me on the body but it did'nt hurt.

Cross-examined by accused.

Q. When I struck the proprietor wa I between the proprietor and yourself?

A. As you were striking the proprietor you were not between him and myself as I was in front of the counter and could see both persons.

RP 83(b) complied with. "W J H TEUGERMANS"

The accused having been cautioned as follows:

Do you wish to make a statement or give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so but whatever you say or any evidence you may give will be taken down in writing and may be used in evidence.

Declines to give evidence. I wish to call H 52007 L/Cpl Herchak M to give evidence on my behalf.

NINTH WITNESS

H 52007 L/Cpl HERCHAK M Cdn Pro Corps, HQ 2 Cdn L of C Pro Coy, Cdn Sec HQ Brussels Grn having been duly sworn states:

On 17 Nov 45 at approx 0015 hrs the RAF Guardroom had a call to go and pick upsome soldiers in a cafe. I proceeded to the cafe. I found the accused and two other soldiers there. I brought him from the cafe to the TAF billets. I put him in bed. He was drunk. When I arrived at the cafe I took the accused away because he was drunk. I did not see any damage in the cafe. I did'nt notice anything on the accused. I did not search the accused I did'nt look in his pockets but if he had had a bottle in there I would have noticed it as I took his clothes off at the TAF barracks. I placed the accused in the truck at the cafe myself.

RP 83 (b) complied with.

"M Herchak"

The accused does not wish to call any other witnesses on his behalf.

I certify that the foregoing summary of evidence consisting of 6 pages was taken down by me in the presence of the accused and that R P 4 (c) (d) (e) (f) and (g) have been complied with.

Jas W Varty Capt
Officer detailed to take Summary of Evidence.

29 Nov 45.

LIST OF WITNESSES

PROSECUTION

Doctor M CATTIEZ	42 Rue d'Edimbourt(Porte de Namur) Bruxelles
Jean Francois DONY	249 Rue de Trone, Brussels
Madame Nelly LAMBERT	238 Rue de Trone, Brussels
G 48706 Cpl SEWELL B	Cdn Pro Corps 2 Cdn L of C Pro Coy, Cdn Sec H Q Brussels,Garrison
A 56150 L cpl MacINTYRE NA	C Pro C,HQ 2 Cdn L of C Pro Coy, Cdn Sec H Q Brussels Grn
Madam Germain THIRION	12 Rue De Verviers, Brussels
Mr L P AUSLOOS	236 Rue de Trone, Brussels
Mr Willy Jean Hubert TEMMERMANS	49 Chemin de Poste, Braine L' Allend near Nivelle
H-52007 L cpl HERCHAK M	Cdn Pro Corps HQ 2 Cdn L of C Pro Coy, Cdn Sec H Q Brussels Grn

LIST OF EXHIBITS

NIL

I, the undersigned, acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet free of Charge on 6 Dec 45

DeRoche E.I.
K 70818 Pte Ernest Isadore DEROCHE

I, the undersigned, request that an officer be appointed to represent me at my trial by FGCM

I request the services of Capt O'Neill if he is available

6 Dec 45

DeRoche E.I.
K 70818 Pte DEROCHE EI

131 M

O. H. M. S.

Pte. de ROMANETTE, M.R.

M. F. B. 270
1000 M 12-40 (8008-09-70)
H.Q. 1772-89-67

H-17520 Pte. de Romanette, M.R.
H.Q., Cdn Reinf Unit
131 M

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 2nd day of September, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY, OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President)

for the following reasons, namely:—]

* Omit if not applicable.

PROCEEDINGS [illegible]

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.J. Gilmour	R.C.A.

Members.

Rank.	Name.	Regiment.
Major	J. Mayhern (RCASC)	No.1 Cdn A.S.C. R.U.
Captain	S.M. Carnaghan (RCASC)	No.1 Cdn A.S.C. R.U.

*Signed [signature] Brigadier

Commanding Cdn Reinforcement Units.

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-17280				
PTE. de ROMANETTE, M.R.	First Charge	Not Guilty	Not Guilty	Confirmed [signature] Brig
P.P.C.L.I. att'd H.Q., Cdn Reinf Units.	A.A. sec 40			
	Second Charge	Not Guilty	Not Guilty	
	A.A. sec 40			
	See charge sheet attached.			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" No sir.

Answer (to be recorded on separate sheet if necessary):—

(Signed) [signature] Brigadier (Signed)

Commanding Cdn Reinf Units. Convening Officer (e)

[signature] Major R.C.A. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd & 4th day of September '42, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(3. ~~The interpreter~~)

*(4. ~~The officers under instruction~~)

were duly sworn.

* Omit if not applicable.

Signed this 4th day of Sept 1942.

[signature] Major

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this [signature] day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 8th day of Sept 1942.

[signature] Brig

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

"B" H Calmour Major
Mr. MARCEL René Pres.

The accused, M-17280 Pte. de Romanette, M.R., Princess Patricia's Canadian Light Infantry, attached Headquarters, Canadian Reinforcement Units, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 40
Army Act

An Act to the Prejudice of Good Order and Military Discipline,

in that he,

At Oudenarde Barracks, Farnborough, Hants on the 15th day of August 1942 did obtain the sum of £3-10-0 from A-21321 Pte. Fry, J. by making false representations as to the cost of repair of a radio which he had loaned to said Pte. Fry and which had been damaged, thereby occasioning loss to said Pte. Fry in the said sum of £3-10-0.

Second Charge
Sec 40
Army Act

Conduct to the Prejudice of Good Order and Military Discipline,

in that he,

At London, England, on or about the 17th day of August 1942 was improperly in possession of five Leave or Duty Ration Cards issued to persons subject to Military Law.

[signature] .....Lt.Col.
A.A. & Q.M.G.
Cdn Reinforcement Units.

Farnborough, Hants
29 August 1942.

To be tried by Field General Court Martial

[signature]
(F.R. Phelan) Brigadier
Commanding Cdn Reinforcement Units.
Convening Officer

Farnborough, Hants
This 2nd day of Sept 42.

"A" F. J. Gilmour Maj Pres

HEADQUARTERS CANADIAN REINFORCEMENT UNITS

3 Sept 42.

This is to certify that H-17280 Pte. de Romenette, M.B.

is medically fit to be tried by Court Martial.

[signature] Capt

Medical Officer

"E" [illegible] Major Pres

Medical Officers' Certificate.
K.R. (Can.) Para 557

I certify that I have this morning examined NO. H.17820 Pte de Romanette MR

of [illegible] CRCC and in my opinion he is fit to undergo

trial by court martial.

Station. Blenheim Bdns.

Date. 4.9.42.

Sgd. [illegible] Clan. Capt.
(Medical Officer)

Summary of Evidence in the case of No. H 17280 de Romanette M.R. on strength of HQ Cdn. Re. inforcement Units, a soldier of the Cdn. Army Overseas:

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness for the Prosecution

No. H. 21321 Pte Fry J. on strength of HQ Cdn. Re. inforcement Units, a soldier of the Cdn. Army Overseas, having been duly sworn, states as follows:

I know the accused and recognize him here. During the last week in July 42 and the first week of August 42 I was on duty as night cook in the Mens Mess, HQ CRU Between the hours of 1900 at night and 0700 in the morning. The accused used to come in for a bite to eat in the evenings. ~~at 2300 hrs~~ On the 6 Aug. 42 during the evening the accused told me that I could have a loan of his radio any night after the 11 o'clock news was finished and that I could keep it till 6 P.M. The following night I went over to his quarters around 2300 hrs and took the radio. When I was setting it up, the wires got tangled and it fell on the floor from a table. The dial glass was broken, but apart from that there was no apparent damage but the radio would not play. Later on the same night, when the accused came to the cook house, I told him that the radio fell and broke and that I would pay for the repairs. I told him that I would take it to either Aldershot or Farborough and have it repaired. In reply he told me it could not

be repaired other than by the dealer. I replied that in that case he should have the dealer repair it and I would pay for it. After breakfast the following morning he took the radio and said he would take it to Farnum where he ~~had~~ said he had bought the radio. Later on the same day he said he had taken the radio to Farnum and that there were four tubes broken and a transmitter smashed and that the cost of repair would be £7-15-0. I suggested that this was quite expensive and that if he brought the radio back I might get it fixed for less money. He said this could not be done as the radio had already gone to London to be repaired. I told him I would not be able to give him the £7-15-0 at one time and that I would give him part of the money on the following pay day, either the 14th or 15th of Aug. The accused went on leave that week but came back Friday to collect the money. That was my day off and I was not here. He came back Saturday morning and went with me to the Paymaster (as I had not been paid on Friday) where I drew £4-0-0. Of which I gave him £3-10-0. He wanted the whole £4-0-0 but I told him I needed some for myself. He gave me a receipt which I produce herewith. (marked Ex. A and attached to Summary).

That afternoon (Sat the 15 Aug), as a result of information I received, I went to J.T.H. Stone's Radio Shop in Aldershot and saw the accused's radio. I learned that the

cost of repair was $1-1-0 which I paid and got a receipt which I herewith produce (Marked Ex "B" and attached to Summary) I brought the radio back to camp and turned it over to C.Q.M.S Barrat. The dial glass had not been replaced as Stone's were awaiting one on order. On Monday I took the radio back for the glass but as it had not arrived I left the radio at Stones.

By the accused:

Q. How did you know I had radio?
A. I didn't until he suggested it himself.
Q. Did you tell me that if loaned you the radio that night that I could come down any time and have bacon and eggs?
A. No.
Q. Did you ask anybody's permission when you took the radio from my quarters?
A. No. I already had your permission.
Q. Where did you put the radio in the cook house?
A. On a barrack room table. It was while I had a bench on the table in order to reach the socket that I knocked the radio over.
Q. Was the radio in order before it fell?
A. I don't know.
Q. Who was in cook house when radio fell?
A. Cpl. Ruby and Pte Drew and some others whose names I do not know.
Q Did you tell me later that two drunks broke the radio?
A. No I told you I broke it. If anyone else had broken it I would not have offered to pay for it.

Q. Were you excited or nervous?
A. No but I was mad at having broken the radio. £7-15-0 was a lot to have to pay. You had told me that the radio had cost £18-0-0 and that you had been offered £12-0-0 for it. I did not know then that the cost of repair would be £7-15-0.
Q. Did you suggest buying the radio?
A. No.
Q. Did you suggest taking the radio for repairs as you had a day off Friday.
A. Yes, that was after you told me how much it would cost, the following morning.
Q. How many times did you give me money?
A. Just once, £3-10-0 on Saturday morning.
Q. Did you give me £1 in the cook house which you got from another fellow?
A. No.
Q. Who gave you authority to get my radio from the shop?
A. No one.
Q. When you paid me the money was there any arrangement for buying the radio?
A. No.

The witness — When I gave the accused £3-10-0, I told him I would pay the balance next month when he produced the bill.

J. Ford

Lieut Wilson
for the Prosecution

D 109023 Pte W.A. Black RCASC on strength of HQ CRU having been duly sworn states:

I drive the rations truck HQ CRU. I recognize the accused present here. About two weeks ago he asked me if I knew where he could get his radio repaired. I told him "yes" and that I was going to Aldershot anyway and would drop him off there. I drove him with a radio and he got off with the radio at a radio store in Aldershot which he entered. He left the radio there and re-entered the truck. He was on duty with me on the ration truck. He told me that he had loaned his radio to the cooks and the cooks had dropped it.

By the accused:

Q. Are you sure of the date you took me to the radio shop?

A. I understood it was the day after the radio was broken.

Q. Was that the only shop you took me to, to have the radio repaired?

A. Yes.

Q. Did you take me to a shop in Farnborough with the radio?

A. I don't remember.

Q. Are you sure I told you I loaned the radio to the cooks?

A. Yes.

W.A. Black

Third Witness
for the Prosecution

L 12397 Pte Yarske A.J. SSR, on strength of HQ CRU, having been duly sworn states:

I am cook in men's Mess HQ CRU. I was present in the mess two days after the accused's radio was broken, when he came in and told me that it would cost £7-15-0 to have the radio repaired, and that he couldn't get it fixed here but would have to take it to London.

By the accused:

Q. Did you see me in the cook house on Sat. Aug. 15th?

A. Yes.

Q. Were you there when I asked Fry for money to repair the radio?

A. I did not hear that conversation. You just asked me where Fry was.

Q. Do you know how much money Fry gave me?

A. No. Fry told me he paid £3-10-0. He did not say how he paid it.

A J Yarske

Fourth Witness for the Prosecution — Mr. R.S. Stornhill, Manager, J & M Stone Aldershot.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of evidence, and attached hereto marked Exhibit "C."

I hereby certify that the a/m radio was brought to me for repairs on 7 Aug 42. That the soldier who brought the radio stated that there was nothing wrong with it except the dial bulb and dial glass and that he wanted to have it checked to see if there was any other damage. That the actual damage consisted of: Broken dial glass, broken dial bulb, broken connections. That the a/m radio remained in my store until taken by A 21321 Pte Fry J. That the total cost of repairs was £ 1-1-0 and that this amount was paid by Pte Fry. I quoted no price for repairs to the first soldier who brought the radio in.

(Sgd) R.S. Stornhill.

Having regard to the exigencies of the service attendance of this witness cannot in my opinion be readily procured.

G.M. Morrison Lieut.

Signature of Officer taking the Summary.

The accused does not demand the attendance of this witness for cross-examination.

Fifth Witness for the Prosecution — B 88712 Sgt. J.F. Kelly S.I.S. Can Provost Corps. of London.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Marked Ex. "D"

Re H 17280 Pte de Romanette M. R.

On 17 Aug 42 at about 1800 hrs, as instructed, Sgt. Clarke and I proceeded to Regent Palace Hotel and after preliminary inquiries apprehended the m/n soldier who was registered at the Hotel. We had been instructed that this soldier was to be taken into custody on orders of Camp Commandant C R U on charges of "false pretenses". DeRomanette was conveyed to No. 6 Coy Detention Room under close arrest. When searched by Detention Room Staff, he was found to be in possession of 5 ration cards, 4 leave passes and two railway tickets, which were forwarded to his unit when he was returned there under escort on 18 Aug. 42.

(Sgd) B88712 Sgt. Kelly J. F.

Having regard to the exigencies of the service, attendance of this witness cannot in my opinion be readily procured.

G M Morrison Lieut
Officer taking Summary.

The accused does not demand the attendance of this witness for cross-examination.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence. The accused reserves his defence.

I certify that the foregoing summary of evidence consisting of 8 pages was taken down by me in the presence and hearing of the accused and that R P 4 (c)(D)(E)(F)(G) have been complied with.

G M Morrison Lieut
Officer detailed to take the Summary.

Exhibits

1 Ration Card - Pte Murray T.R. M-16975
Serial No. RB$\frac{S}{T}$ 037657

1 Ration Card - Lieut. J.A. Johnson, No 9 Coy C.F.C.
Serial No. RB$\frac{S}{C}$ 192299

1 Ration Card - Pte Boucher No. D-57981
Serial No. RB$\frac{S}{C}$ 663251

1 Ration Card - Pte Kuleya A. M-85339
Serial No. RB$\frac{S}{H}$ 947115

1 Ration Card - Cpl. O'Neil J.V. B-85948
Serial No. RB$\frac{S}{C}$ 357928

1 Ticket No 4423 Euston to Aberdeen and return
Aberdeen to Euston
and

1 Leave pass No PF 463 Pte de Romanette M.R.

1 Permanent Pass to Aldershot Sub area

1 Pass No P.523 Pte de Romanette

H-172880 Pte. DeKomanette, M.R.
No. 1 C.D.Y.H.U.

(Att'd to) H.Q., C.R.U.

I ACKNOWLEDGE RECEIPT OF THE A/M SOLDIER AND THE FOLLOWING DOCUMENTS:

AFB 295 4
RAILWAY TICKETS.. 2
RATION CARDS..... 5
COVERING LETTER

Copy

LONDON
18-8-42

File No...14/15.....

Officer Commanding,
~~N[illegible] C.R.I.R.U.~~
HQ CDN. Reis & Unit

RE;- H-17280 PTE. DEROMANETT, M.R.

Sir,

Forwarded for your information and necessary action please, and disposal under C.A. Routine Orders (O) No. 388 dated 29 Oct. 40.

2. The m/n has no complaints

LONDON
17-8-42

.....Lieut.,
for Capt. M.E. Byers,
O.C. No. 6 Company,
Cdn. Provost Corps.

August 20th, 1942

STATEMENT OF EVIDENCE BY D-32026, CORPORAL SLANEY, C.A.

Early in August, 1942, when I was acting as Camp Orderly Sergeant, I was in the Men's Kitchen at about 2300 hours.

Private Fry said, "I should have a radio here".

Private DeRomanette said, "I have a radio. You can borrow it after 11 or 1130 but bring it back in the morning", or words to that effect.

(Signed) Cpl. Slaney C.A.
D-32026, Cpl. Slaney, C.A.

First

CHARGE

Army Form B 252
(See King's Regulations)

H.Q., Cdn. Reinf. Units — Regiment / Battery / Squadron / Troop or Company

CHARGE against No. H 17280 Rank Pte

Name de ROMAINETTE M. R

Place Farnboro, Hants Date of Offence 15 Aug 42.

OFFENCE WOAS An act to the prejudice of good order & military discipline in that he, at Oudenarde Barracks Farnborough Hants, did obtain the sum of £3-10-0 from A 21321 Pte PRY J by making false representations as to the cost of repair of a radio which he had loaned to said Pte PRY and which had been damaged, thereby occasioning loss to said Pte PRY in the amount of £3-10-0.

AA Sec 40.

Names of Witnesses: D32026 Cpl Slaney P.H. H.Q.CRU
A 21321 Pte PRY J. HQ.CRU
L 12397 Pte YARSKE A.J. HQ.CRU

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

F40708 Pte Drew J.S. A36756 A/Cpl Ruby P

P.T.O.

1CDIRU/H/17289

NO. 1 CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT

18 Aug. 42

Camp Commandant,
H.Q., C.R.U.

H.17289 Pte. DeRomanett, M.

1. Herewith as requested Certified Copy of M.F.M. 6 for the marginally noted soldier compiled from entries on M.F.M. 2.

For (G. Cruickshank) Capt.
Records Officer,
NO. 1 CDN DIV INF REIN UNIT

GC/GJR

Third.

CHARGE

Army Form B 252
(See King's Regulations)

H.D. Cdn. Reinf. Units Regiment

Battery
Squadron
Troop or
Company

CHARGE against No. H17280 Rank Pte

Name G. Romanette M.R.

Place ~~Fa~~ London Date of Offence 18 Aug 42

OFFENCE—W.O.A.S. An act to the prejudice of good order and military discipline in that he on 18 Aug 42 was in possession of one unused railway return ticket, the cost of said ticket to the Canadian Government being £ 4-2-2

Names of Witnesses:—

Documentary evidence

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Second
CHARGE

Army Form B 252
(See King's Regulations)

Hd. Hn. Reinf. Units Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. H 17280 Rank Pte.

Name de Romanette M.R.

Place ~~Farnborough~~ London Date of Offence 18 Aug 42

OFFENCE W.O.A.S. An act to the prejudice of good order and military discipline in that he at London, England, on 18 Aug 42 was found to be improperly in possession of 1 unused ration card and 4 partly used ration cards, the property of an officer and comrades A.A. 40.

Names of Witnesses:—

Documentary evidence

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

[illegible] K. & H. Ltd [illegible]

I hereby acknowledge receipt of a true copy of the Summary of Evidence and charge sheet in the charges now pending against me.

I request the Convening Officer to appoint a Defending Officer, and desire the services of Lieut. Paul Gravel, if he is available.

.....

Dated at
This 29th day of Aug 1942.

M.F.C. 50
B.Q. 1939-10-168

Regt. No. H17240 Rank PTE Name De Romanette M.

INDIVIDUAL'S CLOTHING AND EQUIPMENT STATEMENT

Date of Attestation

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Anklets, web, pr.	1								
Boots, ankle, pr.	1								
" gaiter, pr.									
" shoulder, pr.									
Case, Kit	1								
Cloth, Dress									
" Drawers, cotton	2								
" Flannels, cotton, pr.	2								
Braces, Type 37 Khaki									
Bandoleers, pr.									
Boots, ankle, pr.	2								
" " felt, pr.									
Boots, lumberman's, rubber, pr.									
Braces, pr.									
Brushes, pr.	1								
Brushes, boot, blacking	1								
Bayonet, H.E. or Trench, S.D.	1								
" Scabbard, Leather	1								
Brushes, boot, blacking									
" boot, polishing	2	X							
" butter	1								
" cloth	2	X							
" clothes	3	X							
" tooth	2	X							
Can, container	1								
" field service	2	X							
" grease, disk									
" water, Mattox cloth									
Cloak or Greatcoat, drab	1								
Cloth, face	1								
Drawers, cotton, wax cord	2								
Drawers, woollen, pr.									

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Dressings, first field	1								
Forks	1								
Gloves, woollen, khaki, pr.	1								
Holdalls	1								
Housewives	1								
Jackets or Doublets, S.D.									
Jacket, service	1								
Knife, case, and lanyard									
" table	1								
Mitts, pr.	1								
Overalls	1								
Blouses, drill	1								
Trousers, drill, pr.	2								
Overshoes or Rubbers, pr.									
Pantaloons or Trousers, service, pr.	1								
Puttees	1								
Shirts, flannel, khaki	3	X							
" service									
" woollen									
Shoes, canvas, pr.	1								
Socks, pr.	4								
Spoon, table	1								
Towels, hand	2								
Drawers Cotton	2								
Shirt Cotton									
Shirt K.D.	1								
Cloth K.D.	2								
Mattress	1								
Coat Pile	1								

Free issues only will be accounted for on this form.

Signature of Soldier

Signature of Quartermaster

Unit ..... No ..... Rank ..... Name .....

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

Transferred or Attached

EQUIPMENT (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue	ARMS AND MISCELLANEOUS (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue
Attachments, brace	1				Bayonets and Scabbards				
Bags, ration					Bottles, oil				
Bandoliers	1				Pistol				
Belts, waist	1				Pullthroughs				
Bottles, water	2				Rifles				
Braces	2				Swords and Scabbards				
Carriers, cartridge	1				Capes A/S	1			
" waterbottle	1				Wallet A/S	1			
Cases, pistol	1								
Covers, measure	1				Blankets	1			
Frogs, bayonet	1				Sheets, ground				
Haversacks	1				Resp. Comp.	1			
Helmets, steel					Eyeshields	6			
Lanyards, pistol	1				Anti Dim.				
Packs					Ointment	1			
Pouches, ammunition	1								
Slings, rifle									
Spurs, jack, pr.	2								
Straps, shoulder	2								
" web, supporting	1								
Tins, mess									

(a) Arms and equipment will not be transferred with the soldier unless authorized by the D.O.C.

On return of any article the Q.M. will initial in the date column opposite the article returned and line through in red ink.

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Found in Kit.

Pullovers Cwl. 3
Vest Cotton " 2
Pillow Cases Cwlian 6.
Towels Hand " 1
Tubes Footpost 8
Batteries dry
Eveready. 2 (amz)
Clippers Barber. 1
Torches Hand small 1 bw
Brushes Hair Cwllian with handle 1
Electric Iron (Murphy-Richards) - 1
Uniform (Blues) - 1
Box of Mixed Candy. - 1
" " Chocolate Bars - 1

Branch Aldershot

England's Leading Radio Retailers

M Pinch & Frey

J. & M. STONE

(PROPRIETORS: MAX STONE LTD.)

Head Office: 66 UPPER RICHMOND ROAD
PUTNEY S.W.15
PUTney 7631-4

Quantity	Cat. No.	Date 11/1/42
To Repair & Blot Marks		£ 1.1.0

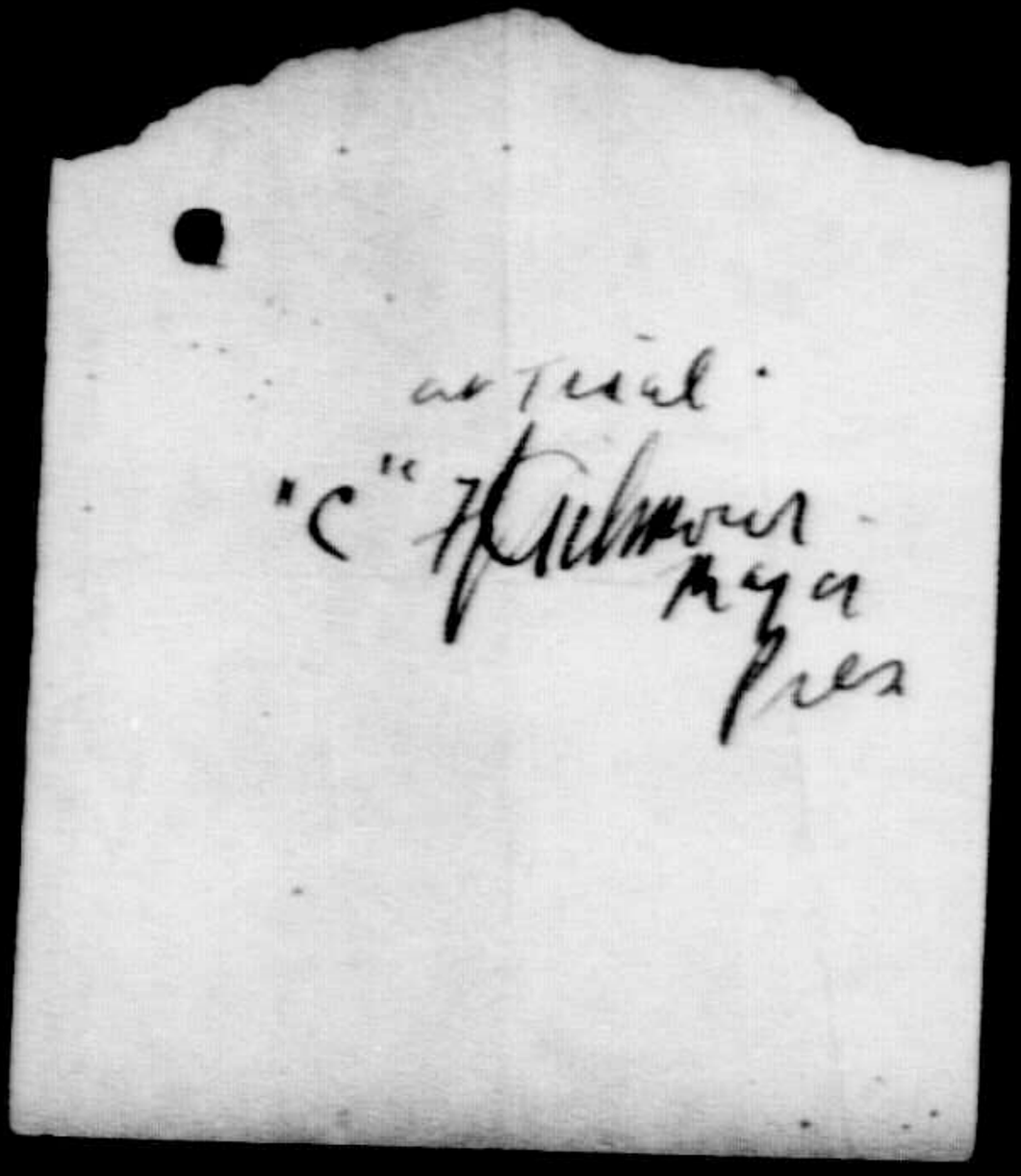
SE TO BE

A 17218-40

TERMS OF SALE

1.—Radio Receiver and Component performance is subject to manufacturer's guarantee only.
2.—Under no circumstances can valves or batteries be exchanged after leaving our premises, as these are tested in your presence.
3.—No salesman has any authority or right to sell any article covered by limited licence under list price.
4.—Any reference relating to this sale must be accompanied by the number and branch address shown. [P.T.O.

at Trial "D" F Pickman Reg i Pres


"C"

Exc. "C"
Gmom

Aldershot.

Directors:
SYDNEY WALTON (Chairman)
H. AMOR. C. W. HAYWARD
J. H. TRESPON (British, formerly Dutch)
G. W. COOPER

Managing Director:
MAX STONE (British, formerly Russian)

BRANCHES THROUGHOUT LONDON AND PROVINCES

J. & M. STONE

(Proprietors: MAX STONE, LTD.)
MAXTON HOUSE
66, UPPER RICHMOND ROAD
PUTNEY, S.W. 15

Telephones:
PUTNEY 7631-4

Telegrams:
EMMSTONE, LONDON

ALL PURCHASES FITTED FREE

OUR REF. YOUR REF. DATE Aug 17 1942.

Reference Radio 'Major Maestro' No 7011.

I hereby certify that the a/m radio was brought to me for repairs on Aug 7th 1942

(i) That the soldier who brought the radio stated that there was nothing wrong with it except the dial bulb and dial glass & that he wanted to have it checked to see if there was any other damage

(ii) That the actual damage consisted of - Broken dial glass. Broken dial bulb. Broken connections.

(iii) That the a/m radio remained in my store until taken by A21321 Pte Fry J.

(iv) That the total cost of repairs was £1-1-0 & that this amount was paid by Pte Fry.

(v) I quoted no price for repairs to the first soldier who brought the radio in

R. S. Stonnill manager.

Ex D.
Gmm

SPECIAL INVESTIGATION SECTION.
CDN PROVOST CORPS.

LONDON DETACHMENT. 26 Aug. 42.

Officer i/c Section.

re H-17280, Pte DeROMANETTE, M.R.
No. 1 C.D.I.R.U.

1. On 17 Aug. 42 at about 1800 hrs, as instructed, Sgt. Clarke and I proceeded to Regent Palace Hotel and after preliminary enquiries apprehended the a/m soldier, who was registered at the Hotel.

2. We had been instructed that this soldier was to be taken into custody on orders of Camp Commandant, C.R.U. on charges of 'False Pretences'. DeROMANETTE was conveyed to No.6 Coy Detention Room under close arrest. When searched by Detention Room Staff he was found to be in possession of 5 ration cards, 4 leave passes and two railway tickets, which were forwarded to his unit when he was returned there under escort on 18 Aug. 42.

J.F. Kelly Sgt.
H-88712 (J.F.Kelly).
S.I.S. C.PRO. C. C.M.H.Q.

Written Statement.

After the proof given by the Prosecution, the Defence asks for a case "dismiss"

Because: the Prosecution did not prove Prima facie that the accused had obtained money by making false representations.

In a such case, it would have been necessary to have corroboration.

Nobody ~~showed~~ is coming before this Court to sustain the pretention of Pte Fry.

In fact Pte Fry had the radio in his possession and it he told himself in his testimony he paid 3-10-0 and he will pay the balance of 4-5-0 next pay.

By this fact, he admits as he was ready to keep the radio. ~~and he bought it~~.

In such case, it was very important for the Prosecution to prove that the accused had given a false representation to obtain money.

~~It is not the case Pte Fry when he paid the money in this case it is not the case Pte Fry as to the accused he accepted the bargain.~~

II

The accused gave him a receipt for the amount of 3-10-0. and Pte Fry told himself, he was ready to pay the balance latter.

Pte de Romanette, the accused, in his statement this morning told he was ready to give the money back if Pte Fry did not want the radio, or to receive the balance of the money if Pte Fry kept his radio.

I believe sincerely there was a sale between the accused and Pte Fry.

Both of sides there are not witnesses to prove the sale. In a such case, when there is a doubt, it is allways in favor of the accused.

The defence submits before the Court, there was not false representation but only a regular sale between Fry and the accused.

It is the reason the Defence asks for a Dismiss because there is not proof "Prima facie" and the Prosecution did not show the essentials facts making a false representation to obtain money.

See R.P. 40 Note 1.

" M.M.L. Pages 58, 83, 84, 95, 114, 126, 445, 452 concerning Corroboration.

P Grakl Lt Defending Off.

LIST OF WITNESSES

A-21321 Pte. Fry,J.	H.Q., Cdn Reinf Units
D-109023 Pte. Black,W.A.	H.Q., Cdn Reinf Units
L-12397 Pte. Yarske,A.J.	H.Q., Cdn Reinf Units
Mr. R.S. Stornill	Aldershot
B-88712 Sgt. Kelly,J.F.	Cdn Provost Corps, London.

FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Exhibit "A"	Receipt of payment made to accused of £3-10-0
Exhibit "B"	Receipt of payment made for repairs to radio.

H Gilmour major Pres.

Trial of No. H. 17280 Pte de Romanette M.R.
Princess Patricia's Canadian Light Infantry,
attached to Headquarters Canadian
Reinforcement units in the Field 3 Sept '42.

The order convening the Court, charge sheet, & summary of evidence are laid before the Court.
The Court satisfy themselves as provided by Rs. P. 22, 23 & 106.
The accused is brought before the Court.
Prosecutor Lt. G. M. Morrison, N.N.S. Highrs (Rep C.R.U.)
Defending Officer: ~~Lt. G. M. Morrison~~, Lt. P. Gravel L de Chaud
(Both Barristers) # 3 C.D.I.R.U.

The medical certificate is laid before the Court, signed by the President, Marked "A" & attached hereto.
At 1420. hours the trial commences
The order convening the court is read in full by the President in the hearing of the accused & the President & members severally answer to their names. President to accused:-
Q. "Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A. "No sir I have not"
The President, and members and officers under instruction are duly sworn
The charge sheet is marked "B", signed by the President & attached to the proceedings.
The accused is arraigned upon the charges in the said charge sheet as per Rs. P. 112 & 31 and pleads as entered in 3rd column page 2 of A.F.A.3
The accused is asked the question at the foot of P.2 of A.F.A.3 & his answer is there recorded.
Accused applies under R.P. 62(2) for separate trials on each charge. Applies not opposed & granted.

Before proceeding further Defending officer states to the court that the accused was brought before his C.O. on a charge sheet which included the two charges before the court and one charge under sec 11 Y.A.A. That the C.O. proceeded to deal with the charge under sec 11 of the army act and found the accused guilty thereof and made an award of 14 days' forfeiture of pay and recorded accused & applied for trial by F.G.C.M. on the other two charges. The defending officer submits that having dealt summarily with one of three charges before him and found the accused guilty & sentenced him on one of those charges that the other 2 charges before the C.O. cannot be referred to higher authority for trial by Ct. martial.

The Prosecutor submits that he may dispose summarily of such charges against the accused as he sees fit & refer such charges to higher authority for trial by F.G.C.M. as he sees fit.

The Defending officer states that the charge which the C.O. disposed of has no relation to the facts surrounding the first charge before the court but that the charge which the C.O. disposed of summarily is bound up with the facts & circumstances of the 2nd charge now before the court.

Having granted the application for separate trials the Court accepts the submission as a plea in bar of the 2 new charges

W. Gilmour
Major
Pres

and proceed with the trial of the first charge. At this stage the defending officer claims that the first charge is related to the charge which the C.O. disposed of but says he has no witnesses to support his contentions. The Defending Officer applies for an adjournment until 9.30 Sept 4th but by agreement the re-evidence of a civilian witness for the Prosecution is now taken.

1st Witness for the Prosecution. Richard Saxby Stonnill of 10 Union St. Aldershot Hants duly sworn states.

I am the manager of J & M Stone, Aldershot Branch, Radio Retailer & Repairs. I recognise the accused who I had dealings with three or four weeks ago. He brought a radio into the shop for repair. He asked me to fit a new illuminating dial bulb & new dial glass. That is all he asked me to do. I found it needed overhauling and did the necessary work, such as repairs to wiring. When he first came in he asked for a dial bulb & glass and asked me to test the radio but I said that it should not be necessary as he seemed convinced that the faults he stated was all. He persisted in having the set tested & left same. A dial glass was ordered from Pilot Radio Ltd. A few days later another man came into the shop and requested the set. Witness recognised A-21321 Pte Fry G. Essex Scottish (att. C.R.V.) from a parade of six soldiers as the man who enquired about the radio. I told him the radio was not ready. The charge for complete repair of radio £1-1-0 and the accused called for the radio but it was not ready. It was away but my engineer reported that the accused and another soldier

F Gilmour Major Pres.

came in and paid for the repairs. A few days later the accused came in for the radio & took it away although the dial glass was not inserted but was available. He stated that he would put the glass in himself. The radio was a Pilot Major Maestro. Cost £7-17-6 plus £1-13-11 purchase tax.

Cross-examination
by Defence Council

What was cost of radio? £7-17-6 plus £1-13-11 purchase tax.

In answer to the Court, witness states the accused ultimately took the radio away. I am given to understand that while I was away, the radio was taken away & brought back again.

R.P. 83(b) complied with.

The Court adjourned at the request of the Defending Officer until 1000 hrs 4th Sept 42 for the purpose of enabling the Defending Officer to present his plea in bar.

At 1000 hrs Sept 4/42 the Court opened. Defending Officer advises the court that he is not offering any evidence in support of his plea. The Plea in bar is disallowed & the trial proceeds.

2nd Witness for
the prosecution

I am A-21321 Pte Fry J. ~~Canadian~~ Lesser Scottish attached to CRO as a cook. I recognise the accused. I worked as night cook from 2100 hrs to 0700 hrs. The accused came in for a lunch occasionally. The accused offered to lend me a radio which I borrowed and used in the cookhouse. The radio was dropped by me and would not work. I offered to have it repaired but the accused took it himself to Farnham. He said that four tubes & transmitter was smashed and would cost £7-15-0 for repairs. I offered to take the radio for repairs myself as I thought it

Kilmour Major Pres.

could be repaired for less. The accused then told me that the radio had been sent to London to the factory. On the day after pay day, Saturday 15th, the accused approached me and was with me when I drew my pay. I gave him £3-10-0 and obtained receipt. Receipt produced by witness marked "C" and attached to proceedings.

In the afternoon of the same day, I went to J. & M. Stone at Aldershot and enquired about the radio and was told that it was not yet repaired. I was told the cost of repairs would be £1-1-0 and that I could return for the radio later. I returned and paid £1-1-0 and took the radio. It was in working order but without a dial glass.

On Monday I returned the radio to J. & M. Stone to have the dial glass fixed.

Receipt from J. & M. Stone for £1-1-0 produced by the witness and marked "D" and attached to proceedings.

Did the accused return the £3-10-0 to you? No Sir.

Cross examination by
Defence Counsel.

Was the price of £7-15-0 for the sale of the radio? No, Sir.

Re examination by
Prosecution. After the radio was broken, the accused said to too bad as the radio cost £18-00 and I refused an offer of £12-0-0 for it.

(R.P. 83B complied with)

Kilmour major
Pres

Third Witness for Prosecution

I am D-109023 Pte Black W.D. H.Q. C.R.V. as driver and was so employed during August. I recognise the accused. I have had no conversation with accused about the radio other than that he asked me where he could get it repaired. I told him of a store in Aldershot and took him to J. & M. Stone in Aldershot where accused left the radio. No cross examination.

(R.P. 838 Complied with)

Fourth Witness for Prosecution

I am L-12397 Pte Yarske A.J. South Sask Reg. attached H.Q. C.R.V. as cook in mens mess and was so employed during August. I did not see Pte Fry with a radio in cook house nor did I have any conversation with him about a radio. I recognise the accused who came into the cookhouse and said the radio cost £7-15-0 to repair and would have to be sent to London.

No cross examination.

Defending Officer submits that the Prosecution has not established a Prima Facie case and applies to have the case dismissed. The Court is closed to consider this submission. The Court opens and announces that the submission is not allowed.

The Prosecuting & Defending Officers agree that the Prosecution witnesses on the second charge should now be heard.

The Defending Officer waives R.P. 76

First Witness for Prosecution

I am L-2268 Cpl Stanley E.R. No 6 Provost Coy, London. I recognise the accused who I saw at Provost Detention Rooms, London on 17th Aug. I found the following on the accused — 4 AFB 295 (Leave Pass forms) 2 Railway tickets. 5 Ration Cards.

Kilmour Major Pres.

The ration cards produced appear to be those I took from accused. I don't recognize any of the names shown on these cards nor do I definitely recognize them. I do not know what names were shown on the cards I took from the accused. I took the cards and attached them to the other documents and put them in my Officers ~~[illegible]~~ basket.

The Court asks — Are you in any way able to identify the ration cards found on the accused? Witness answers — I am not sir. I said that the ration cards produced appeared to be those I took from the accused because they are old cards and some had been used, the ration cards I found on the accused were old cards & some had been used.

Prosecution is closed.

Defending Officers submits that the Prosecution has not established a Prima Facie case and the Court closes to consider the submission.

The Court recall the last witness C-2261 Cpt Stanley E.R. The Court asks — When you searched the accused were there any other person present. — Yes, there were others but I don't know who without looking up the records. Was any record made of the numbers of the ration cards? — No. Are all documents taken from soldiers under investigation placed in the same basket — Yes. I alone ~~am~~ responsible for all documents taken from soldiers under investigation.

The Prosecutor assures the Court that he is not able to call any other witnesses who can identify the ration cards produced as being the ration cards found on the accused.

The submission is allowed and the charge is dismissed.

The Court proceeds on the first charge.

R.P. 40 complied with. The accused states that he does not wish to give evidence himself but will give a statement

F. Gilmour Pres. Major.

Have witnesses to call as to the facts.
The accused make the following statement - not under oath.
I was an Officer in the French Army who I served with for 7 years, throughout the last war. When war broke out I was in Canada and immediately tried to return to France to rejoin my Unit. However, this was not possible and the French Legation took me to a Senior Officer of the Canadian Army who suggested that I wait a few weeks and obtain a Commission. I however, wished to leave immediately for Europe so enlisted as a private.
Ste Fay borrowed my radio and damaged it. As it is difficult to have a radio repaired now I suggested that he buy the radio for the price I paid for it, namely £7-15-0. Fay agreed to do so and paid me £3-10-0 for which I gave him a receipt. I was also to pay for repair. As Fay could not take the radio for repair the next day he asked me to do so and I took it to the repair shop. I deny making a statement to Ste Yorke A.J. If there is a misunderstanding between me and Fay regarding the sale of the radio & Fay now does not want to buy it, I am willing to return to him the £3-10-0 he has paid me as part payment. If he wishes to keep the radio he should pay me the balance of £4-5-0. Because I do not speak good English it is possible that Ste Fay misunderstood my intentions.

(R.P. 83B Complied with)

First Witness for Defence

I am A-56734 Sgt Ruby P. of R.C.R. attached to CRV.
On the night of Aug 6th I saw Ste Fay with the radio in the kitchen. I heard nothing of any deal made about the radio.
Witness was cross examined by Prosecuting Officer.
Private Fay asked me to remain in the kitchen while he went to get a radio. I heard the radio fall & saw it on the floor.
(RP83B Complied with)

J Kilmour Major Pres.

The Defending Officer reads an Address which is attached to the proceedings.

The Prosecution replies, that the accused was a man of some experience while Pte Fay was a young man who worked in the Kitchen.

The Court closed to consider its finding.

The Court find the Accused "Not Guilty" of the first charge.

The Court is reopened and the finding of "Not Guilty" is Announced.

H 17280 de ROMANETTE M.R HQ GRU (PPCLI)

No. Name Sqn., Battery, or Company Corps Date of enlistment 27 May 40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 122)

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
HMT "Esi"		Pte	Nil	AA 11. Neglect to obey Boats Orders		108 hrs detention	29.7.40		
Bordon Hants		"	"	AA 15(1) AWL		1 days pay (FR&I 149(1)c)	23.10.40		
Witley		"	"(i)	AA 15(1) AWL: (ii) AA 11 Improperly dressed		4 days pay FR&I 149 (1)c 1 days pay FR&I 149 (1)a	23.3.41		
Witley		"	"	Out of bounds without pass AA 15(3)		3 days pay FR&I(1)c	17.4.41		
Bordon	2.8.41	"	"	AA 15(3) AWL 2/8/41 to 4/8/42 & out of bounds: Neglect to obey Gen Orders Sec 11.		13 days pay	2.9.41		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
ordon		Pte	Nil	AA Sec 11 and AA 15(3)		14 days detention 14 days pay	20/11/41		
Bordon		Pte	Nil	AA 15(1) AWL AA 10(4) Breaking out of barracks AA 40 Conduct to prej. of g.c and m.d AA 9(2) Disobeying lawful command		28 days detention 28 days pay	17.3.42		
Fanborough	12-17 8/42	"	"	AA 11. Neglect to obey Camp Standing Orders in that he while on leave from 12.8.42 until taken in cus ody 1845 hrs 17.8.42 did not inform Camp Orderly Room of change of address	Cpl Ayotte G Documentary	14 days detention	22.8.42	D.F.Spankie Lt Col.	

Certified True Copy

J. Brown ..... Captain,
Camp Commandant & Q.M.,
M.Q. Cdn. Rein. Units.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H 17260	Pte	de ROMANETTE	HQ CRU (PPCLI)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the numbers as entered in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For AA 11	1 times	3 times.
For AA 15(1) A/L	1 times	3 times.
For AA 15(111)	2 times	3 times.
For AA 10(4)	1 times	1 times.
For AA 40	1 times	1 times.
AA 9(2)	1 "	1 "

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused. N/A

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, (extract to the schedule annexed to this statement).~~

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for Neglect to obey Camp Standing Orders (AA 11) beginning on the 22nd day of AUG. 1942

4. ~~The accused has been in custody awaiting trial on the present charge for [illegible] days in civil custody, and~~ N/L days in military custody, making a total of N/L days of which N/L days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 44

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 27 May 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 99 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 99 days service.

9. The accused is entitled to reckon 2 yrs 99 days service for the purpose of determining his pension, etc.

10. The accused is in possession of ~~[illegible]~~ Foreign Decorations.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated and in his regiment (or corps or department) the rank of dated

(*18240) Wt. 20124/1001 75,000 12/40 A & E W 2.22. Gp. 698

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(*INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 day of Sep 42.

J. Brown, Captain,
Camp Commandant & Q.M.,
H.Q. Cdn. Rein. Units.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H 17280	Pte	de ROMANETTE	HQ CEU (PPCLI)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge [illegible] drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA 11	1 times	5 times.
For AA 15(1) AWL	1 times	3 times.
For AA 15(111)	2 times	3 times.
For AA 10(4)	1 times	1 times.
For AA 40	1 times	1 times.
AA 9(2)	1 "	1 "

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused. N/A

2. ~~The accused has not been previously convicted, or~~ ~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. ~~The accused is not under sentence at the present time, or~~ The accused at the present time is under sentence for Neglect to obey Camp Standing Orders (AA 11) (14 days detention) beginning on the 22. day of Aug. 1942

4. ~~The accused has been in confinement, awaiting trial on the present charge, for [illegible] days in civil custody, and~~ NIL ~~days in military custody, making a total of~~ NIL ~~days~~ ~~of which~~ NIL. ~~days were spent in hospital.~~

5. The present age of the accused according to his ~~[illegible]~~ 44

6. The date of his ~~[illegible]~~ specified in his ~~[illegible]~~ is 27 May 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 99 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 99 days service.

9. The accused is entitled to reckon 2 yrs 99 days service for the purpose of determining his pension, etc.

10. The accused is in possession of ~~[illegible]~~ Foreign Decorations.

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated ..... and in his regiment (or corps or department) the rank of ..... dated N/A

(*16240) [illegible] 71,000 12/40 A.S.&W.Ltd. Gp.[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or station of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the disposing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 day of Sep 42

J. Brown Captain,
Camp Commandant & Q.M.,
H.Q. Cdn. Rein. Units.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of _____ years, _____

In the rank of _____ years _____

In the rank of _____ years, _____

(INSTRUCTIONS.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

FLASH NUMBER TWO

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FLASH NUMBER TWO

FLASH NUMBER TWO

4C:97
PIE DERRY RF

RECORDED AT CMHQ IN AB 160. 4C-97

RECEIVED - 8 NOV 1944 - MILITARY BRANCH

FIELD GENERAL COURT-MARTIAL

CFA86 (1st Insn of AFA3) 41-P & S-1608 (2804)

Convened at Brigadier J.B. Sayer Comd "2nd Op", CRU dated 21 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
G-49409	Pte	Ronald Frederick	Derry	4 VRD CCOD

PROCEEDINGS REVIEWED
J.C.C. Hughes-Hallett Lieut
7 NOV 44
REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

R Held in the Fd in (country) ENGLAND on (date) 23 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Finn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

N A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
N The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

R A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1415 hours trial commences.

R N A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(6), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. President to accused: ~~The you object to~~ ~~or interpreter ? Ans~~
~~The interpreter is sworn.~~(1) Do you object to P 58776 SGT SHACKLETON E F as shorthand writer ? Ans NO
N ~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?
Ans NO(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

R A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.H. REDMAN VD, KC,	H.Q. CRU
Member	CAPT	I HORAN	1 CACRU
Member	LT	W.F. HULL	3 CACRU
~~Judge-Advocate~~			
N Prosecutor	CAPT	H.C. McGOUN	4 VRD CCOD
Defending Offr	LT	A.E. BRODIE	3 CGPC

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

N A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (?)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

N A9. The accused is ~~(not)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(not)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

R A10. The Court ~~is cleared until~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 49409 Pte R F Derry 1 CCOD

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
N 5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

N ~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of NIL days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be put under stoppages of pay until he has made good $20.00 a portion of the stoppage ordered by the Convening Officer

23 Oct 44

(Sgd) [illegible] President

Judge-Advocate, if any. Date Awarded. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Jes

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further ordered.(1) JCC

(1. RP 57A. Delete if not used.)

Date 26 Oct 44 (Sgd) J.H. Sayer Brigadier
Commanding 2nd Op. CRU.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
G-49409 Pte. Derry R.F.	30 Oct 44	(L.W. Burton) Major, O. 1/64 V.R.D., 1 Cdn C.O.D.

Part II D.O. 155 d/1 Nov 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans .....[5]
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 25(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.[1]
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO-SIR[1]
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.[1]
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.[1] NOTE-ATT
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1 st charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the 1 st charge(s), and ~~allowed on the charge(s)~~, and that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s)~~.[4] NOTE-ATT
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans neither - Sir Do you intend to call witnesses on your behalf? Ans NO-SIR ~~Are they witnesses as to character only? Ans~~
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1] NOTE ATT
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* A85. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1; 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.~~

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[1]
(1. *AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans NO-SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]
(1. *MFB* 255 *or MFB* 296. 2. *MML* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statements and Conduct Sheet(s), and in mitigation of punishment?[1] Ans Myself only NOTE-ATT
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and then JA, if any~~.[2]
(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see KR* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas RO* 309, 1323, *MML p* 96, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 98(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The accused elects Trial by F.G.C.M.

CHARGE SHEET

The accused, G-49409, Pte. Ronald Frederick Derry, of 4 V.R.D., 1 C.C.O.D., R.C.O.C., a soldier of the Canadian Army Overseas, is charged with:

While on active service

FIRST CHARGE
SEC. 40
ARMY ACT

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at approximately 1130 hours, one (1) mile north of Galashiels, Scotland, M.R. T982590, Scotland Sheet 1, on the 27 August 1944, so negligently operated Cdn. Military vehicle No. C.M.D. 134292 as to cause it to skid, hitting a rock and turning over twice, thereby occasioning damage to C.M.D. 134292 to the extent of £7-0-6.

R C Kelly

(R.C. Kelly) Major,
O.C. Depot Battalion,
H.Q., 1 Cdn C.O.D., RCOC.

Bordon, Hants,
18 Oct 44.

To be Tried by Field General Court Martial.

J E Page

Bordon, Hants.
21 Oct 44

(J. E. PAGE) Brigadier
Commanding Gp, CRU

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G-49409	Pte		Ronald Frederick	Derry	4 VRD CCCD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Oct 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt.-Col.	D. L. Redman, VD		HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	from and to be detailed by CC	1 CACRU
A Lieutenant	from and to be detailed by CC	3 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 21 Oct 44

J. E. Page (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J. E. SAGER) Brigadier
Commanding 4th Cdn Inf Bde, CRU
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AAG (OS) Sheet of AFAS) (See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
KR(Can) para 557

I certify that I have this morning examined No. J 49409

Rank Pte Name Berry R.F. of No 4 V.A.D. (Unit)

and in my opinion he is ~~fit~~* ~~unfit~~ fit to undergo trial by Court Martial.

J. L. Newman Capt (Rank)
Unit
Medical Offr., RCAMC

Station Borden Hosp

Date 230800 A Oct 44
~~(of Court Martial)~~

* Cross out one N/A and initial

F.G.C.M. IN THE CASE OF

G 49409 Pte DERRY, R.F., 4 VRD, CCOD

23 OCT 44

EVIDENCE FOR THE PROSECUTION NOTE D-j

1st WITNESS FOR THE PROSECUTION

G 6483 Pte BLAIR, R.R., on strength No 1 VRD, 1 CCOD, having been duly sworn states:

On the 27 Aut 44 I was riding with Pte Derry who I see here, as the accused, in a jeep, we were going down the road from Insgow. It had been raining all morning and we approached a round-about, Pte Derry tried to make the turn butthe veh skidded on the mad and struck a stone that was on the side of the road and turned over. The stone was actually in the embankment, it was about a foot and a half across and maybe a foot high, We would have made the turn had it not been for hitting this xnt stone. The road was slipper, it had been raining, the brakes were no good on the road. I was not looking at the speedometer but I would say we were going at about 30 to 35 mph, but it was a pretty sharp turn and it was no use applying the brakes, he applied them just before coming to the curveand let them off just before coming right onto the curve.

CROSS EXAMINATION BY THE DEF OFFR

Q How many vehs did the convoy consist of?
A About 45 or 60, there were three DRs with us. We were the third last veh in the line.

Q Have you any way of knowing how many vehs to the mile the orders were for that convoy?
A No Sir. We were just instructed to keep up.

Q At the time this happened and this curve, did it look any different from any other curves along the road?
A I did not see anything different about this curve, there were no warning signes out or "Dangerous Curve" signs.

Q Were you aware that Pte Hodgson was right behind you and was drawing up to pass you, and that he mentioned that his speed was 30 or 35 mph?
A Yes Sir.

Q I suggest that if his speedometer showed 30 to 35 mph and he was overtaking you that the veh in which you were travelling must have been going at a far less rate of speed that 30 to 35 mph?
A Yes Sir.

Q On coming to this turn did you feel any sense of going to fast or being frieghtened?
A No Sir.

Q When the brakes were applied was there any lateral skid?
A Yes sir. And it went on forward just as though the brakes had not been put on at all.

Q When the accused found the brakes did not do any good did he try to bring the car back on the road?
A Yes Sir and he would have succeeded only for the front left wheel striking the stone.

Q What vehs were behind you?
A The DR and the officer.

Q Do you recall any remarks that the DR made when he came along as to whether he suggested that the accused was at fault or

whether he though it a pure accident caused by the stone?
A I do not remember Sir.

Q The veh was then brought back on the road and proceeded on its own?
A Yes Sir.

Q Were any of you hurt?
A No Sir.

BY THE COURT

Q Had the veh stopped a short time before this accident occurred?
A Yes Sir, a few minutes before, we stopped to do our water.

Q Then you started again?
A Yes Sir.

Q Had any cars in the conv y passed you while you were stopped?
A No Sir.

Q Were you trying to catch up and get into you place in the convoy?
A We were not that far behind.

Q How long had you stopped
A A minute or so.

Q Can you say whether or not you could see the car in the convoy immediately ahead of you or was it out of sight?
A It was out of sight.

Q Did the car behind you come right up to you after the accident?
A Yes Sir.

Q How many cars were there in the convoy?
A About 45 Sir or 50.

Q Where was the car in the wonvoy?
A 3rd last Sir.

Q And all the rest of the cars had gone around the curve in front of you?
A Yes Sir

In the opinion of the Court it is unnecessary to comply with RP 83(B)

2nd WITNESS FOR THE PROSECUTION
C 11852 A/WS D'AMOUR, L, on strength H, Workshops, 1 CCOD, having been duly sworn states:

I examined a 5-cwt Willys, CMD 139292 on the 5 Sep 44 and the estimated damage done to it was £7-6-0. The damage was -

Headlight
Rear vision mirror
Wheel

With the cost of labour estimated at 10 hours the cost was estimated.

Q Did you know xxx how the veh was damaged?
A No Sir.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

3rd WITNESS FOR THE PROSECUTION

Lt J.A.ALLEN, on strength HQ 1 CCOD, having been duly sworn states:

I am offr in charge census, HQ 1 CCOD. Willys ¼-cwt No CMD 134292 is the property of the Cdn Government.

DEF OFFR DECLINES TO CROSS EXAMINE THIS WITNESS

In the opinion of the Court it is unnecessary to comply with RP 83(B)

D-6

SUBMISSION BY THE DEF OFFR

Sir,

The def has produced evidence before the Court from the witnesses of the Prosecution to show that the only witness who was present on this incident was the witness of the prosecution. The def feels that the evidence of this witness has shown that the veh was not travelling at an excessive rate of speed, and that this curve in the road discloses no reasons for there being any element of danger other than that to be encountered on a pavement such as had been made slippery by the rain. In braking or applying the brakes of the veh on approaching the curve the accused had followed out one of the most well known rules of carful driving. If he had increased his speed it might not have locked causing the veh to leave the surface of the road and strike the rock. The Def feels that this is a purely accidental case and no fault of the driver, and that with the lack of further evidence given by any of the witnesses I am expecting the Court to give any benefit of the doubt to the accused. The DR who came up to the veh is not present which is unfortunate for the def, however I say that insufficient evidence has been produced to find the accused guilty of this charge and therefore I ask the Court to dismiss it.

REPLY BY THE PROSECUTOR

Sir,

I think that the Prosecution has shown from its one witness that the veh had stopped prior to this and the driver of the veh had once used his brakes to stop and therefore he could have done it again had he not been travelling at too fast a speed. I say that the driver was negligent, that he was driving too fast and perhaps he did skid off the road and strike a stone, about 40 other vehs had previously gone around this curve without upsetting. This driver was hurrying to catch the other vehs and was obviously speeding to do so.

COURT IS CLOSED TO CONSIDER THE SUBMISSION

COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION IS DISALLOWED.

PROSECUTOR ADDRESSES THE COURT ON THE FINDING:

Sir,

I merely repeat what I have said on the submission.

And I have nothing further to add.

DEFENDING OFFICER ADDRESSES THE COURT ON THE FINDING:

Sir,

I repeat what I said on the submission and would add. The accused knows nothing of procedure and mil law, and since this accident took place he has learned that he was to be held

responsible as far as the OC was concerned. He therefore chose an FGCM that would be composed of impartial judges. Driving is this man's main ambition, he was a DR in Italy which he liked very much, he has been overseas three years and has for the most of that time been under age and not allowed to drive or do DR duty, however since being of age he has been allowed to do a little of both, but not enoughto satisfy him. During this particular trip he was driving in convoy, on the way from Glasgow the incident occurred, if he were in convoy and a short way behind the other cars is no reason that he should be speeding to catch up, there was still an officer and DR behind him, I still feel that there is an element of doubt as to his neglect in this accident, I ask the Court to give him the benefit of that doubt.

COURT IS CLOSED TO CONSIDER THE FINDING

COURT IS REOPENED

PLEA IN MITIGATION IS WRITTEN OUT AND ATTACHED E-3

PLEA IN MITIGATION FOR PTE. DERRY

Pte Derry enlisted when he was sixteen years of age. He was anxious to see action but his youth prevented his ambitions. His various tasks in the army proved irksome. This is the explanation for the entries on his M.F.M. 6. He saw service as a D.R. in Italy. His one great desire is to drive and see service as a driver.

There seemed to be such an element of doubt in this case that the defence feels that every consideration should be shown to the accused and that the court will see that his punishment will be tempered by this consideration.

Could the costs of repairing the vehicle be considered as a fitting puishment for Pte. Derry and the consideration thereby shown act as an opportunity for him to regain any prestige that may have been lost by this unfortunate accident.

A.E. Brodie
Maj

M.F.B. 355
22M—5-41 (372-2)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G-49409	Pte.	Derry, R.F.	4 V.R.D., 1 CCOD, R.C.O.C.

1. The following is a fair and true summary of the entries in the ~~Service and General Conduct sheets~~ Gmd. of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ Gmd. and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Sec. 40 A.A.	1 times	Sec. 40 A.A.	7 times
For	Sec. 15(1) A.A.	1 times	Sec. 15(1) A.A.	3 times
			Sec. 11 A.A.	1 times

2. The accused has not been previously convicted Gmd.

The accused has not been under close arrest

3. The accused is not under sentence at the present time. Gmd.

5. The present age of the accused according to his ~~attestation paper is~~ Gmd. 20 years, 135 days

6. The date of his ~~attestation~~ Gmd. specified in his ~~attestation paper~~ Gmd. is 12 April 1941.

7. The service which the accused is allowed to reckon towards discharge is 3 years, 6 months, 28 days as of 12 Oct. 44 Gmd.

9. The accused is in possession of ~~military~~ Gmd. decoration, or ~~military~~ Gmd. reward ~~State any military decoration or reward.~~ Gmd.

Cdn. Volunteer Service Medal with Clasp. Order #4, dated 28 Jan 44. Gmd.

Gmd.

EXB

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number 0-49409 Rank Pte. Name Derry, R. F. Unit of 4 V.R.D., 1 C.C.O.D., RCOC

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of October 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

No. 49409 Name DERRY, R.F. | Sqn, Battery, or Company | Corps R.C.C.C. | Date of enlistment 12/4/41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/FAS/150 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc James R. Scott, Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
"Sheet No. 1 destroyed 12/10/41: 26/9/41: Cases of Drunkenness: None.									
Bordon	28/11/41	Pte.		Conduct to the prejudice, etc. 1) created a disturbance in barrack room after "lights out" 2) refused to comply with an order given by an N.C.O. 3) Used abusive language to an N.C.O. (Sec. 40 A.A.)	Cpl.Baldree L/C.Hunter L/C.Albert	7 days C.B.	29/11/41	Major E.W.Miller	"JRS"
Bordon	11/12/41	Pte.		Insubordination to N.C.O.	Sgt.Kendrick Sgt.Fairweather L/C.Albert	28 days Forf pay.		Capt. W.M.Stedman	"JRS"
Bordon	25/2/42	Pte.		W.O.A.S. neglected to take proper care of his rifle. Sec. 40.	Cpl. Moogk	7 days C.B.	26/1/42	R.K.Japson Capt	"JRS"

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fieldl	3/8/42	Pte.		Conduct to the prejudice, etc. (smoking on parade) Sec 40 A.A.	Sgt. Short, V.L.S.	7 days C.B. 7 Ex. guards	4/8/42	Capt. J.R. Scott	
Bordon	25/8/42	Pte.		Sec 15(1)AA - AWL - WOAS from parade.	Pte.Willett	5 days C.B.	26/8/42	Major W.M. Stedman	
Bordon	1/9/42	Pte		AA Sec.40 Conduct to the prej. WOAS broke a window in the coach of a train.	CSM Johnson	15 days Fld. Punishment Forf. 15 days pay FR&I 149 (1)(b)	2 Sept 42	"H.McFarley Lieut.	
Bordon	7-2-43	Pte.		Sec 15(1) A.A. WOAS, A.W.L. from 2359 hrs, 7-2-43 until 1140 hrs 8-2-43 (Absent 11 hrs 41 mins)	Documentary	10 days Field Punishment Stoppage of 14/2 (costs of travel & Meals)	11-2-43	"H.McFarley Lieut.	1 day's pay FR&I 149,1a

SUPPLEMENT

NG-49409 Name Derry, R.F. Sqn, Battery, or Company Corps R.C.O.C. Date of enlistment 12-4-41 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 3 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	6 Jul 43	Pte.		(1) Sec 11 A.A.- WOAS: Neglecting to obey Camp Standing Orders, Sec G para 1 in that he between 1000 hrs and 1030 hrs 6 Jul 44 failed to wear his respirator.	Lt. Brown	Awarded forf. 1 days pay & 7 days C.B.	8 Jul 43	S.E. Lewis Major.	
				(2) Sec 40 AA. - WOAS: Conduct to the prejudice of good order etc. in that he did enter the Offrs Lines so breaking Bounds contrary to Camp Standing Orders.	Lt. Brown.				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Sep 43	Pte.		A.A. Sec 15(1) WOAS: AWL from 2359 hrs 5 Sep 44 until 1230 hrs 6 Sep 43 (Absence 12 hrs 31 mins)	Documentary	Awarded forf 2 days pay.	7 Sep 43	Major W.E.Bawden	Forf 1 days pay FR&I 149(1)a also forf 2 days pay FR&I 149(1)(b) Total forf 3 days pay.
Field	14 Feb 44	Pte		Sec 40 AA - Conduct to the prejudice of good order etc. in that he failed to be available in his quarters or on parade at approx. 1500 hrs, 14 Feb 44, contrary to instructions.	Sgt. Nott L/Sgt. Bryson	10 days Fft pay.	15-2-44	(F.M.Hearn) Lt.Col.	

CERTIFIED TRUE COPY [signature] Capt.

(Officer having custody of regimental books)

— Oct 1944

Summary of Evidence

in the case of.

G49409 pte Derry, R.F. on the strength of 4 V.R.D. 1 C.C.O.D., a soldier of the Cdn Army Overseas.

By Direction of the Officer in Command No 4 V.R.D. 1 C.C.O.D. the summary of Evidence is taken on oath.

First Witness

C 9~~8~~48458 pte Blais, K.E. — on strength of No 1 V.R.D. 1 C.C.O.D. a soldier of the Canadian Army Overseas, having been duly sworn states:—

I was a passenger in ~~the W.D. vehicle~~ an military vehicle. CMD134292 a Willys Cart driving from Edinburgh to No 1 V.R.D. N. 27 Aug 44. At approximately 1130 hrs we were trying to regain our position in convoy after having stopped at the side of the road for a couple of minutes, we came to a Sharp Bend in the road. It was greasy and the vehicle skidded to the left and the edge ~~left~~ of the embankment and a good sized stone which made it turn over. I didn't notice what speed we were actually travelling. My figure it would be about 35 miles per hour. Derry was the driver of this vehicle when it turned over.

Q. What was the condition of the road at the time of the accident.

A. It had been raining and was very heavy.

Q. What was the width of the road.

A. About 18 feet.

Q. Was the corner a very bad angle.

A. It was quite a sharp curve.

Q. Do you think the vehicle was going too fast when you were coming up to the corner.

A. No. Pte Derry was driving at a very normal rate and I do not think he was travelling too fast to make the curve.

Q. Did you notice Pte Derry apply his brakes.

A. Yes. It was then that the vehicle ran over in front into a skid.

Q. Was anyone hurt in the accident

A. No. Neither one of us

K. E. Blais

2 ~~The above statement was read back to the~~ witness

Signed K.E. BLAIS

The accused declines to cross examine the witness

The accused was cautioned as follows

"Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say, or any evidence you wish to give will be taken down in writing and may be given in evidence.

After the above caution the accused wishes to make a statement.

G49409 pte Derry, R.F. No 4 VRD-1 CCOD a soldier of the Cdn army Overseas having been duly sworn states:—

I was the driver of Cdn army vehicle CMD 134292 on 27 Aug 44 at approx 1130 hrs while driving the vehicle from Scotland to No 1 V.R.D. I stopped at the side of the road for a couple of minutes and then had to catch up with the rest of the convoy. While doing this I came to a sharp bend in the road and applied my brakes. The

vehicle skidded and we went a bit up on the left hand bank of the road. hit a big stone and the vehicle turned over. I figure I was driving between 30 and 35 Miles per hour. One of the D.R.s on the Convoy pte Hodgson was right behind me and told me he was going about 35 m.p.H according to his spedometer. pte Hodgson, I think is now overseas.

The above statement was read back to the accused.

[illegible]

I certify that the foregoing Summary of Evidence was taken down by me in the Presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f and g) have been complied with

[illegible] Capt
Officer detailed to take Summary of Evidence

Borden Hants
4 Oct 44.

2nd ~~3rd~~ Witness

C 11825 A.Q.M.S. Damour L. H.Q. Workshop. 1 CCOD.

a soldier of the Cdn Army Overseas having been duly sworn states:-

I Am ~~NCO~~ W.O. i/c H.Q.W/s. on 5 Sep 44 I examined Vehicle C.M.D. 134292. A Willys 5 cwt. the Estimate of damage was L 7-0-6.

The above statement was read back to the witness.

L Damour A.Q.M.S.

Third ~~4th~~ Witness.

Lieut. G.A. Allen. H.Q. 1 CCOD. an Officer of the Cdn Army Overseas. having been duly sworn states:-

I am officer i/c census H.Q. 1 C.C.O.D and Vehicle CMD 134292. Norwith WD no C M 4283417 is a canadian Military vehicle Willys 5 cwt and is on Charge to the canadian Govt.

The above statement was read back to the witness

Ja Allen Lt.

I certify that the foregoing summary of evidence was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with

Bardon Hants
16 Oct 44

[illegible] Capt
Officer detailed to take summary of evidence

SUMMARY OF EVIDENCE

in the case of

C-49409 Pte. Derry, R.F. on strength of 4 V.R.D. 1 C.C.O.D. a soldier of the Canadian Army Overseas.

By Direction of the Officer in Command No.4 V.R.D.1 C.C.O.D. the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution. C-94858 Pte. Blais, K.E. on strength of No.1 V.R.D.1 C.C.O.D. a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:-

I was a passenger in Canadian Military vehicle CMD-154292 a Willys 5 Cwt, driving from Edinburgh to No.1 V.R.D. on 27 Aug 44. At approximately 1130 hrs we were trying to regain our position in convoy after having stopped at the side of the road for a couple of minutes. We came to a sharp bend in the road. It was greasy and the vehicle skidded to the left and hit the edge of the embankment and a good sized stone which made it turn over. I didn't notice what speed we were actually travelling but figure it would be about 35 mile per hour. Pte. Derry was the driver of this vehicle when it turned over.

Question: What was the condition of the road at the time of the accident?
Answer : It had been raining and was very greasy.
Question: What was the width of the road?
Answer: About 18 feet.
Question: Was the corner a very bad angle?
Answer: It was quite a sharp curve.
Question: Do you think the vehicle was going too fast when you were coming up to the corner?
Answer: No, Pte. Derry was driving at a very normal rate and I do not think he was travelling too fast to make the curve.
Question: Did you notice Pte. Derry apply his brakes?
Answer: Yes, it was then that the vehicle we were in went into a skid.
Question: Was anyone hurt in the accident?
Answer: No, neither one of us.

Signed: K.E. Blais

The accused declines to cross-examine this witness.

SECOND WITNESS for the Prosecution. C-11825 AQMS. D'Amour, L., R.C.E.M.E. on strength of H.Q. Workshops, 1 C.C.O.D., a soldier of the Cdn Army Overseas, having been duly sworn, states as follows:-

I am W.O.1/c H.Q. Workshops, 1 C.C.O.D. On 5 Sep 44 I examined vehicle CMD-154292 a Willys 5 Cwt. The estimate of damage was Seven Pounds, Six Pence (£7-0-6). An itemized "Estimate Cost of Damage Report" is presented and is Marked Exhibit "A".

Signed: L. D'Amour, AQMS

The accused declines to cross examine this witness.

FIRST WITNESS For the Prosecution.

Lieut. J.A. Allen, on strength of H.Q. 1 C.C.O.D. an officer of the Cdn Army Overseas having been duly sworn, states as follows:-

> I am Officer i/c Census, H.Q. 1 C.C.O.D. and vehicle CMD-134292, now with W.D.No: CM-4203417, is a Canadian Military vehicle, Willys 5 Cwt, and is on charge to the Canadian Government.

Signed: J.A. Allen, Lieut.

The accused declines to cross examine this witness.

The accused was cautioned as follows:-

> "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused wishes to make a statement.

O-48409 Pte. Derry, R.F., on strength of No.4 V.R.D. 1 C.C.O.D., a soldier of the Canadian Army Overseas having been duly sworn, states as follows:-

> I was the driver of ~~xxx~~ Canadian Army vehicle CMD-134292. On 27 Aug 44 at approximately 1130 hrs while driving the vehicle from Scotland to No.1 V.R.D., I stopped at the side of the road for a couple of minutes and then had to catch up with the rest of the convoy. While doing this I came to a sharp bend in the road and applied my brakes. The vehicle skidded and we went a bit up on the left hand bank of the road, hit a big stone, and the vehicle turned over. I figure I was driving between 30 and 35 miles per hour. One of the D.R's on the convoy(Pte.Hodgson) was right behind me and told me he was going about 35 miles per hour, according to his speedometer. Pte. Hodgson, I think, is now overseas.

Signed: R.F. Derry

The above statement was read back to the accused.

I certify that the Foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c)(d)(e)(f) and (g) have been complied with.

[signature]
Officer Detailed to Make
Summary of Evidence.

Bordon, Hants.
4 Oct 44.

R.C.E.M.E. ESTIMATE COST OF DAMAGE REPORT EXHIBIT A

CMD-1[illegible]

W.D. No. [illegible] Make [illegible] Date [illegible]

UNIT [illegible] Type [illegible]

(Whom vehicle belongs to)

NATURE OF DAMAGE:-

Front end of body and left rear wheel damaged

PARTS REQUIRED	QUANTITY	Catalogue No.	£	S	D
Headlights	1		0	6	6
Rear vision mirror	1			6	0
Wheels	1		3	0	0
LABOUR REPAIRS 10 HOURS @ 3/			1	10	0
Total ESTIMATED COST			4	0	0

Sign. [illegible] Sign. [illegible]

H.C.C. I/c W/Shops, C. I/c H.L. REME W/Shops
4 V.R.D., 1 Cdn. C.O.D. 4 VRD, 1 Cdn. C.O.D.

"CERTIFIED TRUE COPY"

[signature]

LIST OF WITNESSES FOR PROSECUTION

C-94858 Pte. Blais, K.E., No. 1 V.R.D., 1 C.C.O.D., R.C.O.C.

-X-X-X

OFFICERS UNDER INSTRUCTION

F.G.C.M. - 23 Oct 44

Lt	V.D.	Kenyon	1 Sub Wksp
Lt	T.	Shane	1 Sub Wksp
Lt	A.T.	Roberts	1 Sub Wksp
Lt	R.F.	Robertson	1 CACRU
Lt	A.D.	Saillie	1 CACRU
Lt	E.G.	Hession	HQ "FB" Gp
Lt	E.W.	Ross	2 CARU
Lt	N.F.	McKenna	2 CARU
Lt	J.W.	Haggerty	2 CARU
Lt	J.A.	Morrison	2 CARU

PP. 188 (AFRICA)
PTE DESARMEAUX J.B.

Correspondence to be PINNED here.

PP-108

A107

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-fifth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~* (and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~* I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

*Omit if not applicable.

Proceedings Reviewed by Division

7/6/43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

Waiting.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	E.D. Denby	Carlt & York R

Members.

Rank.	Name.	Regiment.
Lieut	N.B. MacNab	West NSR
Lieut	P. Frechette	R 22e R
Lieut	G.E.F. Stokoe	Carlt & York R

*Signed [signature] Brigadier,

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C32603 Pte DESARMEAUX, Joseph-Omer, R 22e R	1st charge Sec 18(2) AA	Not Guilty	Not Guilty	
				Confirmed [illegible] 30 Aug 43
	2nd Charge (Alternative) Sec 40 AA	Not Guilty	Guilty	
			48 Days FP and 56 days forfeiture of pay	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [signature] Brigadier (Signed) [signature] Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
~~*(4. The officers under instruction)~~

were duly sworn.

*Omit if not applicable.

Signed this 27th day of August 1943.

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~

*See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 30th day of Aug 1943.

[signature] Brigadier,
Confirming Officer. Comd 3 Cdn Inf Bde.

Promulgated and extracts taken in the case of C-32603 Pte Desarmeaux, J.O. R. 22 R

(a) (Dated) 31 Aug 43 (Signed) [signature] Adjutant, ROYAL 22e. REGIMENT, C. A. C.

Promulgated and extracts taken in the case of

(Dated) 31 (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2379) [illegible] A.D.S.W.Ltd. Gp.[illegible]

B2

CHARGE SHEET.

The accused, C-32603 Private Joseph-Omer DESARMEAUX, a soldier of the Royal 22e Regiment, Canadian Army Overseas, on Active Service, is charged with:-

1st Charge, A.A. Sec.18 (2) WILFULLY MAIMING HIMSELF WITH INTENT THEREBY TO RENDER HIMSELF UNFIT FOR SERVICE,

in that he,

in the Field, on July 27th, 1943, when in his Coy.Lines, by discharging his rifle wilfully maimed himself, by wounding the right side of his forehead, with intent thereby to render himself unfit for Service.

2nd Charge, A.A. Sec. 40 Alternative. NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

in the Field, on July 27th, 1943, neglected to examine his rifle, thereby injuring himself.

~~3rd Charge, A.A. Sec. 1~~ ~~DESERTION~~ ~~in that he~~ ~~In the Field, on July 27th, 1943, was absent~~

(J.P.E. BERNATCHEZ), Lt-Col.
Commanding Officer,
Royal 22e Regiment.

In the Field,
August 24th, 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(H.W.W. Penhale), Brigadier,
Commanding 3 Cdn Inf Bde.

In the Field
25 Aug 43

I certify that I have examined this morning C-32603 Private DESARMAUX, J.O., R.22e R. and that I found him FIT/~~UNFIT~~ to undergo trial by Field General Court Martial.

[illegible] Capt RCAMC

M.O.
Royal 22e Regiment.

In the Field,
August 27th, 1943.

Certificate in Accordance with R.P. 64

Due to the exigencies of the service it is necessary that the trial of C 32603 Pte Desarmeaux, J.O. place at 0800 hrs 27 Aug 43

[signature]

(H.H.S. Penhale), Brigadier,
Commanding 3 Cdn Inf Bde.

A.F. A9

Proceedings of a Field General Court Martial held in the Field on the 27th day of August 1943 by order of Brig M.H.S. PENHALE Commanding 3 Cdn Inf Bde Dated the 25th day of August 1943

President

Major E D Danby Carlt & York R

Members

Lieut N.B. MacNab West NSR

Lieut P Frechette R 22e R

Trial of C 32603 Private Joseph Omer DESARMEAUX R 22e R

The order convening the Court, the charge sheet and the summary of evidence are laid before the Court

The Court satisfy themselves as provided by Rules of Procedure 22 and 23

The accused is brought before the Court

Prosecutor Lieut Charles E LEVESQUE R 22e R

Defending Officer Lieut Claude CHATILLON R 22e R

At 0845 o'clock the Trial commences

The order convening the Court is read and marked R signed by the President and attached to the proceedings

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by President: Do you object to be tried by me as President, or by any of the officers whose names you have heard read

Answer by Accused: No.

The President and Members duly sworn

Question by President: Do you object to trust BEAUCHAMP [illegible] as interpreter?

Answer by Accused: No. || The interpreter is duly sworn.

The charge sheet is signed by the President, marked B2, and annexed to the proceedings.

The accused is arraigned upon each charge in the above mentioned charge-sheet.

Are you guilty or not guilty of the first charge against you, which you have heard read? Question to the accused.

Not Guilty Answer

Are you guilty or not guilty of the second charge against you, which you have heard read? Question to the accused

Not Guilty Answer

Question Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before the trial have not been complied with, and that you have not had sufficient opportunity for preparing your defence?

Answer No.

1st Witness for prosecution -
D63548 Pte Desjardins L. R. 22nd R. C. Corp

Pros. Can you identify the accused
Wit Yes
Pro His name.
Wit Pte Desormeaux
Pro. Will you relate to the court what you know about Pte Desormeaux.
Wit This They were taking a drink together, as they were talking together Pte Desormeaux told him several times that he was going to shoot himself. after awhile he got up and put his rifle against a tree and Pte Desormeaux leaned his head over the muzzle of the rifle and fired. after he fired Pte Desormeaux fell on me. As soon as this happened he called for his Pl. Sgt.
Pro. Who loaded the rifle
Wit himself the accused himself

Pro How many rounds did he put in.
Wit Only one.
Pro. Did he tell you for what purpose he wanted to shoot himself.
Wit No sir.
Pro. Was there a draft that was to leave soon
Wit. The next day.
Pro. Previously to your knowledge did the accused mention days ahead he wanted to shoot himself.
Wit No sir
Pro. From what part of the body was he bleeding
Wit. I can't say wich eye either the left or the right but it was over the eye.
Pro. Do you know if the accused was taken to the hospital.
Wit Right after it happened.
Pro. ~~Can you tell the court if Pte Desormeaux~~
Pro In your opinion was Desormeaux drunk.
Wit Yes sir.
Pro. When Desormeaux shot himself why didnt you stop him from doing so.
Wit I didnt believe he was serious.
Pro. What had he been talking about that evening
Wit. He was talking of the army most of the evening.
Pro. Did he look by his speech to be disappointed of the army.
Wit The way he was talking it seemed something was wrong.

Defence cross examines.
Def When did Pte Desormeaux start to drink that day.
Wit Early in the morning.
Def. Did he keep on drinking all day long.
Wit. Yes sir

Def. Did you drink with him all the time
Wit Yes sir.
Def. Did Pte Desormeaux sleep during the afternoon.
Wit. Yes sir.
Def. In by so doing did he miss his supper.
Wit. He didn't have his supper.
Def In your opinion would that be the reason why he was grumbling against the army during the evening.
Wit. I ~~don't~~ cannot answer the question.
Def. Did he not say anything as to not having his supper that day.
Wit Yes sir, he did.
Def. In your opinion when he said that, he would shoot himself was he drunk.
Wit. Yes sir.
Court. When did the accused load the weapon.
Wit. at 2300 hrs.
Court. How close to the weapon were you standing when the accused loaded the weapon.
Wit. Around one foot distance from me to the accused.
Court. When the accused fired the weapon were you at the same place as when he loaded the weapon.
Wit. Yes sir the accused was around one or two feet from me.
Court. Was the accused standing or lying down when when he fired the shot.
Wit. He was standing.
Pro. Do you remember at about what time the accused mentioned he wanted to shoot himself the first time.
Wit. Only a few minutes before.
Pro. During the evening, did he tell you he wanted to shoot himself
Wit. About half an hour before.

2nd Witness for Prosecution.
Pros. Will you identify yourself.
Wit. Lgh. Lafrance D61287.
Pros. Can you identify the accused.
Wit. yes sir. Ste Desormeaux
Pros. Will you relate the court the ~~events~~ ~~evidence~~ which took place on July 47 43
Wit. On the evening of the 27 Jul 43 around 2330 hrs Ste Desjardins woke me up in my tents, saying that Ste Desormeaux shot himself. Immediately I got up and went to see and I saw Ste Desormeaux lying on the ground on his gas cape. I detailed Cpl. Calvé in charge while I was going for the doctor and the Pl. Cmdr. Immidiately after the doctor inspected him. I took the rifle besides the accused, which contained an empty .303 round, and his water uncorked was smelling wine.
Pros. Tell the court where was the wound.
Wit. the wound was on the left side of the face because he was lying on the right side.
Pros. Did you look at the wound.
Wit. No.
Pros. Was the accused taken to hospital That day
Wit. Right after the doctor inspected him he was taken to hospital.
Pros. ~~Had Ste Desormeaux~~ Was Ste Desormeaux in your platoon
Wit yes sir
Pros. Had he always looked normal to you.
Wit not on that day, sir.
Pros. Did he ever tell you he wanted to shoot himself.
Wit. no sir.
Pros. Did you ever hear him say to others he wanted to shoot himself.
Wit no sir

Prosecution — Did he look satisfied with the army?

Wtness — yes sir

Prosecution — Did he ever mention to you he wanted to quit the army?

Wtness — No sir

Defence Cross-examines

Defence — What makes you say the accused wasnt normal that day?

Wtness — During the afternoon the accused went in the lines of another Regiment close by and had an argument with some friends and that together with the fact he had been drinking I thought he wasnt normal.

Question by Court — In your opinion was Pte Desjardins when reported the accused drunk?

Wt — No sir

Question by Court — Were you and your platoon aware that that you were leaving for active service the next day?

Wt — Yes sir

Question by Court — Was the accused a member of your platoon?

yes sir.

Summing up by prosecution signed by President and Marked S

D

The prosecutor is sworn

DEFENCE

Question to the accused — Do you apply to give evidence yourself as a witness?

Answer — No sir

Question to the accused — Do you intend to call any other witnesses in your defence?

Answer — No sir

Question to the accused — Have you anything to say in your defence?

Answer — Defending officer hands in written address which is read, marked T signed by the President, and attached to the proceedings.

E

FINDING

The court is closed for the consideration of the finding

The Court find that No C32603 Pte Joseph Omer DESARMEUX R 22e R

Is NOT GUILTY of the first charge Acquittal him of the same, but is GUILTY of the second Charge.

The finding of NOT GUILTY was read in open court.

Lieut Charles E LEVESQUE is duly sworn

Question by the President: Have you any evidence to produce as to the character and particulars of service of the accused?

Answer: Yes I produce the statement AFB 296 and MFHG

Question by President: Is the accused the person named in the statement which you have heard read?

Answer: Yes.

Question: Have you composed the contents of the above statement with the Regimental books?

Answer: Yes

Question: Are they true extracts from the regimental books?

Answer: Yes.

If the accused declines to examine the witness

Question to Accused: Do you wish to address the court?

Answer: No

F

SENTENCE

The Court sentence the accused No c32603 Pte Joseph-Omer DESARMEUX R 22e R to undergo

28 days Field Punishment and 56 days forfeiture of pay

Signed in the Field this 27th day of August 1943

S

Summing up Desormaux's Case.

27 Aug. 43.

On July 27th all men of that particular platoon in which Desormaux was, were aware that they would move the next day for active service. Desormaux who took all the chances to avoid that draft, missed the draft.

We cannot ~~judge~~ go into his heart and find out what he was thinking but, according to the facts, and the facts only, because they result from the thoughts, we can say this man wanted to avoid active service.

He took the risk of drinking all day, and as a result missed his draft. Moreover, in his drink, he wanted to avoid service, by rendering himself unfit. According to ~~[illegible]~~ A.A. Sec. 18(2) s. 1. 4 ("In case of under proc. 2") — page 45

This man shot himself not

2

accidentally but wilfully. Nobody can prove he was drunk and even so, according to Mr. L.L. page 25 Sec. 48: It is a principle of British law that drunkenness is no excuse for crime".

He rendered himself unfit for a while, avoided the service, and consequently, the Court should find him guilty under Sect. 18(2)

Charles E. Lewis fee
Prosecutor.

D. Dawley sign

27-8-43

I

Closing address for the ~~prosecution~~ Defence

Gentlemen, I want you to listen very carefully to my statement, as this is a very serious charge.
The two witnesses can not prove by their evidence that the accused wilfully maimed himself.
The intention of doing so is implicated in the charge by the word wilfully.
The second witness states that the accused behaved in a strange way this particular day. This, in my opinion, is fully explained by the fact that the accused did not have his supper as he slept too late.
Therefore there is not insinuation here that the accused was really dissatisfied with the army. As you know, the private abuses of the slightest detail to grumble against the army.
Again, when he loaded his rifle, a few moments before the accident, he was drunk. ~~Proved~~ This is proven by the evidence of the 1st witness.
Furthermore, when the accused mentioned he would shoot himself, he was still drunk. Again, no proof as to intention of wilfully maiming himself.
Lastly, it was proven that the accused was definitely drunk.
Gentlemen, considering the chapter on Offences & punishments (Sec. 40), I demand that the charge be ruled out and that another charge of a less serious character be made against the accused.
Remember, Gentlemen, this is a very serious charge.

Claude Chatillon Lieut.

Defending Officer.

[illegible]

SUMMARY OF EVIDENCE.

In the Case of C-32603 Pte. Desormaux J.C. a soldier of the Royal 22e Regiment, Canadian Army Overseas, on Active Service.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

1st Witness for the Prosecution.

D-63548 Pte. Desjardins, L., R.22e R., having been duly sworn states:-

I am D-63548 Pte. Desjardins, L. of the Royal 22e Regiment, On July 27th, 1943, I was at No.1 C BRD, and Pte. Desormaux, whom I now recognize, was with me. On that date, I was getting ready to go to bed in my Coy. lines. At different occasions during the evening, Pte. Desormaux had told me he had decided to shot himself. In my opinion, the man at that moment looked to be intoxicated. I did not pay attention to his words, thinking he was joking. He took some more wine, and later during the evening, I saw him loading his rifle, rest it against a tree, and then bending over press the trigger. I saw him falling down. I immediately advised my Sgt. who is Sgt. Laframe. (He was supposed to leave for front line the next day.)

The accused declines to cross-examine this witness.

Leonard Desjardins Pte.

2nd Witness for the Prosecution.

D-61287 Sgt. Laframe G., R.22e R., having been duly sworn states:-

I am D-61287 Sgt. Laframe, G., R.22e R. On July 27th, 1943, I was at No.1 C BRD, and Pte. Desormaux, whom I now recognize, was in my platoon. On that day at about 2330 hrs. I was sleeping when suddenly Pte. Desjardins L. came to me and told me that Pte. Desormaux "had shot himself". I immediately got up and saw the injured laying all dressed up on the ground. I ordered A/C pl. Calve who was standing by, to take care of the injured, and I went up the lines to call for a M.O. and advise officers of my Coy. Later, after First-Aid had been administered, I picked up Desormaux's rifle, bearing No. 13L5009 which was lying by his side. The breech was closed, the safety catch off, and upon openning the breech, an empty .303 bullet case came out.

Previously during that same day, I had noticed many times that Pte. Desormaux was looking like a man who had been drinking. The way he acted in general and the tone of his voice indicated me that he was under the influence of liquor. After his removal to the M.I.R. opening his water-bottle, I noticed that a heavy smell of wine released itself from the bottle.

The accused declines to cross-examine this witness.

Gaston Laframe Sgt.

In the Case of C-32603 Private Desormaux J.C. a soldier of the Royal 22d Regiment, Canadian Army Overseas, On active Service.

3rd Witness for the Prosecution.

I, the officer taking the Summary, am of the opinion that the presence of Capt. S. Kobrinsky, R.C.A.M.C. cannot readily be procured, owing to the exigencies of service, the expenses and loss of time involved. I certify that the following is an extract of what Capt. Kobrinsky will state at the trial.

I am a Reinforcement Officer on the strength of No. 1 C.B.R.D. (July 27th, 1943). At approximately 2330 hours, on that date, I was awaken by a soldier, whose name I do not know, who stated that a M.O. was required urgently because a soldier had "shot himself in the head". In company with Major George Wood, RCAMC, I proceeded to the site where the injured soldier lay. On examination, it was found that he was semi-conscious; an incise wound about 2½ inches long extented along the right side of his forehead. There was a slight abrasion on the upper part of his right cheek; powder marks were clearly seen. His pupils were equal, and rested to light and accomodation. There was a definite smell of alcohol from his breath. His pulse was 76 and regular. No other signs of injury were noted. After being interviewed by the Padre at about 2350 hrs. he was loaded on a stretcher, and carried to the M.I.R. Morphine grains 3/8 were administered and he was then evacuated to the hospital. During this period, no coherent reply could be elicited from the soldier to questionning. The examination of his identity discs revealed the soldier to be C-32603 Pte. Desormaux J.C.

The accused declines the presence of the witness for cross-examination.

Charles L. Levesque Lieut.
Officer taking Summary.

The accused having been duly cautionned in French, in accordance with R.O. 1424, reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that rules of procedures, 4 (c), (d), (e), (f) and (g) were duly complied with.

Charles L. Levesque Lieut.
Officer taking Summary.

In the Field,
24th August 1943.

FIELD CONDUCT SHEET.

M.F.M.6

C-32603 Pte. J.O. Desarmeaux,
R.22e R.

Date of Enlist.
25 Sep. 41.

M.F.M. 6 of the a/m is not available at the present time.

Certified:

Geo. S. Coderre Lieut.
Adjutant,
Royal 22e Regiment.

I certify that I have been served with a true copy of the Summary of Evidence taken prior to my trial by Field General Court Martial. I also acknowledge the receipt of a true copy of the charge sheet, upon which I am being brought into F.G.C.M.

I desire the services of an Officer to represent me at my trial. I desire the services of: LIEUT. HECTOR PELLETIER, R.22e R. if he is available.

J.O. Desarmeaux

LIST OF WITNESSES FOR THE PROSECUTION AND DEFENCE, IN THE CASE OF
C-32603 Pte. Desormeaux, J.O.
R.22e R.

PROSECUTION.

Capt. S. Kobrinsky, RCAMC., (Probably now at ~~No. 4 CDRD~~ 5th Field Amb).

D-63548 Pte. Desjardins, L., R.22e R. "C" Coy.

D-61287 Sgt. Laframe, G., R.22e R., "A" Coy.

DEFENCE.

NIL.

A.F.B. 296

PARTICULARS AS TO CHARACTER AND PARTICULAR OF SERVICE OF THE ACCUSED

No. D-32603 Rank P+E. Name DESARMEAUX, J.D. R. 22e, R.

1- The following is a fair and true summary of the entries in the regimental and squadron, battery, or company conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court of Summary awards under Section 47 of the Army Act and of cases of which trial has been dispensed with:

	Within last 12 months	Since Enlistment.
For		
For	Not available.	times
		times

Number of instances of gallantry or distinguished conduct: NIL

or

~~There are no entries on the conduct sheets of the accused.~~

2- The accused has not previously been convicted

or

Previous ~~convictions of the accused by a court-martialor~~ a civil court summary awardsunder Section 47 of the Army Act and dispensations with trial ~~under A.A. 73 are set out in the schedule annexed~~ to this statement.

3- The accused is not under sentence at the present time.

or

The accused at the present time is under sentence for NIL beginning on the NIL day of

4- The accused has been in confinement awaiting trial on the present charges for _____ days in civil custody and 16 days in military custody, making a total of 16 days in custody, of which _____ days were spent in hospital.

5- The present age of the accused according to his record of service ~~attestation papers~~ is 37

6- The date of his ~~Commission~~ attestation specified in this records of service ~~attestation papers~~ is 25 Sep 41.

7- The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Not available.

8- The accused is entitled to deferred pay or gratuity in respect of Not available Service.

9- The accused is entitled to reckon Not available service for the purpose of determining his pension.

[signature]

10- The accused is in possession of or entitled to no military decoration or military reward ~~(or is in possession of or entitled to (state any military decoration or reward))~~.

11- (If ~~the accused is a warrant officer) The accused before~~ he was made a warrant officer last held the regimental rank of:

12- (If the accused is an officer) The accused holds in the army the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated _____.

13- The accused has served as a non-commissioned officer continuously without reduction, to the present date:

			Date of promotion.
In the rank of	"	years	
In the rank of	"	years	
In the rank of	"	years	

SCHEDULE

of Convictions by a court-martial or civil court of summary awards with election A.A. 47 and of cases in which trial has been dispensed

No. D-32603 Rank: PG Name DESARMEAUX, J.O. R. 22e.R.

(a verbatim extract from the regimetal books relating these convictions and dispensations with trial must beinserted).

not available

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of August 1943.

for Geo. Codrenth Captain,
Adjutant, Royal 22e Regiment.

A.F.B. 296

PARTICULARS AS TO CHARACTER AND PARTICULAR OF SERVICE OF THE ACCUSED

No. D 32603 Rank PTE. Name DESARMEAUX, J.B. R. 22e, R.

1- The following is a fair and true summary of the entries in the regimental and squadron, battery, or company conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court of Summary awards under Section 47 of the Army Act and of cases of which trial has been dispensed with:

	Within last 12 months	Since Enlistment.
For	Not available. times	times
For	times	times

Number of instances of gallantry or distinguished conduct: Nil

or

~~There are no entries on the conduct sheets of the accused.~~

2- The accused has not previously been convicted

or

Previous ~~convictions of the accused by a court-martial~~ a civil court summary awards under Section 47 of the Army Act and dispensations with trial under ~~A.A. 73~~ are set out in the ~~schedule annexed~~ to this statement.

3- The accused is not under sentence at the present time.

or

The accused at the present time is under sentence for Nil beginning on the Nil day of

4- The accused has been in confinement awaiting trial on the present charges for _____ days in civil custody and 16 days in military custody, making a total of 16 days in custody, of which _____ days were spent in hospital.

5- The present age of the accused according to his ~~attestation papers~~ record of service is 37

6- The date of his ~~commission~~ attestation specified in this ~~attestation papers~~ records of service is 22 Sep 41.

7- The service which the accused is allowed to reckon towards discharge or transfer to the reserve is Not available.

8- The accused is entitled to deferred pay or gratuity in respect of Not available Service.

9- The accused is entitled to reckon Not available service for the purpose of determining his pension.

[signature]

10- The accused is in possession of or entitled to no military decoration or military reward (~~or is in possession of or entitled to (state any military decoration or reward)~~).

11- (If the ~~accused is a warrant officer) The accus ed before he~~ was made a warrant officer last held the regimental rank of:

12- (If the accused is an officer) The accused holds in the arm y the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated _____.

13- The accused has served as a non-commissioned officer continuously without reduction, to the present date:

			Date of promotion.
In the rank of	"	years	
In the rank of	"	years	
In the rank of	"	years	

SCHEDULE

of Convictions by a court-martial or civil court of summary awards under Section A.A. 47 and of cases in which trial has been dispensed with of accused.

No. D-32603 Rank: Pte Name DESARMEAUX, J.O. R. 22e.R.

(a verbatim extract from the regimetal books relating these convictions and dispensations with trial must beinserted).

not available

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of August 1943.

for George Coderre Captain,
Adjutant, Royal 22e Regiment.

JJ-51
PTE DESAUTEL E.

JJ-51

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Fifth day of July, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Division Rear Details, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~[illegible]~~

~~[illegible]~~

~~[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

* Omit if not applicable.

Proceedings Invalid

Reviewing

4 Aug 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	W.W.Mair	#3 Cdn Inf Bde Sp GP (Sask LI)

Members.

Rank.	Name.	Regiment.
Captain	W.R. Moore.	West N.S.R.
Lieutenant	A.V. Robbins.	#3 Cdn Inf Bde Sp Gp (SLI) ~~Carit & Yorks Regt~~

*Signed (F.D.Adams) Lt-Col

Commanding 1 Cdn Div Rear Details

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-59745 Pte DESAUTEL Ernest 2 Canadian Infantry Brigade Support Group (Sask L.I.)	First Charge A.A. Sec 8(2)	not guilty	Guilty 90 dys. Detention 10 Jul 43	Confirmed F.D. Adams 18 July 43.
	(see Charge Sheet attached)		W Winston Meir Major	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— Yes - see written proceedings

(Signed) F.D. Adams (F.D.Adams)Lt-Col Commanding Cdn Div Rear Details Convening Officer (e)

(Signed) W Winston Meir Major 3-1B Sp Gp (SLI) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of July 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) WWM
*(4. ~~The officers under instruction~~) WWM

were duly sworn.

* Omit if not applicable.

Signed this 10 day of July 19 43

W Winston Meir Major
President of the Court Martial

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 782 M.M.L. 1929.

Signed this day of 19 .

WWM
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 18th day of July 19 43

F.D. Adams Lt-Col
Confirming Officer.
C.O. 1 Cdn Div Details

Promulgated and extracts taken in the case of B 59745 Pte Desautel, Ernest

(a) (Dated) 19 July 1943 (Signed) W.W. Winters Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

1

CHARGE SHEET

The accused B 59745 Pte. Ernest DESAUTEL No. 2 Cdn Inf Bde Support Group (Sask L.I.) a soldier of the Canadian Army Overseas is charged with WHILE on Active Service :

1st Charge
A.A. Sec. 8
(2)

USING INSUBORDINATE LANGUAGE TO A SUPERIOR OFFICER -----

in that he in the field on 30 JUN 43 after being warned by D 81282 Sgt. Scullion, T.E. to stop talking and to stop grinning on company orders parade said to Sgt. Scullion - "You had better be fucking sure before you accuse me"

In the Field
3 Jul 43

(R.B. Rankin) Major,
O.C. #2 C.I.B. Sp Gp.,
(Sask L.I.) Rear Party.

To be tried by Field General Court Martial

In the Field
5 Jul 43

(F.D.Adams)Lt-Col
Commanding
1 Cdn Div Rear Details.

Date. 6 July 1943

To:- A.A. Coy.

From:- M.O.

This is to certify that I have examined R:59745 Pt. Duvautel

and he is fit/~~unfit~~ to undergo F.G.C.M.

H Mendelson Capt.

Medical Officer.

Cpp a

A Winston Main Major

Squadron
Battery
Company
Detachment

Unit or Battalion

MORNING SICK REPORT

10 July 1943

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
B59745	Pte DESAUTELS, E	20	R.C.	Pris.	S	Fit for Const Martial	
						App B.	
						WWm.	

H. Mendelson Capt Medical Officer

Orderly N.C.O.

(OVER)

M. F. B. 292
2000M-10-40 (7393-4)
H.Q. 1772-39-248

Proceedings of Field General Court martial against
B-59745 Pte. Desautel, Ernest 2 C.I.B. Sp Bty. (S.L.I)
assembled on 6 July 43 at Netherdale Camp.

President - Major W.W. Mair, 3 C.I.B. Sp. Coy. (S.L.I)
member - Capt. W.R. Moore, W.N.S.R.
member - Lieut. A.V. Robbins, 3 C.I.B. Sp. Coy. (S.L.I)

The Court is assembled at 1015 hrs.

Question by President to accused:
Q. Are you willing to be tried by the members of this Court?
A. yes Sir:
The members of the Court are sworn. } K.R. Law § 62.
The President of the Court is sworn } M.M. p. 762
The charge is read to the accused and he acknowledges that he is the said person.
Q. Do you wish to plead guilty or not guilty to this charge?
A. "Guilty Sir"
Rule of Procedure 35 is read to the accused.
Q. Do you wish to change your plea?
A. yes Sir, not guilty Sir
The defence asks that the Court be adjourned awaiting further witnesses R.P. 39 (a) Since witnesses are on leave, the Court deems it necessary to adjourn until further notice
The Court is re-opened at 1000 hrs 10 July 43
The charge is read by the president.
The accused acknowledges that he is the person

mentioned in the charge.

The prosecution proceeds and declines to make an opening address:

First Witness - having been duly sworn states that I am D-81282 Sgt. Scullion, T.C. acting Company Sergeant major for Ack. Ack Coy 2 C.1.B. Sp. Gp. (S.L.1)

Q. Do you know the accused?

A. yes Sir.

Q. Do you recall 30 June 43?

A. yes, on the morning of 30 June 43, I was conducting Coy. commander's orders. Pte. Desantel and four other Pte. soldiers were being marched in by myself as they were on charge. As they were marching in the door I heard some talking. I warned the whole party to stop the talking. When their case was disposed of I marched the party out halted them, and gave them a talking to. I saw Pte Desantel with a grin on his face. I ordered him to get the grin off his face, and told him I thought he was one of the men who had been talking. He replied "you had better be fucking sure before you accuse me of anything", I warned him again and he repeated this statement adding "you can't prove fuck all". Sir.

Q. What was Pte. Desantels manner?

A. Insolent.

Whom

Questions by the Defence:

Q. Did you accuse Pte. Desantel of talking?

A. My statement was that he had been acting up over a period of time, and that if necessary I would take action against him.

Q. What do you mean by action against Pte. Desantel?

A. The action is exactly what I have done, placed him under close arrest.

Q. I wish you would explain to ~~to~~ me what you mean by "not acting up"?

A. He was grinning, talking, that constitutes acting up.

Q. Did you tell Pte. Desantel he was getting too big for his ~~xx~~ boots, and that if he thought he was too big to be handled you would take action?

A. The action I have already taken.

Second Witness having been duly sworn states that I am L1611 Sgt. Whitmore, W.J. Sgt in 2 C.I.B. Sp. Cap. (S.L.I)

Q. Do you recall 30 June 43.?

A. yes Sir.

Q. Where you present 30 June 43. when Sgt. Scullion marched out Coy. orders parade?

A. I was standing outside Coy. office.

Q. Will you tell the court of what occured between the accused and Sgt. Scullion on that day?

A. While standing there, Sgt Scullion marched Coy orders parade out and hatted them, he warned them not to be funny, and that he had [illegible]

heard talking when marching them in and also when coming out. Pte. Desautel had a smile on his face and Sgt. Scullion ordered him to remove it. Instead of removing the smile he broadened it. After breaking the party off, Pte. Desautel told Sgt. Scullion that he wasn't one of them who had been talking.

Can you remember Pte. Desautels words?

A. You had better be fucking well careful who you accuse or words to that effect.

Q. What was the accused manner?

A. Insubordinate, shouting with a high voice.

Questions by the Defence:

Q. Where were you when the incident occurred?

A. Standing off to the right of the party, about 5 or 6 feet away.

Q. How far from the accused where you?

A. About 15 or 20 feet.

Q. Were you facing the accused?

A. He was at a half angle to me.

Q. You say the grin broadened, how can you tell if you weren't facing the accused?

A. I was at a angle to him and could see his face.

Q. When did he make the statement?

A. After he had been broken off.

Q. Did you hear Pte. Desautel use the expression you had better be fucking sure before you accuse me?

A. yes sir.
Q. Did he use the statement you had better be carpul more as less giving a warning?
A. He used words to the effect, and in a insubordinate manner.
Q. Did he make the statement with a smile on his face?
A. I couldn't say whether he had a smile on when he made the statement.

Questions by the Court:
Q. How long have you been in the army?
A. Since October 1939 sir.
Q. How long have you been an N.C.O.?
A. about 18 months sir.
Q. you are then thoroughly informed as to a insubordinate manner?
A ~~sir~~ yes sir.

Third witness. having been duly sworn states that I am B-51913 L/Sgt. Clarke, C.E. A.A. Coy 2 C.I.B. 4p.af. (D.L.I)
Q. Do you know Pte. Desantel?
A. yes sir.
Q. On the 30 June 43 where you present outside Coy office?
A. yes sir.
Q. Did you hear the accused use insubordinate language?
A. He said you can't fucking well prove it. (Witness

Q. What where his mannerisms?
A. He used a loud tone of voice, challenging Sgt Scullion?
Q. How far away where you?
A. about 20 yards.
Q. anything more about his manner?
A. I heard Sgt Scullion warn the accused, and the accused make his statement, Sgt Scullion told him to keep quiet, but he kept on arguing.
Q. Pte Desantel was smiling before as after he was broken off?
A. Before Sir, after first warning Pte. Desantel had a larger smile?

Questions by Defence.
Q. How far away where you?
A. about 15 yards.
Q. When did Sgt Scullion warn Pte. Desantel before as after they where broken off?
A. Before, he had warned them when he was bringing out Coy. orders.

Questions by Prosecution
Q. When Sgt. Scullion was warning Pte. Desantel did you hear him use any improper language?
A. no Sir.

Questions by Court.
Q. When you heard Sgt. Scullion warning accused to stop smiling, give us the words as closely as possible to what he said?
A. I dont remember exact words.
Q. Did Sgt Scullion say anything unusual, for instance threaten the accused?

A. He didn't threaten.

Q. Did he use normal language?

A. yes Sir.

Q. Did you hear the statement you are getting too big for your boots, and I will take steps to change it, what did Sgt Scullion mean by the steps taken?

A. It is obvious he meant what he has already done.

The Court asks if the accused wishes to make a statement on oath or otherwise (R.P.) also if the defence wishes to bring witnesses of character or relating to the charge.

The accused having been duly sworn states that I am B. 59745 Pte. Desautel, Ernest. 2 C.I.B. Sp. Gp (S.L.I).

Q. Where you one of the men accused of talking?

A. yes.

Q. Where you one of those talking?

A. No Sir.

Q. At the time of the incident did you say to Sgt. Scullion "You had better be fucking sure before you accuse me."

A. No Sir.

Questions by Prosecution

Q. You where not talking on parade and you didn't use the term fucking in the Conversation?

A. No Sir.

Q. When you came out of the Coy. office where you smiling?

A yes Sir.

Q. Did Sgt Scullion tell you to wipe it off? Warm

A. yes Sir.

Q. Did you?

A. yes Sir.

Questions by the Court:

Q. What Conversation did Sgt. Scullion carry on?

A. He had accused me of talking on the parade, I told him I had not been talking, and that he had better not accuse ~~him~~ me.

Q What did you say to Sgt. Scullion?

A. That he had better be sure who he was accusing.

Q. Did you use fucking?

A. No Sir.

Q. you know that you can't use insubordinate language to a N. C. O., and that you can't talk back to a N. C. O. you understand if you have a grievance that you take it to your officer, and put your complaint before him?

A. yes Sir.

Fourth Witness having been duly sworn states I am B-53297 Pte. Pelletier 2 C. I. B. Sp. Gp. (S.L.I)

Q. you know Pte. Desantel?

A. yes Sir.

Q. ~~Do~~ Tell the Court what happened on 30 June 43 at Cay orders?

A. Sgt Scullion had accused Pte. Desantel of talking and he told him he had better be sure who he was accusing, he didn't use the term fucking.

Wilson

Questions by Prosecution:
Q. you where on Coy. orders parade on 30 June 43?
A. yes. I was an accused.
Q. you said you didn't hear the term fucking used?
A. yes sir.
Q. Did you hear Sgt Scullion warn Pte Desantel not to talk?
A. yes sir.
Q. What words did he use?
A. He asked the Sgt. a question. Have you proof that I was talking and went on to say Don't accuse me unless you have proof.
Q. Did Pte. Desantel make these remarks on parade?
A. He was still on parade.
Q. Had the Coy. orders parade been broken off?
A. Im not certain.
Q. Did you hear the term fucking used?
A. no sir.
Q. When the parade was marched out, did you hear talking between Sgt. Scullion and the accused. What did he say?
A. When he was accused of talking, he said have you proof it was me that was talking.
Questions by the Court:
Q. How long have you known Pte. Desantel?
A. 2 months.
Q. you tried not to hear the conversation?
A. I didn't want to stick my neck, as it wasn't any of my business.
Q. I suggest you aint telling the truth?

Q. I am telling the truth.
Q. How far away was the C.S.M.?
A. about 2 feet.
Q. Did you or did you not hear anything that was said?
A. no sir.
Q. So it possible that you may have heard the word fucking used?
A. yes sir.

Defts Witness having been duly sworn states I am
K-52672 Pte. Hand 2 C.I.B. Sp. Sp. (S.L.I)

Q. Do you know the accused?
A. yes sir.
Q. Tell the Court what you know about 30 June 43?
A. I didn't get all of the conversation, Pte. Desautel was accused of talking on parade, I didn't know anyone was talking. Sgt. Scullion and Pte. Desautel seemed to be having an argument. I didn't hear the term fucking used.

Questions by the Prosecution:
Q. you heard the conversation.
A. yes sir.
Q. they appeared to be arguing?
A. yes sir.
Q. who accused who of talking?
A. Sgt. Scullion accused Pte. Desautel.
Q. what makes you think there was an argument going on at the time?
A. Sgt Scullion told Pte. Desautel to get the grin off his face.

that doesn't constitute an argument.

Q. what did the accused say?

A. asked if Sgt. Scullion could prove anything.

Q. Had the parade been broaken off?

A. He was not talking in the ranks.

Q. He was arguing with Sgt. Scullion?

A. yes sir.

Q. Was the accused speaking loudly?

A yes sir.

Q. Why were they speaking loudly?

A. Because of the noise outside

Q. you say there was an argument going on, yet you can't remember anything?

A yes sir.

Sixth Witness having been duly sworn states that I am B-75255 Pte Ogilvie 2 C. I. B. Sp. Sp. (S. L. I)

Q. Do you know Pte. Desautel?

A. yes sir.

Q. Will you tell the Court the conversation between Sgt. Scullion and Pte Desautel on 30 June 43?

A. I heard Sgt. Scullion tell Pte. Desautel to keep quiet he said he wasn't talking, I didn't hear anything ogtes that, sir.

Q can you remember anything else?

A. He told Pte. Desautel to get the smile off his face. then I stepped off from Coy. orders, I think he could take smile off his face or he would get him on charge.

Summary for the Defence:

1st Point: the accused Pte. Desantel was accused by Sgt Scullion of talking when coming out of Coy. orders parade, the whole ensuing conversations where based on that fact. The conversations which results where due to this accusation.

2nd Point: Sgt. Scullion apparently told the accused if he didn't take the smile off his face that he would take steps, also that he was getting too big for his boots, the accused took this as a direct threat by an N.C.O. and he didn't know what was meant.

3rd Point: there seems to be some question about "you had beetle be fucking sure before you accuse me. The point of the word fucking being used is denied by the accused and his witnesses.

Summary for the Prosecution:

I have brought forward three senior N.C.O's to prove the substance of the charge. The intimation that Sgt Scullion was ready to fight the accused is nonsense.

The Court closes to consider finding.

The Court reopens and Prosecuting Officer is sworn & presents MFM 6 and MFB 355 of accused.

Defence makes no plea.

Court closes to consider sentence. [illegible] Winston Maier Major

SUMMARY OF EVIDENCE IN THE CASE OF: B-59745 Pte. Desautel, E.

(2 Cdn Inf Bde Sp Gp 1 Cdn Div Support Bn a soldier in the Cdn. Army Overseas).

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

D-81282 Sjt. Scullion, T.E. A.A. Coy. 2 Cdn. Inf. Bde. Sp. Gp. having been duly sworn states:

I am and was at all times, material hereto, Sjt. A.A. Coy. 2 C.I.B. Sp. Gp. and acting C.S.M. of the Coy.

On morning of 30, June, 43. I was conducting Coy. Commander's Orders. Pte Desautel and four other Ptes soldiers were being marched in by myself as they were on a charge. As they were marching in the door I heard some talking. I warned the whole party to stop the talking. As I was marching the party out after disposal of the cases by the Coy. Commander, I again heard talking. I halted the party and gave the whole party a talking to. As I was talking I looked at Pte. Desautel and saw that he had a grin on his face. I told him to get the grin off his face and not to try " acting up". The next thing I said to Desautel was, "you were one of the men talking when marching out." Pte. Desautel the replied,"you had better be fucking sure before you accuse me". I then warned Desautel to stop talking as he was only laying himself open to a charge. He again said,"you had better be fucking sure before you accuse me", and adding, because you cannot prove fuck all".

I then placed Desautel under close arrest and warned him that I was placing a charge of insubordination against him.

T.E. Scullion Sgt

The accused declines to cross examine the witness.

SECOND WITNESS

L-1611 Sjt. Whitmore, W.J. A.A. Coy. 2 Cdn Inf Bde Sp Gp having been duly sworn states:

I am and was at all times, material hereto, Sjt. A.A. Coy. 2 C.I.B. Sp. Gp.

On 30 June, 43 I was a witness on Coy Office parade. I was standing outside the door of Coy. Office. when Sjt. Scullion marched the parade out. As they came out I heard Sjt. Scullion warn them NOT to be funny, that he had heard talking marching in and that he had warned them and then had heard talking marching out. Pte. Desautel had a grin on his face. Sjt. Scullion warned him to take the grin off. Desautel did not do so. The Coy. Office parade was broken off. Sjt. Scullion told Pte. Desautel not to be funny, that it was NOT the place to act up. Pte. Desautel replied,"you cannot fucking well prove it and you had better be careful when you accuse me of doing anything" or words to that effect said in an insolent tone.

W.J. Whitmore Sjt.

The accused declines to cross examine the witness.

THIRD WITNESS

B-71913 L/Sjt. Clarke, C.E. A.A.Coy. 2 Cdn. Inf. Bde. Sp. Gp. having been duly sworn states:

I am and was at all times, material hereto, a L/Sjt. A.A.Coy. 2 C.I.B. Sp. Gp..

At approximately 1330 hrs. 30 June, 43 I was standing outside Coy. Office when Sjt. Scullion was conducting Coy, Office Parade. I heard Sjt. Scullion tell Pte Desautel in a loud voice to wipe the smile off his face. I took a quick glance at Pte. Desautel and he was still smiling.

Sjt. Scullion then dismissed Sjt. Walker from the parade and kept the parade marking time. He then dismissed the parade.

Pte. Desautel started arguing with Sjt. Scullion and in a loud voice said,"you cannot fucking well prove it", or words to that effect. Sjt Scullion then immediately placed him under close arrest.

C E Clarke T/Sgt.

The accused declines to cross examine the witness.

After being duly cautioned in accordance with Rule of Procedure 4(E) the accused made the following statement.

When we came out of the Coy. Office I had a smile on my face. Sjt. Scullion told me to wipe it off. He then accused me of talking,coming out,to the man in front of me and said I was getting too big for my boots and if I thought I was getting too big for him he could fix me up himself. I said not to accuse me of talking coming out and NOT to threaten me. Pte. Pelletier was on this parade and heard Sjt. Scullion threaten me and accuse me of talking.

Certified that Rule of Procedure 4 (C)(D)(E) and (F) have been complied with.

Taken down by me in the presence and hearing of the accused this third day of July 1943.

.....
(L.F. McRobie,) Capt.

W Dunstan Maier Major

No. B/9743 Name Desautel, E. Sqn., Battery, or Company — Corps: Sault Ste Marie & Sudbury Regt — Date of enlistment: 29-7-41 — G.C. Badges — Service or Proficiency Pay — Character: Good

Date of last entry in Company Conduct Sheet: 10-7-42 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature O.C. Company, etc.: T.T. Capt.

M.F.M. 5 (A.F.B. 122) (ITM—7-41) (255-39) H.Q. 1772-39-1052

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with (trial)	By whom awarded	Remarks
				Sheet No. 1 destroyed 30-8-42					forfeits 7 days pay - E.E.F.
Nfld. Esq.	31-Aug-41	Pte		AWL. 2200 hrs. 31-10-41 to 0745 hrs. 7-11-41	Lt. P.W. King	160 hrs	7-11-41	Maj. Howard	
				(6 days 4 hrs 45 mins) Close arrest	Pte. Ed. McGrath	detn.			forfeits 2 days
Camp Niagara	30-Nov-41	Pte		AWL. 1200 hrs 30-7-42 to 1401 hrs	Lt. V. Courtis	3 days C.B.	1-4-42	Lt. Col. Hardy	Pay Ftd 6-4-42
				2-7-42 C/Day 2 hrs 5 mins Spec arrest	Lt. V.C. Courtis				
Camp Borden	21-6-42	Pte		AWL 0600 hrs 16-6-42 to 2225 hrs 21-6-42	Cpl. R.E.S.	21 days	24-6-42	Lt. Col. H.A.R.	forfeits 9 days
				Absence 10 days 16 hrs 25 mins Close Arrest	Lt. J. Buscombe	detention			P.F.T. and forf
					(documentary)				pay Thomas
								A.P.M.	
								Lt. Col.	remitted 9 days
Camp Borden	27-7-42	L/Cpl		Absence from 2400 hrs 22-7-42 until	Cpl. Hart (D.R.C.)	28 days	23-7-42	Deputy Sec.	forfeits and stoppages
				apprehended at Sault St. Marie at	Pte. Cook M. Pyke	detention			237.22
				1043 hrs 23-7-42	Miles. (Sec.)				
				AWL Leave 22-7-42 to 8-8-42 from 2200	C.S.M. Wade	10 days F.P.	10 June 42	Lt. de Faye	1 day pay
Field	7-6-43	Pte		hrs 8-6-42 to 1600 hrs 7 June 43	237 M. Murphy	30 days Pay		Major	F.E.F. (1981)
				(20 days)		F.E.F. 1497 (1)(a)			

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12-6-43	Pte.		Did use disrespectful language to a superior officer. AH sec 40.	Cpl. Irwin. Sgt. Scullion	21 days F.P. 14 days Pan. F.L. & L. 149 (4)(b)	14-6-43	R. Rankin	Major

Appr. E.

J. Winston Mair Major

Certified true copy

R. Rankin Major

Officer in custody of documents of 2 C.I.B. Gp. Gp.

M.F.B. 355
23M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 59745	Pte.	Ernest DESAUTEL	#2 C.I.B. Sp. Gp. (Sask L.I.)

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15 (2)	2	times	A.A. Sec 15 (1) 5	times
For A.A. Sec 40	1	times	A.A. Sec 40 1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ beginning on the ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in ~~Air Force~~ civil custody, and 10 days in military custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20

6. The date of his ~~commission~~ specified in his ~~record of service~~ attestation paper is 29 Sept 41

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~or is in possession of or entitled to~~. State any air force decoration or military reward. none

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the~~ Air Force regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/ A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

The above are a true extract of the Group documents in my charge
R Rankin major

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B 59745 Rank Pte.

Name Desautel ~~Xxxxx~~ E. of #2 Cdn Inf Bde Sp Gp (SLI) Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

SEE ATTACHED CERTIFIED TRUE COPY OF M.F.M.6

app "D"

Wh[illegible] major

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of JULY 1943 R Rankin major
Officer in Custody of documents 2C18 Sp Gp

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Dear

LIST OF WITNESSES

D 81282	Sgt. Scullion, T.E.	2 C.I.B. Sp Op (SLI)
L 1611	Sgt. Whitmore, W.J.	do
B 51913	L/Sgt. Clarke, C.E.	do

Appd
W Whitmore Major

I, B59745 Pte. Desautel, E. wish to have Captain R F Dafoe to defend me in the forthcoming Court Martial.

E Desautel

B 59745 Pte. Desautel, E.

555-120

PTE DESBIENS G

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E5210 Pte Gerard DESBIENS - 6 CIRU - CIC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for ..... beginning on (date)~~ C.H.C. C.H.C.

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for two years.

(Sgd) ..... 21 July 1944 (Sgd) "C. H. Cook, Major"

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

~~Date ..... (Sgd) ..... Commanding .....~~ G.H.G

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding of the Court but commute the sentence to read: "To undergo detention for two years" and I confirm the sentence as is commuted".

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) G.H.G

(1. AA 57A. Delete if not used.)

Date 24 Jul 44 (Sgd) "G S N Gostling"
(G S N Gostling) Brig
Commanding "A" Gp Cdn Rft Units C A (O)
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E 4210 Pte DESBIENS Gerard		Promulgated on Unit Parade "L.G.A.Barette" Capt.
6 C.I.R.U. - C.I.C.	26 Jul 44	Adjt. 6 Cdn Inf Rft Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Received 4 Aug 1944 JAG Branch CMHQ

RECORDED AT CMHQ IN AB 160. SSS-120

FIELD GENERAL COURT-MARTIAL

CFABS (To Reg of APA2) 40/P & R/16HR (40/6) 4/38B

Convened by Order of Brig GSN Gostling, ED Comd "A" GP CRU dated 19 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E5210	Pte			DESBIENS	6 CIRU CIC

"PROCEEDINGS REVIEWED"
"J.R.MIQUELON CAPT" 4 AUG 44
"JCAC"
REVIEWING OFFICER JAG BRANCH C.M.H.Q.

Certified true copy of original proceedings herein. 23 Mar 45
W.W. Hunter Capt.
J.A.G. Branch CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) C.H.C. 21 July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for accts and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet C.H.C. attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is C.H.C. amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) C.H.C. brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) C.H.C. fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ C.H.C. C.H.C.

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 562(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans ..... C.H.C.~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ..... C.H.C.~~
~~The shorthand writer is sworn.(1)~~ C.H.C.

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	C H COOK	6 CIRU
Member	Capt	J. M. RICHARD	6 CIRU
Member	Lt.	Y. R. PORTIER	6 CIRU
~~Judge Advocate~~			C.H.C.
Prosecutor	Lieut.	R. SAVOIE	6 CIRU
Defending Offr	Lieut.	E. JETTE	6 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans. No. Is the Defending Offr a lawyer? Ans. No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 2.)

A8. The accused E5210 Pte DESBIENS, G. before arraignment make(s) (no) (a) C.H.C. plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 12(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references as to fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) C.H.C. arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) C.H.C. not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 67; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ C.H.C. considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 37(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 fn 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 75(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any pleas standing as Guilty, Court will advise accused to change such pleas and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (1)
(1. *If "yes", see RP* 39(A) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~ ——
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes, in the form of statement on oath. Do you intend to call witnesses on your behalf ? Ans No. ~~Are they witnesses as to character only ? Ans~~ .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *frs* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA* 54(2) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. *AFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes, in mitigation of punishment. (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *Where several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see, AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No E-5210, Private Gerard DESBIENS, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15(1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, did absent himself without leave from 1500 hours on the 5th day of February, 1944, until 0930 hours on the 27th day of May, 1944.

(Total absence: 111 days, 18 hours, 30 minutes).

"W. E. Morgan"
(W. E. MORGAN), Col.
Commander
6 Cdn Inf Rft Unit

In the Field
18th Jul 44.

To be tried by Field General Court Martial.

"G S N Gostling"
(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
19 Jul 44

C.H.C.

FIELD GENERAL COURT-MARTIAL

CFA 95 (To Sec of AFA3)
40/FAS/1897 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E5210	Pte		Gerard	DESBIENS	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Jul 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~).
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	C H COOK	6 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	
Lt	to be detailed by OC 6 CIRU	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU	

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 19 Jul 44

"G S N Gostling." (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G S N Gostling)
Commanding "A" GP Cdn Rft Units C A (O)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

C.H.C.

Medical Offr's Certificate
K R (Can) para 557.

I certify that I have this morning examined No: E5210 Pte
DESBIENS G of 6 C.I.H.U. and in my opinion he is fit to
undergo trial by Court Martial.

C.H.C.

Station

Date July-21-1944

Sgd "S. Ostiorsky Capt"
(Medical Offr)

1st Witness for the Prosecution

A/Capt. C. Major, 2 i/c "C" Coy, No. 6 C.I.R.U., sworn, states:

"I am A/Capt. C. Major, 2 i/c "C" Coy, No. 6 C.I.R.U.

Question by Prosecutor:

"Will you present to the court these certified true copies of the Court of Inquiry and extract from Pt II Orders dated 5 Jun 44 relating to the absence of the accused?"

A/Capt Major presents the documents for inspection by the Defending Officer. The documents are accepted by the Court and marked Exhibits A and B respectively.

Cross-exam. - None.

R.P. 83(b) complied with.

D-6 Statement by the accused:

E-5210 Pte. Desbiens, G., C.I.C., No. 6 C.I.R.U., sworn, states:

"I am E.5210 Pte. Desbiens, G., No. 6 C.I.R.U. I am not guilty because I think the army is more guilty than I am and I don't want to do any more with the army. I asked for a chance; they refused me. Now I am going to do the way I like. I don't care what will happen. I will never be a good soldier again.

Questions by Defending Officer:

Q.1. Pte. Desbiens, how long have you been in England?

A.1. I was here 10 June 1940.

Q.2. Since that time what kind of work have you been doing?

A.2. When I first came over I was in H.Q. of the Holding Unit. I was supposed to be a driver but they never put me on a lorry. They sent me to my regiment. I used to be an infantry soldier. I asked to go on a course and they refused me. I have always been in the regiment except for four months on Q. 2 Detachment at C.M.H.Q. I was sent back to my regiment and I have been about one and one half years before I went A.W.L. After detention they sent me to No. 6 C.I.R.U. In detention they promised me a transfer to the Ordnance Corps with trades pay. When I got back to the R.U. they refused my transfer. I asked for a leave which was refused. The O.C. told me I had some cheek to ask for leave. He told the R.S.M. to put me on the first draft to my unit. One or two days after I asked for a 48 hour pass which was refused and then I asked for a 24 hour pass which they also refused me. On Saturday morning they told me to get ready to go on draft at F Coy. I had good reason to want a 24 hour pass because where I wanted to go was far away. When I saw they didn't want to give me any leaves when I came out of detention and I was ready to be a good soldier and they didn't want to give me a chance so I was ready to take my own chance.

Question by the Court

Q.1. Where were you at the beginning of June, 1943?

A.1. I was in the regimental guard room in Scotland waiting to go into detention.

Cross-exam: None.

R.P. 83(b) complied with.

E3. Address in mitigation of punishment by defending officer:

"I have only a few words to say. When a man joins the army only one thing remains to him and that is his body. His heart does not count any more. Many times I have seen men go to detention and worse punishment for mere little crimes, if one can call them crimes. What can remain to that man if not the body alone, because his mind has gone straight out and this is exactly what happened to this man. Since 1940 he has been in England and before his last offence he had only two crimes but as I said before his heart is gone and he does not care what happens. Should we say that he is a criminal? No! Because in most cases the superior officers are responsible for these men acting in that improper way. I therefore ask the court to show the utmost leniency towards the accused."

R.P. 83(b) complied with.

Original sent to OIC Records 19 Mar 44. Ex."A". "CHC" EX "A" "???"

RECORD of the Declaration of a Court of Inquiry assembled at Algonquin Camp, Witley, Surrey. on the 17th day of March, 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No.E.5210. Pte. Desbiens, G. R. 22e R.

DECLARATION

The Court declare, that No. 5210, Pte. Desbiens, G. R. 22e R. No. 6 Canadian Infantry Reinforcement Unit illegally absented himself without leave from 1500 hrs. the 5th day of February 1944, that he is still so absent and that on 17th day of March, 44, he was deficient and that he is still deficient of the articles mentioned in the evidence to the amount of £4.6.3.

Articles	Voc. Price	Appr. Value
1 pair Anklets	$0.99	$0.74¼
1 badge cap	.09	.06¾
1 blouse serge	5.25	3.93¾
1 trousers serge	5.39	4.04¼
1 boots ankle	5.46	4.09½
1 pair braces	.28	.21
1 brush clothes	.48	.36
1 Cap Field Service	.56	.42
1 pair gloves	.47	.35¼
1 hold-all	.19	.14¼
1 Knife clasp	.86	.64½
1 vest Woollen	1.20	.90
1 vest Gym	.36	.27
1 water bottle	.82	.61½
1 carrier W/B	.37	.27¾
1 sheet Ground	2.94	2.20½
	$25.71	$19.28¼

or
£4-6-3.

Names of President and Members:

President: Capt. J. R. A. Beullac, Fus. M.R.
Members: " Lieut. R. Audette, R. de C.
" Lieut. J. R. Laporte. C.I.C.

Signature of Commanding Officer (sgd) W.E.Morgan Colonel.

Certified true copy "L.G.A. Barette" Capt.
Adjut. 6 Cdn Inf Rft Unit.
Signature of Officer having custody
of original record.

Ex. B. C.H.C. EX."B" "???"

LAST ORDER NO 132 4 Jun 44

6 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDER PART II
Issued by
COLONEL W.E. MORGAN.O.B.E.,M.C., COMMANDER

THIS ORDER NO 133 5 Jun 44

SECTION "B" OTHER RANKS

9 STRENGTH INCREASE (CONTINUED)

9-D T.O.S. from Des w.e.f.0930 hrs 27 May 44 and remains in Civil Custody Posted to "A" Coy.

B-8210 Pte Desbiens G.J.P. (R 22e R)

Signed: R. Laverdure
(R. Laverdure) Captain
for Adjutant
6 Cdn Inf Rft Unit

Certified true copy dated: 18 July 44

"L.G.A. Barette"
(L.G.A. BARETTE), Capt
Adjutant
6 Cdn Inf Rft Unit

In the Field
18 Jul 44.

Ex. "C" C.H.C.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-5210	Private	Gerard DESBIENS	Canadian Infantry Corps

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, punishments being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

	Within last 12 months	Since Enlistment
For		times.
For A.A. 15(1) AWL	Nil	1 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet

Date of last entry in Field Conduct Sheet

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is not under sentence ~~or beginning on the day of~~

4. The accused has been awaiting trial on the present charges for 1 days in civil custody; and for 21 days in military custody, *i.e.*, days in open arrest, 21 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 24 yrs old

6. The date of his attestation ~~XXXXXXXXXXXXXXXXXX~~ is 24 Feb 40

7. The service which the accused is allowed to reckon is 2 yrs 285 dys.

†State the military decorations (if any) held by accused.

8. The accused is in possession of†

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(11116) W.L.8070/668 100,000 4-42 A.& E.W.Ltd. Gp.498
(25497) W.L.21626/1878 60,000 5-42 " " Forms.B.296/Wa(h)2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
?.G.C.M.	Field 3 Jun 43	AA 15(1) AWL 155 dys 12 hrs 15 Mi	18 months Detention. Remitted 6 months. Stop £7.4.11½	122 dys
Civil Court	Field May 44	Civil offence (theft)	1 month Impt H.L.	2 dys.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 18th day of July 44

"?????????" Lt.
Officer having custody of original documents
-ass-adj.

COMPILED FROM MFM 4 ORIGINAL DOCUMENT NOT AVAILABLE CHC EX. D

MFM 6

No D5210 Name Pte Desbiens (Regt, Battery, or Company) Corps Cdn Inf Corps Date of enlistment 24 Feb 40 Badges n/a Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet n/a No and date of last drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No 1 Signature OC Company, etc D.H.Vermette Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 aug 42	Pte		A.A.15(1)AWL more than 6 hrs	documentary	Admonished	20 aug 42	DO-41/42	Forf 1 day pay for AWL
Field	5 dec 42	Pte		AA.15(1)AWL fr 2200 hrs 5 dec 42 till 1015 hrs 10 may 43 thereby incurring expenses for his return to his unit to the amount of £n/a. AA.24(2) losing by neglect his kit to the amount of £7.4.11½	Documentary	18 months Detn 3 Jun 43 6 months Remitted Rel 2 feb 44 Remission 122 dys. Stop: £7.4.11½	F.G.C.M.		Forf 156 dys pay for AWL & 26 dys pay for time in arrest
Field	May 44	Pte		Civil offence (theft)	documentary	1 month Impt HL 29 May 44 Rel 28 Jun 44 Remission 2 dys	Civil Court		Forf 2 dys pay for time in arrest.

Certified true copy consisting of one page dated; 21 July 44

"????????" Lt.

Officer having custody of original documents.

(FTO)

SUMMARY OF EVIDENCE C.M.C.

In the case of No E-5210, Private Gerard DESBIENS, Cdn Inf Corps, on the strength of No. 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

First Witness for the Prosecution — Capt C. Major, Cdn Inf Corps, on the strength of No 6 CIRU., having been duly sworn, states as follows:

I hereby produce the following documents relating to the accused No E-5210, Pte Desbiens G.:

(a/ Record of the declaration of the Court of Inquiry purporting to be signed by the Adjutant of No 6 CIRU. This document is marked Exhibit "A" and is attached to the Summary of Evidence.

(b/ Certified true copy of Daily Part II Order No 133 d/5 jun 44 (6 CIRU) purporting to be signed by the adjutant of No 6 CIRU. This document is marked Exhibit "B" and is attached to the Summary of Evidence.

The accused declines to cross-examine this Witness

"C.Major" A/Capt.

The accused was then cautioned in French as follows: "Do you wish to make a statement or to give evidence on Oath? You are not oblized to say anything or to give any statement unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been duly complied with.

"??????????????" Lt.
Officer detailed to take the Summary of Evidence.

In the Field
18th Jul 44.

OFFICERS UNDER INSTRUCTION:

Capt. C. Major — No. 6 C.I.R.U.

Lieut. J. V. Aeland — No. 6 C.I.R.U.

C.H.C.

CERTIFICATE, in the case of E.5210 Pte. Gerard Desbiens.

Capt. C. Major, appointed Waiting Member, reported and was dismissed as such.

"C.H.Cook" Major.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge(s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

Lt. Jette CIC 6 CIRU.

if he is available.

"G. Desbiens"

In the Field
19 day of July 1944.
0800 hrs.

C.H.C.

LIST OF EXHIBITS

In the case of No E-5210, Private Gerard DESBIENS, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A": Record of the declaration of the Court of Inquiry.
Exhibit "B": Certified true copy of Daily Part II Order (6CIRU)

C.H.C.

In the Field
18th Jul 44.

LIST OF WITNESSES

In the case of No E-5210, Private Gerard DESBIENS, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

Capt C. Major, Cdn Inf Corps, on the strength of No 6 CIRU.

Defence

Nil

C.H.C.

In the Field
18th Jul 44.

261/271 b Ph. Desbiens, G. et al.

Exhibit A

R.J. Dufresne Maj. Pres.

Correspondence to be PINNED here.

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Thirteenth day of July, 19 41

Whereas it appears to me, the undersigned, an officer in Command of 2nd Canadian Division, Canadian Army (Active), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

~~*I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~*(3. Three Officers having more than one year's service.)~~

~~for the following reasons, namely:—~~

IN MY OPINION MILITARY EXIGENCIES, NAMELY DISPERSION OF UNITS, DIFFICULTIES OF COMMUNICATION, AND OTHER DIFFICULTIES RENDER IT INEXPEDIENT TO FOLLOW THOSE RULES OF PROCEDURE INCONSISTENT WITH APPENDIX "A" TO D.R.O. 772 ON THE TRIAL OF THE ACCUSED PERSONS NAMED IN THE SCHEDULE HERETO BY A FIELD GENERAL COURT MARTIAL, ASSEMBLED PURSUANT TO THE ORDER OF THE G.O.C. 2 CDN DIV.

Lieut. J.R.A. Beullac is hereby appointed Judge Advocate

President.

Rank.	Name.	Regiment.
MAJOR	R.J. DUFRESNE	2 CDN. DIV. ~~ASC.~~ Petrol COY.

Members.

Rank.	Name.	Regiment.
MAJOR	G.L. LALONDE	R. de MAIS.
CAPT.	C.P. HEBERT	H.Q. 2 CDN. DIV.
	Waiting Member	
LIEUT.	A.J. LEPIEZ	FUS. M.R.

*Signed Victor W. Odlum Major-General

(Victor W. Odlum)

Commanding 2 Cdn. Div.

Convening Officer.

* Omit where Convening Officer is a Commanding Officer or Chief Field Officer.

* Omit if not applicable.

* Must be signed personally by the Officer actually in command at the time, and all alterations in [illegible]

PROCEEDINGS REVIEWED

Reviewing Officer (Pres.) Comdg.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (*a*)):—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*):—

(*Signed*) ..... (*Signed*) R. J. Duffume Maj.

Commanding ....

Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

PLEA	FINDING	SENTENCE	How Dealt With By Confirming Officer
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	56 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	42 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	56 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	28 Days Det.	Confirmed b.w.o
Guilty Guilty	Guilty Not Guilty	56 Days Det.	Confirmed b.w.o

R. J. Dufresne Major

President

[illegible] Lieut
Judge Advocate

NO. RANK, NAME AND UNIT OF ACCUSED	OFFENCE CHARGED
(1) E15268, Pte(L/Cpl) Desbiens, G.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(2)E29411, Pte. Caron, M.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(3)E15259, Pte. Deschenes, J. E.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(4)E17020, Pte. Lessard, E.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(5)E15294, Pte. Prevost, J.A.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
~~(6)E15125, Pte. Simard, C.~~ R.J. E17011 Pte. Gauthier M.	1st Charge, 1st Charge 2nd Charge 2nd Charge 3rd Charge. ~~3rd Charge~~ D (See charge sheet attached)
(7)E15241, Pte. Blanchet, G.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(8)E15281, Pte. Chamard, L.J.R. R.J.G.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(9)E15164, Pte. Dionne, G.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(10)E15239, Pte. Latulippe, L. P.	1st Charge 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)
(11)E15307, Pte. Couillard, G.	1st Charge, 2nd Charge ~~3rd Charge~~ D (See charge sheet attached)

of the 18th Cdn Fd. Amb., all soldiers of the Canadian Army (Active)

Victor W. Odlum Major-General
(Victor W. Odlum)
Commanding 2 Cdn Div.

CHARGE SHEET

2

E-I5268 Pte. (1/cpl.) Desbiens, G.
E-2941I Pte. Caron, M.
E- I5259 Pte. Deschesnes, J.E.
E- I70II Pte. Gauthier, M.
E- I7020 Pte. Lessard, E.
E- I5234 Pte. Prevost, J.A.
E- I524I Pte. Blanchet, G.
E- I5164 Pte. Dionne, G.
E- I5239 Pte. Latulippe, L.P.
E- I5307 Pte. Couillard, G.
E- I528I Pte. Chamard, L.R.J.
all of the I8 Cdn. Fd. Ambulance, R.C.A.M.C. all soldiers of Canadian Army (Active) are charged with: (severally)

FIRST CHARGE — CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE
A.A. Sec. 40

in that he
at Normanhurst Court, Battle, Sussex on 8 July 4I did wilfully and wrongfully not comply with Regimental Order No. I20, respecting parade at I400 hours 8 July 4I and did wrongfully stay away from said parade

SECOND CHARGE
(ALTERNATIVE)
A.A. I5(I) — ABSENTING HIMSELF WITHOUT LEAVE

in that he
at place and time aforesaid did absent himself without leave from I400 hours until I4I5 hours without leave.

"J.P. Petitclerc"
(J.P. Petitclerc) Lieut-Col.
Cmd. I8 Cdn. Fd. Amb. R.C.A.M.C

To be tried by F.G.C.M.
"V.W.O."
(Victor W. Odlum) Major-General
Cmd. 2 Cdn. Div. C.A.(A)
Dated in he field this
I3 July 4I.

b 2.

7220 J.A.

ABSTRACT OF EVIDENCE TAKEN IN THE CASES OF THOSE SOLDIERS WHOSE NAMES APPEAR ON THE ATTACHED CHARGE SHEET

Major P. Tremblay was directed by the C.O. 18 Cdn. Fd. Amb. R.C.A.M.C. to take an abstract of evidence in accordance with Appendix "A" D.R.O. 772.

FIRST WITNESS

No. E.15063 Sgt. Tourigny, J., 18 Cdn. Fd. Amb., stated:-

On July 8th 41 I was the sergeant for B Coy. in replacement of Staff Sgt. Ouellette J.E. who was attending a meeting. Having read the Part One Orders the day before (7th July 41) I knew there was a parade at 1400 hrs. At 1400 I made the roll call of the men of B. Coy. I marked those present on parade and after the parade had been dismissed I checked and made a complete list of the men absent from 1400 hrs. parade which I now produce as exhibit 'E'. Cpl. Blouin, A., was present with me when I made this aforesaid roll call. All the men who were absent from 1400 hrs. parade were still absent when parade was dismissed at about 1415 hrs. About 24 men were present from "B" Coy. There has always been a parade at 1400 hrs. on Tuesdays; this particular parade appeared in orders on July 7th, 1941, and the bugle was sounded at 1345 hrs., 8th July 1941. The place where I saw the order above referred to was the unit order board which is just outside the entrance to the building in which "B" Coy. sleeps. There are 61 men in "B" Coy. Since our unit has been in England I don't remember more than one man having been absent from parade without permission.

SECOND WITNESS

No. E.23323 Cpl. Blouin, A., 18 Cdn. Fd. Amb., stated:-

I am Cpl. in "B" Coy. On the afternoon of July 7th I read the Part One Orders for the following day on the board at the entrance of "B" Coy. billets. I read there was a parade scheduled for 1400 hrs. 8 July 41. On July 8, 1941, I was resting in "B" Coy. quarters where all the men of "B" Coy. are. At 1345 I heard the bugle sounding the call to prepare for the 1400 hrs. parade, and then I and all the men of my room went on parade. When Sgt. Tourigny, J., called the roll all the men whose names appear on exhibit 'E' were absent from the parade and still absent when this parade was dismissed.

THIRD WITNESS

No. E.15117 L/Cpl. Martin, M., 18 Cdn. Fd. Amb., stated:-

At about 1300 hrs. I read the Part One Orders on the board at the entrance of "B" Coy. billets. I saw there was a parade scheduled for 1400 hrs., the 8th July. At about 1345 hrs. I was sleeping in my room, and the following privates were also in the same room as I:- Pte. Blanchet, G., Chamard, L., Deschesnes, J.E., and Lessard, E. At that time I was awakened by the bugle call for parade, and I told these men in my room it was time to go on parade. They said nothing, did not complain, and I went out to the parade. These men were absent, and afte. parade they were still in the room. I asked them why they did not go on parade, they answered: "because we did not have anything to eat."

FOURTH WITNESS

No. 15037 Pte. Thibeault, R., 18 Cdn. Fd. Amb., stated:-

On 7th July 41 I read the Part One Orders on the board at the entrance of "B" Coy. billets. I saw there was a parade scheduled for 1400 hrs. the 8th July 41. At about 1345 hrs. 8th July, I was in my room when I heard the bugle call for the 1400 hrs. parade. I was going to the parade when I saw Pte. Caron, M., coming into the room. I noticed he was absent from parade. After the dismissal of the parade at 1415 hrs.

(over)

I went back to my room which is also Pte. Caron, M. one. I asked him why he had not come on parade. He replied he had not time to get ready. Pte. Caron and I arrived back from the route march at 1245 hrs.

Abstract of Evidence taken on 12 JUL 41 in the field.

(Sgd.) P. Trembley, Major.

D-6

Proces par F.G.C.M. de E-15268, Sdt (L/Cpl) Desbiens, G., 18 Cdn Field Ambulance, C.A.(O), et dix autres accuses, tenu le 15 juillet 1941, in the field.

- - - - -

L'ordre de convocation (Convening Order), l'acte d'accusation (Charge Sheet) et un resume de la preuve (Abstract of Evidence) sont deposes devant la Cour.

L'ordre de convocation est signe par le President et marque exhibit A; l'acte d'accusation est signe par le President et marque exhibit B.

La Cour se conforme a Rs.P. 22 et 23.

A 1100 hrs, la Cour est ouverte (The Court is Open).

Avocat de la poursuite: Capt. J.R. Painchaud, Fus. M.R.

Avocat de la defense : Lieut. M. Forest, R. de Mais.

L'ordre de convocation (Convening Order) est lu aux accuses.

Les accuses repondent tous a l'appel de leur nom.

Les accuses ne s'objectent pas a ce que le president et les deux membres, tels que designes dans l'ordre de convocation (Convening Order) siegent pour les fins de leur proces.

Le President et les membres de la Cour sont assermentes.

Les accuses ne s'objectent pas au stenographe et le Sgt. R. Renault C.M.S.C. est assermente comme stenographe.

Un certificat medical (K.R. Can. 557) est produit comme exhibit P-1.

A ce stage de la procedure la Cour ajourne cette cause jusqu'au 16 juillet 1941, a 1000 hrs.

- - - - - - - - -

Ce 16 juillet 1941, a 1000 hrs, la Cour est ouverte.

Les accuses comparaissent et repondent tous a l'appel de leur nom.

Du consentement de la poursuite et de la defense, le certificat medical, deja produit comme exhibit P-1, dans la presente cause, servira comme certificat medical du jour, etant donne qu'il est de nouveau certifie, a cet effet, par l'officier medical.

La Cour ajourne cette cause jusqu'au 17 juillet 1941, a 1000 hrs.

- - - - - - - - -

Ce 17 juillet 1941, a 1000 hrs, la Cour est ouverte.

Les accuses comparaissent et repondent tous a l'appel de leur nom.

Le certificat medical (K.R. Can.557) est produit comme exhibit P-2.

La Cour ajourne cette cause au 18 juillet 1941 a 1000 hrs.

- - - - - - - -

Ce 18 juillet 1941, a 1000 hrs, la Cour est ouverte.

Les accuses comparaissent et repondent tous a l'appel de leur nom.

Le certificat medical (K.R. Can. 557) est produit comme exhibit P-3.

La Cour ajourne cette cause au 19 juillet 1941, a 1000 hrs.

- - - - - - - -

Ce 19 juillet 1941, a 1000 hrs, la Cour est ouverte.

Les accuses comparaissent et repondent tous a l'appel de leur nom.

Le certificat medical (K.R. Can.557) est produit comme exhibit P-4.

Le Lieut. J.R. Beullac, Fus. M.R., est assermente comme Juge-avocat.

Le Lieut. A.J. Lepiez, Fus. M.R., est assermente comme officier pour instruction.

Les accuses ne s'objectent pas au stenographe, et le Lieut. R. Dagenais, R. de Mais., est assermente comme stenographe.

L'acte d'accusation (Charge Sheet) est lu aux accuses et tous plaident coupable sur chacun des chefs d'accusation.

La Cour se conforme a R.P. 35b.

M. PAINCHAUD: Si la Cour me le permet, il s'agit d'un abstrait d'evidence, pris suivant la disposition speciale, et, dans ce cas-ci, les temoignages rendus devant le Major Tremblay n'ont pas ete pris sous serment; je demande donc a la Cour si elle considere ceci comme preuve suffisante ou bien s'il serait preferable de faire revenir les 4 temoins et leur faire reconnaitre, sous serment, que ceci est bien leur temoignage.

M. FORGET: Je crois que la Cour ne peut pas autoriser cela du moment que les accuses ont plaide coupable. La loi dit clairement que l'abstrait d'evidence doit etre lu aux accuses et aucun temoin ne peut etre appele.

LA COUR: La Cour accepte l'abstrait d'evidence tel que presente.

M. Forest, est-ce que les accuses desirent s'adresser a la Cour avant qu'une decision soit rendue et, voulez-vous, appeler des temoins pour temoigner sur leur caractere.

M. FOREST: Non, simplement, je demanderais que les memes recommendations, que j'ai faites, hier, dans la cause de M-15128, Sdt. (L/Cpl) Garneau, R., et al, s'appliquent dans cette cause-ci pour les fins de la sentence.

LA COUR: La Cour trouve les accuses non coupable sur le deuxieme chef d'accusation.

M.Painchaud, pouvez-vous presenter devant la Cour la preuve de caractere des accuses?

M. PAINCHAUD: Oui, je vais appeler l'adjudant qui va produire les Statement as to character and particulars of service of accused.

M. Forest depose devant la Cour un memorandum a l'adresse du "reviewing Officer" lequel est marque P-5.

Capt. H.Alleyn, R.C.A.M.C., A/Adjudant de la Cdn 18 Field Ambulance, etant dument assermente, depose et dit:-

INTERROGE PAR LE CAPT. J.R. PAINCHAUD, avocat de la poursuite:-

Q. Je comprends, que vous etes adjudant-suppleant de la Cdn 18th Field Ambulance?
R. Oui, monsieur.
Q. Avez-vous les Statement as to character and particulars of service of accused concernant les accuses, dans cette cause?
R. Oui, monsieur.
Q. Voulez-vous les produire comme exhibit P-6?
R. Oui, monsieur.

LA COUR: Est-ce que la defense desire que cet exhebit soit lu.

M. FOREST: Non, la defense n'a pas d'objection a ce qu'ils soient produits en bloc et n'a pas de contre-interrogatoire a faire subir aux temoins.

PAR LA COUR:- (au temoin)

Q. Est-ce que les accuses sont bien les personnes mentionnees sur chacun de ces Statements as to character and particulars of service of accused?
R. Oui, monsieur.
Q. Avez-vous compare le contenu de cet exhibit avec vos livres regimentaires?
R. Oui, monsieur.

ET LE TEMOIN NE DIT RIEN DE PLUS

- - - - - - - -

LA COUR: Est-ce que les accuses desirent s'adresser a la Cour.

M.FOREST: Je crois, que tout a l'heure, j'ai demande a la Cour de prendre en consideration les memes recommendations que j'ai faites hier.

La Cour ajourne aux fins de deliberer sur la presente cause.

Je, soussigne, Roland Dagenais, Lieut., agissant comme stenographe officiel en la presente cause, certifie, sous le serment que j'ai prete, que les feuilles qui precedent, et numerotees de la page 1 a 3 inclusivement, sont, et contiennent en entier, une transcription exacte et fidele des temoignages donnes en cette cause par les temoins ci-dessus nommes et pris par moi au moyen de la stenographie; le tout selon la loi.

Roland Dagenais Lieut.

R. J. DeLisle Major
President.

Proces par F.G.C.M. de E-15268, Sdt (L/Cpl) Desbiens, G., 16 Cdn Field Ambulance, C.A.(O), et dix autres accuses, tenu le 15 juillet 1941, in the field.

- - - - - - -

Liste des exhibits

P-1	(a a k incl.) Certificats medicaux du 15 et du 16 juillet 1941, des 11 accuses.
P-2	Certificat medical des 11 accuses, en date du 17 juillet 1941.
P-3	Certificat medical des 11 accuses, en date du 18 juillet 1941.
P-4	Certificat medical des 11 accuses, en date du 19 juillet 1941.
P-5	Memorandum a l'adresse du Reviewing officer soumis par le Lieut. M. Forest.
P-6	Statement as to character and particulars of service of accused, des 11 accuses (a a k incl.)

R. J. Dufresne Major.
President.

16-7-41
L. Carette Capt.

P-1A 2
16

MEDICAL OFFICER'S REPORT

I certify that No. E.15268 L.Cpl. Desbiens T.
of 18th End. Fld Amb is in a good state of health,
and fit to undergo Trial by Court-martial.

L. Carette Capt.
Medical Officer.

Station R.C.S.

Date 15-7-41

M.F.[illegible].246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41

L. Carette Capt.

P-1B

18

MEDICAL OFFICER'S REPORT

I certify that No. E29411 Pte. Caron M.

of 18th End Fld Amb is in a good state of health,

and fitted to undergo Trial by Court-martial.

L. Carette Capt.

Medical Officer.

Station R.C.S. Field

Date 15-7-41

M.F.C.246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41

L Carella Capt.

P-1e

20

MEDICAL OFFICER'S REPORT

I certify that No. E.15259 Pte Dechesne J.E.

of 18th Cnd Old Amb is in a good state of health,

and fit to undergo Trial by Court martial.

L Carella Capt.

Medical Officer.

Station R.C.S.

Date 15-7-41

M.F.W.246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41

P-1

Lt Carette Capt.

22

MEDICAL OFFICER'S REPORT

I certify that No. E.17011 Cte Gauthier M.

of 18th Cnd. Fld Amb is in a good state of health,

and fitted to undergo Trial by Court-martial.

Lt Carette Capt.

Medical Officer.

Station R.C.S. Field

Date 15-7-41

M.F.B.246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41
L Parette Capt.

Page 24

MEDICAL OFFICER'S REPORT

I certify that No. E.17020 Pte Sessard E.

of 18th Cnd Fld Amb is in a good state of health,

and fit to undergo Trial by Court-martial.

L Parette Capt.
Medical Officer.

Station R.C.S.

Date 15-7-41

M.P.E.246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41
L Carette Capt

P-1 f
26

MEDICAL OFFICER'S REPORT

I certify that No E.15234 Pte Prevost J. A
of 18th Cond Fld Amb is in a good state of health,
and fit to undergo Trial by Court-martial.

L Carette Capt.
Medical Officer.

Station R. C. S.

Date 15-7-41

M.F.W.246.
25m-3-18.(M)
H.Q.1772-39-480.

P-18

28

16-7-41
L Carette Capt.

MEDICAL OFFICER'S REPORT

I certify that No. E.15241 Pte Blanchett? G.

of 18th Cmd Fld Amb is in a good state of health,

and fit to undergo Trial by Court-martial.

L Carette Capt.

Medical Officer.

Station R.C.S.

Date 15-7-41

M.F.B.246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41

L Caretta Capt.

P-1H

20

MEDICAL OFFICER'S REPORT

I certify that No. E.15164 Pte Dionne G.

of 18th Cnd. Vld. Amb. is in a good state of health,

and fit to undergo Trial by Court martial.

L Caretta Capt.

Medical Officer.

Station R. C. S.

Date 15-7-41

M.F.2.246.
25m-3-18.(M)
H.Q.1772-39-480.

16-7-41

G. Carette Capt.

Pt 1 i

32

MEDICAL OFFICER'S REPORT.

I certify that No. F 15239 Pte Sabatiffe S. P. of 15th Cmt Fd Amb is in a good state of health, and fetter to undergo Trial by Court martial.

G. Carette Capt.

Medical Officer.

Station Normanhurst Court Battle

Date 15-7-41

M.F.W.B.246.
25m-[illegible]-18.(M)
H.Q.1772-39-480.

16-7-41
L Carter Capt

P-1 f
34

MEDICAL OFFICER'S REPORT

I certify that No. E.15307 Pte Couillard F.
of 18th Ind. Fld Amb is in a good state of health,
and fit to undergo Trial by Court-martial.

L Carter Capt
Medical Officer.

Station R.C.S. Field

Date 15-7-41

M.F.W.246.
25m-3-18.(M)
H.Q.1772-39-480.

R. K

26

16-7-41

C. Carette Capt.

MEDICAL OFFICER'S REPORT

I certify that No. E.15281 Pte Chamard L.J.R.

of 18th Ind. Pl. Lands in a good state of health,

and fit to undergo Trial by Court-martial.

C. Carette Capt.

Medical Officer.

Station R.C.S.

Date 15-7-41

M.F.W.246.
25m-3-18.(M)
H.Q.1772-39-480.

Exhibit / P-2

38

M E D I C A L O F F I C E R ' S

R E P O R T

I certify that I have this morning examined the following men of the 16th Cdn Field Ambulance and in my opinion they are in a good state of health, and fit to undergo Trial by Court-Martial:-

E-15268 L/Cpl. Desbiens, G.
E-29411 Pte Caron, M.
E-15259 Pte Deschesnes, J.E.
E-17011 Pte Gauthier, M.
E-17020 Pte Lessard, E.
E-15234 Pte Prevost, J.A.
E-15241 Pte Planchet, G.
E-15281 Pte Chamard, L.
E-15164 Pte Dione, G.
E-15239 Pte Latulippe, L.P.
E-15307 Pte Couillard, G.

(Signed) L. CARETTE, CAPT., R.C.A.M.C.
Medical Officer.

Station: Normanhurst Court, Battle.

Date: July 17th 1941.

I, certify that this is an extract of the medical officer's report filed as exhibit P-2 in the case of E-15128 Pte (L/Cpl) Barneau, R., under the names hereabove mentioned are those of the accused in the present case.

R. J. Dufresne Maj.
President

3 I

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 667

I certify that I have this morning examined the following men of 1st Can. Fd. Amb. and in my opinion they are fit to undergo Trial by Court Martial.

E-15268, Pte. (L/Cpl.) Desciens C.
E-29411, Pte. Caron M.
E-15285, Pte. Deschenes J.E.
E-15241, Pte. Blanchet C.
E-15289, Pte. Latulippe L.P.
E-15261, Pte. Chamard L.J.M.
E-17011, Pte. Gauthier M.
E-17020, Pte. Lessard E.
E-15234, Pte. Prevost J.A.
E-15104, Pte. Dionne G.
E-15207, Pte. Couillard C.

Station Reconnaissance Camp. Lt Carette Capt.
Medical Officer.

Date July 10th 1941.

P4 2

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MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

I certify that I have this morning examined the following men of The 18th Cdn Fd Amb R.C.A.M.C. and in my opinion they are fit to undergo trial by Court Martail.

E-15268, Pte. (L/Cpl.) Desbiens G.
E-29411, Pte. Caron M.
E-15259, Pte. Deschenes J.E.
E-17011, Pte. Gauthier M.
E-17020, Pte. Lessard E.
E-15254, Pte. Prevost J.A.
E-15241, Pte. Blanchet G.
E-15281, Pte. Chamard L.
E-15164, Pte. Dionne G.
E-15239, Pte. Latulippe L.P.
E-15307, Pte. Couillard G.

Station: Normanhurst Court

Ray Blais Capt
(Medical Officer.)

Date: 19/7/41

D.

9.5

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MEMORANDUM

TO: The reviewing Officer.

Field General Court-Martial:
E-15128, Pte. (L/Cpl.) Garneau R. and Others.

CHARGES:- 1.- Joining in a mutiny, (A.A. sec. 7(8).
2.- An act to the prejudice.....A.A. sec. 40.)
3.- Absenting themselves .....A.A. Sec. 18(1).

Sir,

1.- I have been detailed by the J.A.G's Branch to act as Defending Officer in the present case.

2.- This is the first case in which the provisions of R.P. 104 have been applied, as regards the dispensation of Rule of Procedure No. 4 (c-d-e). The said rule No. 4 concerns the taking down of the summary of evidence.

3.- Ref.: R.P. 104 Footnote 2- Page 579 M.M.L.
The power conferred by this rule should rarely be exercised, except on active service and then only if absolutely necessary.

4.- As the application of R.P. 104 has had the effect of rendering more difficult the preparation of the defense, and as, furthermore, no military jurisprudence exists to that effect, I have thought it my duty to bring this matter to the attention of the Reviewing Officer so that a ruling may be established concerning the application of the said Rule 104, with regards to the circumstances which we have to face in the present case, and also for further guidance.

Mario Forest-Lieut.
(Mario Forest' Lieut.
Defending Officer,
J.A.G's Branch.

"A"
1.50

P-6 A 8.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name ~~Regiment~~ (Unit).

.E-29411.....Pte.....Caron, M.....18 Adm. F.d. Amb.

1.- The following os a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army act and of cases in which trial has been dispensed with.

Within last 12 months Since enlistment.

For. absence from parade ... one times. absence from parade ... one times

For.....Ofb.....times.....Ofb.....times.

For.....times.....times

For.....times.....times

Number of instances of gallantry or distinguished conduct:

~~There are no entries in the conduct sheets of the accused.~~ Ofb.

NOTE:/If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Ofb.

3.- The accused is not under sentence at the present time

or,

~~The accused at the present time is under sentence for..... beginning on the.....day of .~~ Ofb.....

4.- The accused has been in confinement awaiting trial on the present charges, for ...no.....days in civil custody, and...two.....days in military custody, making a total of .....two.....daus in custody , of which, ...no.....days have been spent in hospital.

5.- The present age of the accused according to his ~~record is~~ attestation paper is : Ofb. 22 years

6.- The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is: Ofb. 5-5-40

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon....no.....service for the prupose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward military ~~(or is in possession of or entitled to)~~ Ofb.

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

.....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit .....dated.....and in his regiment of corps the rank .....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, Air Force and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....of .....regiment.-

Note:- A verbation from the regimental books stating these convictions and dispensations eith trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which Convicted	Sentence fo the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this..nineteenth...day of .July. 1941.. [illegible] capt. [illegible] unit records

The above statement with the schedule of convictions and of cases in which trial has been dispensed with) is marked, read..... .....signed by the president and annexed to the proceedings.

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit

.....dated.....and in his regiment or corps the rank

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....of .....regiment.

Note:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which Convicted	Sentence to the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this..nineteenth...day of .July, 1941.. [signature] [illegible]

The above statement with the schedule of convictions and of cases in which trial has been dispensed with) is marked, read..... .....signed by the president and annexed to the proceedings.

COUNTER NUMBER 546564

HOUR 12.30

OPERATOR'S INITIALS E.M.

RELIEVING OPERATOR BH

P-6-B D

STATEMENT AS TO CHARACTER AND PARTICULARS OF

SERVICE OF ACCUSED.

Number	Rank	Name	~~Regiment~~(Unit.)
E-15739	Pte	Latulippe, L.P.	18 Cdn. F.A. Amb.

1.- The following is a fair and true summary of the entries in the ~~field~~ Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months	Since enlistment
For A.W.L. one times	A.W.L. one times
For ..... times	..... times
For ..... times	..... times
For ..... times	..... times

Number of instances of gallantry or distinguished conduct nil.

~~There are no entries in the conduct sheets of the accused.~~

NOTE:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted,

~~or,~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.P.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~

3.- The accused is not under sentence at the present time

~~or,~~

~~The accused at the present time is under sentence for..... beginning on the .....day of .....~~

4.- The accused has been in confinement awaiting trial on the present charges, for ...no.....days in civil custody, and ...two.....days in military custody, making a total of ...two.....days in custody, of which ...no.....days were spent in hospital.

5.- The present age of the accused according to his ~~record~~ attestation paper is 22 years

6.- The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon...no.....service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward military ~~(or is in possession of or entitled to).~~

State any air force decoration or reward.

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of.....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated.....and in his regiment(or corps) the rank

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction , to the present date:-

Date of promotion.....

In the rank of .....years.

In the rank of .....years.

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck ~~off~~ through.

S C H E D U L E

If convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, Air Force and of cases in which trial has been dispensed with of accused, Number.....Rank.....

Name..... .....of.....Regiment

Note:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and place of trial	Charge upon which Convicted.	Sentence of the Court	Punishment remitted.

nil

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this ...nineteenth...day of July 1941 [illegible] capt. [illegible] Unit records

The above statement with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.... .....signed by the president, and annexed to the proceedings.

P.6.6

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number ... Rank ... Name ... Regiment (Unit.)

F.14764 ... Pte ... Dicenzo, E. ... 18 Bde. H.Q. Aust. Field

1.- The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, ~~Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months.	Since enlistment
Pro.	A.Wit. ... times	A.Wit. ... times
For.	~~Nil~~ ... times	~~Nil~~ ... times
For.	... times	... times
For.	... times	... times

Number of instances of gallantry or distinguished conduct in the field.

NOTE:- ~~Where are no~~ entries in the conduct sheets of the accused ~~Nil~~ If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted, ~~or,~~

~~Previous convictions of the accused by a Court-Martial or a Civil Court, of summary awards under Air Force Act~~ ~~or A.A. 73~~ Section 47 of the Army Act and dispensations with trial under Art. 76 are set out in the Schedule annexed to this statement. ~~Nil~~

3.- The accused is not under sentence at the present time ~~or~~

~~The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4.- The accused has been in confinement awaiting trial on the present charges, for ~~Nil~~ days in civil custody, and ten days in military custody, making a total of ten days in custody, of which ~~Nil~~ days were spent in hospital.

5.- The present age of the accused according to his ~~record~~ ~~Nil~~ attestation paper is 40 years

6.- The date of his ~~conviction~~ ~~Nil~~ attestation specified in his ~~record of service~~ ~~Nil~~ attestation paper is 13.7.39.

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon ~~Nil~~ service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to ~~Nil~~ military air force reward ~~(or is in possession of ~~Nil~~ entitled to)~~

State any air force decoration or military reward

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit.

.....dated.....and in his regiment (corps) the rank of

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a Court-Martial or civil court, or summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....fo .....Regiment.

NOTE:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which convicted.	Sentence of the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensation with trial is a true exact from the regimental books in my custody.

signed this ninetieth day of July 1941 [illegible] capt. [illegible] Kenit records

The above statement with the schedule of cinvictions and of cases in which trial has been dispensed with is read, marked.....signed by the president, and annexed to the proceedings.

P-6-D D.

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STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (Unit.)
E-15301	Pte	Couillard, G.	18 Cdn Fd Amb

1.- The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ CPC Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months.		Since enlistment	
Fro. A.A. s. 9(2)	one times	A.A. s. 9(2)	one times
For. Drunkenness	one times	Drunkenness	one times
For. A.A. s. 40	two times	A.A. s. 40	two times
For.	CPC times		CPC times

Number of instances of gallantry or distinguished conduct: nil

~~or,~~

~~There are no entries in the conduct sheets of the accused~~ CPC

NOTE:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted,

~~or,~~

~~Previous convictions of the accused by a Court-Martial or a Civil Court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 70 are set out in the schedule annexed to this statement.~~ CPC

3.- The accused is not under sentence at the present time

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~ CPC

4.- The accused has been in confinement awaiting trial on the present charges, for ~~ten~~ no days in civil custody, and ten days in military ~~custody~~ CPC, making a total of ten days in custody, of which no days were spent in hospital.

5.- The present age of the accused according to his ~~record~~ CPC is 20 years

6.- The date of his ~~commissions~~ CPC specified in his ~~record of service~~ CPC is 12-8-40.

7.- The service which the accused is allowed to reckon towards discharge is nil

8.- The accused is entitled to reckon no service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward ~~(or is in possession of or entitled to)~~ CPC military

State any air force decoration or reward military

10.- (If the accused is a warrant officer.) The accused befor he was made a warrant officer last held the regimental rank of .....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit.

.....dated.....and in his regiment(corps) the rank of

.....dated.....

12.- The accused has served as a non-commissioned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a Court-Martial or civil court, or summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, number.....Rank.....

Name.....To .....Regiment.

NOTE:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which convicted.	Sentence of the Court	Punishment awarded.
nil				

I hereby certific that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

signed this ninteenth day of July 1941 [illegible] capt. O. C. Unit records.

The above statement with the schedule of convictions and of cases in which trial has been dispensed with is read, marked.....signed by the president, and annexed to the proceedings.

P-6-E

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (Unit).
E-15210	P.C.	Sherwood, F.R.J.	18 Cdn. F.A. Regt.

1.- The following os a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army act and of cases in which trial has been dispensed with.

Within last 12 months — Since enlistment.

For A.W.L. ..... one times A.W.L. ..... two times

For ..... Ofl. ..... times ..... Ofl. ..... times.

For ..... times ..... times

For ..... times ..... times

Number of instances of gallantry or distinguished conduct: nil.

~~There are no entries in the conduct sheets of the accused.~~ Ofl.

NOTE:/If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted ~~or,~~

~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.~~ Ofl.

3.- The accused is not under sentence at the present time ~~or,~~

~~The accused at the present time is under sentence for..... beginning on the.....day of .....~~ Ofl.

4.- The accused has been in confinement awaiting trial on the present charges, for ...no.....days in civil custody, and....two.....days in military custody, making a total of .....two.....daus in custody, of which, ...no.....days have been spent in hospital.

5.- The present age of the accused according to his ~~record~~ attestation paper is: Ofl. 25 [illegible]

6.- The date of his ~~completion~~ attestation specified in his ~~record of service~~ attestation paper is: Ofl. 15-3-[illegible]

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon.....no.....service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward military ~~(or is in possession of or entitled to)~~ Ofl.

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit

.....dated.....and in his regiment of corps the rank

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....of .....regiment.

Note:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which Convicted	Sentence fo the Court	Punishment awarded.

I hereby certific that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this ...day of July 1941.....

The above statement with the schedule of convictio s and of cases in which trial has been dispensed with) is marked, read..... .....signed by the president and annexed to the proceedings.

P-6-F

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number Rank Name ~~Regiment~~ (Unit).

E-15241 ..... Pte ..... Blanchet, G. ..... 18 Can. Fd. Amb. ..... field

1.- The following os a fair and true summary of the entries in the Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army act and of cases in which trial has been dispensed with.

Within last 12 months Since enlistment.

For. A.W.L. ..... Four times. A.W.L. ..... Six times

For. A.A. 1.40 ..... One times. A.A. 1.40 ..... One times.

For. ..... Nil times ..... Nil times

For. ..... times ..... times

Number of instances of gallantry or distinguished conduct: nil.

~~There are no entries in the conduct sheets of the accused.~~ Nil.

NOTE:/If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted or ~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Nil.

3.- The accused is not under sentence at the present time or ~~The accused at the present time is under sentence for..... beginning on the.....day of .....~~ Nil.

4.- The accused has been in confinement awaiting trial on the present charges, for ...no.....days in civil custody, and...ten.....days in military custody, making a total of .....ten.....days in custody, of which, ...no.....days have been spent in hospital.

5.- The present age of the accused according to his ~~record~~ CHS. is: 22 ans attestation paper is :

6.- The date of his ~~commission~~ CHS. specified in his ~~record of service~~ CHS. is attestation attestation paper is: 3-4-40

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon.....no.....service for the prupose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward military ~~(or is in possession of or entitled to)~~ Nil.

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of military

.....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit

.....dated.....and in his regiment or corps the rank

.....dated.....

12.- The accused has served as a non-commissioned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....of .....regiment.

Note:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which Convicted	Sentence of the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this..... day of .....194.....

The above statement with the schedule of convictions and of cases in which trial has been dispensed with) is marked, read..... .....signed by the president and annexed to the proceedings.

P-6-6 58

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (Unit).
E-15259	P.T.	Dunkinson, J.E.	18 Cdn. F.A. Amb.

1.- The following os a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ CPL Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army act and of cases in which trial has been dispensed with.

Within last 12 months	Since enlistment.
For nil CPL times	nil CPL times
For ..... times	..... times.
For ..... times	..... times
For ..... times	..... times

~~Number of instances of gallantry or distinguished conduct:~~ CPL

There are no entries in the conduct sheets of the accused.

NOTE:/If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Air Force Act A.F.A. 75 Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.~~ CPL

3.- The accused is not under sentence at the present time

~~or,~~

~~The accused at the present time is under sentence for..... beginning on the.....day of .....~~ CPL

4.- The accused has been in confinement awaiting trial on the present charges, for ...no.....days in civil custody, and....ten.....days in military custody, making a total of ....ten.....daus in custody ; of which, ...no.....days have been spent in hospital.

5.- The present age of the accused according to his ~~record~~ CPL is: attestation paper is : 21 ans

6.- The date of his ~~commission~~ CPL specified in his ~~record of service~~ CPL is attestation attestation paper is: 12-4-40

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon....no.....service for the propose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward ~~(or is in possession of or entitled to)~~ CPL military military

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

.....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit

.....dated.....and in his regiment of corps the rank

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....of .....regiment.

Note:- A verbation from the regimental books stating these convictions and dispensations eith trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which Convicted	Sentence fo the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this ...nineteenth...day of July 1941.....

The above statement with the schedule of convictions and of cases in which trial has been dispensed with) is marked, read..... .....signed by the president and annexed to the proceedings.

P-6-H

60

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number ..... Rank ..... Name ..... ~~Regiment~~ (Unit).

E-15268 ..... Pte (L/Cpl) ..... Desbiens, L. ..... 18 Cdn. F.A. Amb.

1.- The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ CPC Conduct Sheets or Company Conduct Sheets of the accused, exclusive of convictions by a Court-martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army act and of cases in which trial has been dispensed with.

Within last 12 months ..... Since enlistment.

For ~~nil~~ ..... ~~times~~ Absence from parade — one time ..... CPC ..... times

For absence from parade — one time ..... CPC ..... times.

For ..... times ..... times

For ..... times ..... times

Number of instances of gallantry or distinguished conduct: nil

~~There are no entries in the conduct sheets of the accused~~ CPC

NOTE:/If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted

~~or,~~

~~Previous convictions of the accused by a Court-Martial or a Civil Court, or summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.R. 21 are set out in the Schedule annexed to this statement~~ CPC

3.- The accused is not under sentence at the present time

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~ CPC

4.- The accused has been in confinement awaiting trial on the present charges, for ..no..... days in civil custody, and ...two.... days in military custody, making a total of ...two..... days in custody, of which, ...no..... days have been spent in hospital.

5.- The present age of the accused according to his ~~[illegible]~~ CPC is: 22 years
attestation paper is :

6.- The date of his ~~[illegible]~~ CPC specified in his ~~[illegible]~~ CPC is
attestation attestation paper is: 15-4-40

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon ....no..... service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward ~~(or is in possession of or entitled to~~ CPC military military

10.- (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

.....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit .....dated.....and in his regiment or corps the rank .....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....of .....regiment.

Note:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which Convicted	Sentence to the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

Signed this ninetenth day of July 1941. [signature] Capt. O. i/c unit records.

The above statement with the schedule of convictions and of cases in which trial has been dispensed with) is marked, read..... .....signed by the president and annexed to the proceedings.

P. 6-J

62

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (Unit.)
E-17011	Pte	Gauthier, M.	18 Cdn. Fd. Amb.

1.- The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months. Since enlistment

Fro. Above from parade ... two times Above from parade ... two times

For. ... Nil ... times ... Nil ... times

For. ... times ... times

For. ... times ... times

Number of instances of gallantry or distinguished conduct: nil

~~There are no entries in the conduct sheets of the accused~~ Nil

NOTE:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted,

~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Nil

3.- The accused is not under sentence at the present time

~~The accused at the present time is under sentence for ... beginning on the ... day of ...~~ Nil

4.- The accused has been in confinement awaiting trial on the present charges, for ... no ... days in civil custody, and ... two ... days in military custody, making a total of ... two ... days in custody, of which ... no ... days were spent in hospital.

5.- The present age of the accused according to his ~~record~~ attestation paper is 20 years

6.- The date of his ~~commissions~~ attestation specified in his ~~record of service~~ attestation paper is 5-9-39

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon ... no ... service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward ~~(or is in possession of or entitled to)~~ military

State any air force decoration or reward military

10.- (If the accused is a warrant officer.) The accused befor he was made a warrant officer last held the regimental rank of ...

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit.

.....dated. .....and in his regiment(corps) the rank of

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a Court-Martial or civil court, or summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....To .....Regiment.

NOTE:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which convicted.	Sentence of the Court	Punishment awarded.
nil				

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

signed this ninteenth day of July 1941. [signature] Capt. O. C. Casual records.

The above statement with the schedule of convictions and of cases in which trial has been dispensed with is read, marked.....signed by the president, and annexed to the proceedings.

P-6-8 2

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (Unit.)
E-17020	P.C.	Howard, E.	18 Cdn. Fd. Amb.

1.- The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months.		Since enlistment	
Pre.	A.W.L.	two times	A.W.L.	three times
For.	A.A. 1.8	one times	A.A. 1.8	one times
For.	A.A. 1.24(2)	one times	A.A. 1.24(2)	one times
For.	A.A. 1.11	one time	A.A. 1.11	one time
For.	A.A. 1.40	one times	A.A. 1.40	one time

Number of instances of gallantry or distinguished conduct ~~or~~ nil

~~There are no entries in the conduct sheets of the accused~~ cfb.

NOTE:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted, ~~or~~

~~Previous convictions of the accused by a Court-Martial or a Civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ cfb.

3.- The accused is not under sentence at the present time ~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of ....~~ cfb.

4.- The accused has been in confinement awaiting trial on the present charges, for ...no... days in civil custody, and ...two... days in military custody, making a total of ...two... days in custody, of which ...no... days were spent in hospital.

5.- The present age of the accused according to his ~~record~~ cfb. is 22 years

6.- The date of his ~~commissions~~ cfb. specified in his ~~record of service~~ cfb. is 9-9-34

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon ...no... service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward ~~(or is in possession of or entitled to)~~ cfb. military

State any air force decoration or reward military

10.- (If the accused is a warrant officer.) The accused befor he was made a warrant officer last held the regimental rank of .....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit.

.....dated. .....and in his regiment(corps) the rank of

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a Court-Martial or civil court, or summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....fo .....Regiment.

NOTE:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which convicted.	Sentence of the Court	Punishment awarded.

nil.

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

signed this nineteenth day of July 1941 G. Halleyn capt. O. C. Unit records

The above statement with the schedule of convictions and of cases in which trial has been dispensed with is read, marked.....signed by the president, and annexed to the proceedings.

P-6-K

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment~~ (Unit.)
E-15234	Pte	Prevost, J. A.	18 Cdn Fd Amb.

1.- The following is a fair and true summary of the entries in the Field Service and General ~~Regimental and Squadron, Battery~~ Conduct Sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months. Since enlistment

Pro. nil ..... times ..... times

For. ..... times ..... times

For. ..... times ..... times

For. ..... times ..... times

Number of instances of gallantry or distinguished conduct: nil

~~or,~~

There are no entries in the conduct sheets of the accused.

NOTE:- If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2.- The accused has not been previously convicted,

~~or,~~

~~Previous convictions of the accused by a Court-Martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.~~ Air Force Act A.F.A. 73

3.- The accused is not under sentence at the present time

~~or,~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4.- The accused has been in confinement awaiting trial on the present charges, for ..... no ..... days in civil custody, and ..... ten ..... days in military custody, making a total of ..... ten ..... days in custody, of which ..... no ..... days were spent in hospital.

5.- The present age of the accused according to his ~~record~~ attestation paper is 38 years

6.- The date of his ~~commissions~~ attestation specified in his ~~record of service~~ attestation paper is 1-4-40.

7.- The service which the accused is allowed to reckon towards discharge is nil.

8.- The accused is entitled to reckon ..... no ..... service for the purpose of determining his pension, etc.

9.- The accused is in possession of or entitled to no air force reward ~~(or is in possession of or entitled to)~~ military military

State any air force decoration or reward military

10.- (If the accused is a warrant officer.) The accused befor he was made a warrant officer last held the regimental rank of

.....

11.- (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force Unit.

.....dated. .....and in his regiment(corps) the rank of

.....dated.....

12.- The accused has served as a non-commissionned officer continuously, without reduction, to the present date:-

Date of promotion.....

In the rank of .....years

In the rank of .....years

In the rank of .....years

In the rank of .....years.

NOTE:- If any matter in any of the above paragraphs cannot be stated from the regimental books, the paragraphs must be struck through.

S C H E D U L E

Of convictions by a Court-Martial or civil court, or summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with the accused, Number.....Rank.....

Name.....to .....Regiment.

NOTE:- A verbation from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which he was tried	Date and Place of Trial	Charge upon which convicted.	Sentence of the Court	Punishment awarded.

nil.

I hereby certifie that the foregoing schedule of convictions and dispensations with trial is a true exact from the regimental books in my custody.

signed this.vinteunth...day of July 1941.....

The above statement with the schedule of convictions and of cases in which trial has been dispensed with is read, marked.....signed by the president, and annexed to the proceedings.

Promulgated and extracts taken in the case of:-

E-15268 Pte. (L/Cpl.) Desbiens, G.	18 Cdn. Fd. Amb., RCAMC.
E-29411 Pte. Caron, M.	"
E-15259 Pte. Deschenes, J.E.	"
E-17020 Pte. Lessard, E.	"
E-15234 Pte. Prevost, J.A.	"
E-17011 Pte. Gauthier, M.	"
E-15241 Pte. Blanchet, G.	"
E-15281 Pte. Chamard, L.J.R.	"
E-15164 Pte. Dionne, G.	"
E-15239 Pte. Latulippe, L.P.	"
E-15307 Pte. Couillard, G.	"

29 JUL 41

G H Allegre capt.
ADJUTANT.- 18th FD. AMB.
R.C.A.M.C. C.A.S.F.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

Certificate of President as to proceedings.

I certify [illegible] the above Court assembled on the 15th day of [illegible] 1941, and duly tried the persons named in the Schedule [illegible] that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns [illegible] that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(~~4. The interpreter~~)
*3. The officers under instruction)
4. The shorthand writer

were duly sworn.

* Omit if not applicable.

Signed this 19th day of July 1941.

R. J. Dufresne Maj.
President of the Court Martial.

J. A. Bevilla Lieut.
Judge Advocate

C.

Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~ D.

~~Signed this~~ D. ~~day of~~ D. ~~19~~ D.

~~President of the Court Martial~~ D.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~)

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 29 day of July 1941.

[illegible] Odlum
Confirming Officer.

Major General
Commanding 2 Can Div.

Promulgated and extracts taken in the case of

(a) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) 30th July 1941 (Signed) [illegible] Capt.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

HH-33
PTE DESBIENS G.

3

43
F.L.

HH 33

Pres 9th Field Amb

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

*Order convening the Court.

On Active Service, this First day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[illegible]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[illegible]~~

*Omit if not applicable.

Proceedings Reviewed

E.K. Tisdale Maj

P.K. Tisdale Maj

(50)

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	P. K. Tisdale	9 Cdn Fd Amb

Members.

Rank.	Name.	Regiment.
Captain	J. H. Farthing	Carlt & York R
Lieut	J. Roy	R 22e R
Lieut	D. R. Sharpe	Carlt & York R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature], Brigadier, Att HQ 3 Cdn Inf Bde

Commanding 3 Cdn Inf Bde.

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E5210 Pte. DESBIENS, 14 R 22e R	FIRST CHARGE A.A. Sec 15(1)	guilty	guilty	
	SECOND CHARGE A.A. Sec 24(2)	guilty	guilty To undergo 18 months detention and to undergo stoppage of pay to the extent of £7-4-11¾ 3 June 43 L.K. Lindale maj.	Confirmed Kurt 7 June 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— no L.K. Lindale maj.

(Signed) Kurt Hake Brigadier, (Signed) L.K. Lindale maj.

Commanding 3 Cdn Inf Bde
Convening Officer (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the third day of June 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*(3. ~~The Interpreter~~)

*(4. ~~The officers under instruction~~)

were duly sworn.

*Omit if not applicable.

Signed this third day of June 1943

L.K. Lindale maj

President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (a) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.

*To be omitted unless, apart from any remission, imprisonment or detention having been awarded, the confirming officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this Seventh day of June 1943.

Kurt Hake Brigadier

Confirming Officer.

Comd 3 Cdn Inf Bde

Promulgated and extracts taken in the case of E5210 Pte Gagne Desbiens

(*a*) (Dated) 8 June 43 (Signed) Kurt Capt Adjutant, 3rd Canadian Infantry Brigade, C.A.S.F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

22557a 50-46179-950 50,000 7-43 A.S.E.W.Ltd. Gp.498

CHARGE SHEET

The accused, E.5210 Private ~~Georges~~ Gérard DESBIENS, a soldier of the Royal 22e Regiment, Canadian Army, Overseas, is charged with:-

FIRST CHARGE A.A. SEC 15(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

In the Field, was absent without leave from 2200 hrs the 5th December, 1942, until he surrendered himself to the Military Police of Brighton Station, at 1015 hrs the 4th May 1943, thereby incurring expenses for his surrender and his return to his Unit in the amount of three pounds, seventeen shillings and eleven pence.

Total absence:- 149 days, 12 hours, 15 mins.

SECOND CHARGE A.A. Sec 24(2) WHEN ON ACTIVE SERVICE LOSING BY NEGLECT HIS EQUIPMENT CLOTHING AND REGIMENTAL NECESSARIES.

in that he,

In the Field while being absent lost by neglect the following articles at the following cost.

Articles	Amount	Vocab Price	Equ. Value
		6d.	4½d
Badge Cap	1	5s.1d.	3-9½d
Drawers Woolen	1	4½d.	3½d
Forks Table	1	1s 3½d.	11½d
Braces	1	6d	4½d
Pullthrough	1	5½d	4½d
Badges Canada	1	2d	1½d
Brass Button	1	3s 1d	2-3½d
Cap Field Service	1	£3 7s 8d	£2 17s 9½d
Greatcoat	1	2d	1½d
Comb Hair	1	9d	6½d
Holdall.			
		£4 9s 5d	£3 7s 3d

In The Field
31 May 43.

(J.P.E. Bernatchez), Lt-col.,
Commanding Royal 22e Regiment.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(M.H.S.Penhale), Brigadier,
Commanding 3 Cdn Inf Bde.

Field, 1 Jun 43.

B 2

MEDICAL CERTIFICATE (K.R. (Can) 557)

I certify that I have this morning examined No. F5210 Desbien G. of R22eR and in my opinion he is fit to undergo trial by Court Martial.

P.K. Dudale Maj.

Station In the field

Date 3-6-43

Guy Latimer Capt
Medical Officer

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Dunblane

on the 3rd day of June 19 43 by order of

Brig. M. H. S. Penhale

Commanding 3 Cdn Inf Bde

dated the first day of June 19 43

President.

Maj. P. K. Tisdale 9 Cdn Fd Amb

Members.

Capt. J. H. Fanting Cont 1 Fort R

Lieut J. Roy R 22 R

waiting Lieut D. R. Sharpe Cont" + Fort Reg.

Trial of* E 5210 Pte ~~Gerard~~ Gerard Desbiens R 22 R , ~~Judge Advocate~~ R

The order convening the Court, the charge-sheet, + medical certificate and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that Lieut. J. Roy is not available to serve owing to the fact that he is a witness

Lieut. D. R. Sharpe, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut B. E. Chase R 22 R

~~Counsel‡ or~~ defending officer† Capt D. C. Young R 22 R

At 1330 o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

P. K. Tisdale Maj.

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q6276. Wt W16826/28. 25,000 sets. 6/43. K. & H., Ltd. G427/11. Form A 9/25.

B

The President, members ~~and judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Guilty *Answer.*

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to both charges, the provisions of Rule of Procedure 35 (B) are here complied with.

P.K. Zindale mj

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ pu

The accused is found guilty of absence without leave (1st charge) loss by neglect of equipment clothing & Regimental necessaries to the value of £3-7-¾ (2nd charge)

†The summary (~~or abstract~~) of evidence is read, marked "X" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes

Answer. The accused in mitigation of punishment says:— Through his defending Officer Captain Young

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

On behalf of the accused whereas the accused has admitted being absent at the period stated I wish to draw to the attention of the court the fact that his voluntarily surrendering himself at the time he did is proof of his true intentions and his willingness to carry out his duties as he had sworn to do upon enlisting in the Canadian Army speaking to the accused's platoon sound. before the trial, he assured me that the accused was in every respect a good soldier & one whom he would like to have in the event of action.

P.H. Zindale
Maj.

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut B. E. Chase is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

~~Cross-examined by the accused.~~

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

R. T. Tindale

F

Sentence.

The Court sentence the accused

See schedule attached
A.F.A. 3.
P.K. 2 indale
maj.

Sentence.

not on strength

"D" Coy

File No. . [illegible] .

Officer Commanding,
[illegible] Coy. R.22 R.

Re:- Z-5210 Pte. Desbiens, G.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 588 dated 29 Oct. 40.

London
4-May-43

Capt.
(W. Forn) D. A. P. M.,
London Area.

CHARGE

Army Form B 252
(See King's Regulations)

ROYAL 22 REGT.(1CdnDiv) Regiment

Battery / Squadron / Troop or Company

CHARGE against No. E5210 Rank Pte.

Name HENDRIKS, C.

Place Brighton. Date of Offence ?

OFFENCE W.O.A.S. Absenting himself without leave from.....until surrendering to an N.C.O. of the Canadian Provost at S.T.O. Brighton Station about 1015 hrs. 4 May 1943.

Names of Witnesses :—

Sgt. Johnson.S. No.13 Can Provost Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Statement of **EVIDENCE** in the case of

E5210 Pte Desbiens,G.
Royal 22 Regt.
1 Cdn Div

Sir,

At Brighton on the 4 May 1943 about 1015 hrs information was received at H.Q. Brighton & Hove Military Police from the R.T.O. Brighton Station that a soldier had reported to them as an absentee.

I proceeded to the R.T.O. Brighton Station where I saw the above named soldier. He was dressed in civilian clothes. He informed me that he was an absentee and wished to rejoin his unit. His particulars were obtained from his N.B.I. and he was taken to the Brighton Police Station and handed over to the Station Sergeant to be detained.

A Johnston Sgt.
No.13 Cdn Provost Coy.

Brighton
4.5.43.

REMARKS

Certificate in accordance with Army Act, Section 163 (1) (ii).

I certify that No. E.5211 ..... Rank ... Pte ... Name ... [illegible] .....

Unit ... R 22 Reg ..... was ~~arrested~~ [illegible] at ... R.T.O. [illegible] .....

at about ... 1015 [illegible] ..... and that at the time of his ~~arrest~~ [illegible] he was

wearing ~~military uniform~~ [illegible].

Signature of Provost Marshal, A.P.M., or other officer into whose custody the above-named person was taken into arrest.

D. A. P. M.
BRITISH
[illegible]
GOVT. CORPS

Z
[illegible]

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. E-5210 Rank Pte Name Desbiens, J Unit R2R Reg't

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from ~~Bristol~~ Brighton

Date	Particulars	Amount		
5 May 43	Escorts return fare from LONDON To Brighton		7	11
	Prisoners single fare to LONDON From Brighton		4	0
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		11	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature]

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
60/P & S/483

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. ES210 Rank Pte. Name Hesbiens, G. Unit R22R

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars (1/5 portion	Amount		
13 May 43	Escorts return fare from LONDON To C. Hamilton, Lanark	1	16	0
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Hamilton	1	10	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	3	6	0

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

7 R.K. Tribals [illegible]

C.M.H.Q. 1000/53
40/P & S/483

(x)

SUMMARY OF EVIDENCE

in the case of

E.5210 Private Georges DESBIENS, a soldier of the Royal 22e Regiment, Canadian Army, Overseas.

By direction of the commanding officer the Summary of Evidence is taken on oath.

- -

FIRST WITNESS FOR PROSECUTION Lieut J. Roy, Royal 22e Regiment, who will be called as a witness at the trial of the above mentioned soldier to produce in evidence the following documents in accordance with Army Act, Sec 163.

i) Certificate of surrender, in accordance with section 163 A.A. showing the surrender of the accused, as having taken place at the station in Brighton, at1015 hrs the 4th May 1943.

ii) Certificate of expenses incurred in returning the accused to his Unit, in accordance with K.R. & O (Can) para 539, dated 13 May 1943.

SECOND WITNESS FOR PROSECUTION E.5424 Cpl. Gagnon R., Royal 22e Regiment, having been duly sworn, states:

In the Field on the 5th Dec 42, I was acting orderly Sergeant for "D" coy. of the Roy l 22e Regiment. At 2200 hrs in making Tattoo Roll call I discovered E.5210 Private Desbiens G. had failed to report. I therefore placed his name on the absentee report and had his kit removed to the Qartermaster Stores the 7th day of December 1942. Since that day until I handed over my duty he was still absent and failed to report and to the best of my knowledge was illegally absent.

.....R. Gagnon.....Cpl.

THIRD WITNESS FOR PROSECUTION E.4033 L/Cpl. Levesque R., Royal 22e Regiment, having been duly sworn, states:

In the Field during this tour of duty I was acting as C.O.S. E.5210 Private Desbiens G. failed to report to any of the roll call I made during this period and up to then he was still absent.

[signature].....L/Cpl.

FOURTH WITNESS FOR PROSECUTION P.48710 C.S.M. Miville P., Royal 22e Regiment, having been duly sworn, states:

In the Field from the 5th day of December 1942, E.5210 Private Desbiens G. failed to report to any of the Roll call made during this period and he was still absent.

.....P. Miville.....C.S.M.

R.H. Tindall Maj

FIFTH WITNESS FOR PROSECUTION

D.51049 Pte. Belanger L., Royal 22e Regiment, having been duly sworn, states:

In the Field on the 7th day of December 1942, if I do remember well E.5424 Cpl. Gagnon R. turned over to me the kit on charge to E.5210 Pte. Desbiens G. The kit was checked in the presence of Pte. Fugere and myself and was found deficient to the vocabulary price of £4/9/5 as here listed and attached as appendix "A". These articles submitted were checked gainst the soldier's ledger sheet M.F.C.800 and were deficient. I hereby submit the list for whatever purpose it may serve

L. Bélanger .....Pte.

The accused declines to cross examine this witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) declines to make a Statement and reserves his defence.

I certify that the foregoing Summary of Evidence was taken down by me in the presence of the accused, and that Rule of Procedure 4 (c) (d) (e) (f), have been complied with.

Pierre Ed. Chasse Lieut.
Officer detailed to take
the Summary of Evidence.

In the Field,
This 31st day of May, 1943

P.K. Liddell
maj.

LIST OF WITNESSES

in the case of

E.5210 Private Georges DESBIENS, a soldier of the Royal 22e Regiment, Canadian Army, Overseas.

P.K. Sindale Maj.

PROSECUTION

Lieutenant	J.	Roy	Royal 22e Regiment
P.48710	CSM	P. Miville	Royal 22e Regiment
E.5424	Cpl.	R. Gagnon	Royal 22e Regiment
E.4033	L/C	R. Levesque	Royal 22e Regiment
D.51049	Pte.	L. Belanger	Royal 22e Regiment

DEFENCE

N I L

LIST OF EXHIBITS

Exh. 1 Certificate of surrender in accordance with Section 163 of the Army Act, dated 4 May, 1943.

Exh 2 Certificate of expenses in accordance with K.R. & O (Can) para 539, dated 15 May, 1943.

~~Exh 3 Court of Inquiry dated 29 December, 1942.~~ (P.P.)

STATEMENT BY THE ACCUSED

I, E.5210 Private Georges DESBIENS, Royal 22e Regiment, desire to have an officer assigned to represent me at my trial by Field General Court Martial

I desire the services of..... if he is available.

This to certify that I have been given free of charge copy of the proceedings, documents etc., relating to my trial by Field General Court Martial

G. Desbiens.....Pte.

In the Field
This 31st day of May 1943.

P.K. Sindale Maj.

No. E5210 Name Desbiens, G. Sqn., Battery, or Company "D" Corps R22eR. C.A.O. Date of enlistment 24/2/40 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F.B. 12) 500M—8-39 (1703) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	15/8/40	Pte		W.O.A.S. sec 15AA absent from Guard Parade at 16 00 hrs the 15-8-40 He had not been relieved by Pte Blanchard. E5461	Pte Belodeau Sgt Begin Cpl Morin	168 hrs Detention	17-8-40	Maj. Belanger	Forfeits one day pay
			1	sec 19 AA. Drunkenness					
On the 24-2-42 this soldier completed two years service. In accordance with R.O.A.I. (C.A.O.) the above rest'l entries were transferred from previous sheet which was then destroyed on the 1-3-42									
In the Field	28-4-42	Pte		neglect to obey an order sec 40 AA	Sgt Gagnon	5 days C.B.	29-4-42	F.A.A. Dorion	Mjr
"	18-8-42	"		sec 15AA(1) Overstaying his pass from 2359 hrs 18-8-42 until 0945 hrs 19-8-42 Total absence 9 hrs 46 minutes	Cpl Carson	Admonished	19-8-42	F.A.A. Dorion	Mjr Forfeits 1 day pay
"	19-9-42	"		sec 40 AA Insubordinate language towards his superior officer	Sgt Michaud	5 days C.B.	21-9-42	F.A.A. Dorion	Mjr

(P.T.O.)

This is a certified true copy.

Lieut Pierre Ed. Chasse
officer in charge of records.

Place

Date of offence

Rank

Date of enlistment

P.M. Tindale
Maj.

OFFENCE

Names of Witnesses

Punishment awarded

Date of award or of order depending with trial

By whom awarded

Remarks

M.F.B. 355
22M—5-41 (573-0)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E. 5210	Private	~~Georges~~ Gerard DESBIENS,	Royal 22e Regiment.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery / Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A. A. Sec. 15 (1) 18-8-42	times	A. A. Sec. 15 (1) 15-8-40	times
For	A. A. Sec. 40 19-9-42	times	1. Drunkenness A. A. Sec.19.	times
For		times	A. A. Sec. 40 28-4-42	times
For		times		times

Number of instances of gallantry or distinguished conduct N. A.

or,

There are ~~no~~ entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or. Nil.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.

Nil.

3. The accused is not under sentence at the present time. ---

or,

The accused at the present time is under sentence for ~~---------~~ beginning on the ~~----------~~ day of ~~----------~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~- - -~~ days in civil custody, and 26 days in ~~Air Force~~ military custody, making a total of 26 days in custody, of which ~~-----~~ days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is ~~23 yrs.~~ 25 years old

6. The date of his ~~enlistment~~ attestation specified in his record of service is / attestation paper 24/2/40

7. The service which the accused is allowed to reckon towards discharge is N. A.

8. The accused is entitled to reckon N. A. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military / military possession of or entitled to). State any air force decoration or reward.

military N. A.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N. A.

P. K. Lindale
Maj

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N. A. dated N. A., and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N. A. Date of promotion.

In the rank of N. A. years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit

Name N. A. of N. A. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Nil.	Nil.	Nil.	Nil.	Nil.

I hereby certify that the foregoing schedule of convictions and of cases in which trial is a true extract from the regimental books in my custody.

Lieut. Pierre H Chasse,

Signed this 31 st day of May 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

5 L-56
Pte Deschamps, F.
D.61157

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-61157 Pte Fernand Deschamps - Increment to 11 Cdn Provost Coy Cdn Povost Corps.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 6(3)(d)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

A1. [redacted]
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of two years.

(Sgd) "D. Dean" Capt — Judge-Advocate, if any. 18 Sep 44 — Date awarded. (Sgd) "W. Moredale" Major. — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(D). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed -

[redacted]
(1. AA 57A.)

(Sgd) "R.O.G. Morton" Brig
Date 19 Sep 44 Commanding Army Tps Area - 1 Cdn Army. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
Deschamps, F.	21 Sep 44	"E. Porter" Capt. OC No. 11 Prov Coy.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

J5-26

CPA96 (In lieu of AFA3) AU P & S 1058 (2804)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig R.O.G. Morton Comd A Tps Area dated 17 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-61157	Pte	Fernand	DESCHAMPS	11 Cdn Prov Co.

PROCEEDINGS OF TRIAL.

Held in the Fd in [redacted] FRANCE on (date(s)) 18 Sep 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 11/79

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Imm ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet [redacted] attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [redacted] amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [redacted] brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [redacted] fit to undergo trial by court-martial.(1)
[redacted]
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. [redacted]

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W. Moredale	HQ A Tps Area
Member	Capt	G.R. Dowswell	2 Cdn Inf Tps Wksp
Member	Lieut	A.E. Dervin	9 Mob Lndy & BU.
Judge-Advocate	Capt	D.G. Dean	HQ A Tps Area
Prosecutor	Lieut	C.E. Newman	11 Provost Co.
Defending Offr	Lieut	R.V. Dunn	11 Provost Co.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dr p 2.)

A8. The accused D61157 Pte Deschamps before arraignment makes(s) (no) [redacted] plea.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [redacted] arraigned [redacted] on all charges in the charge sheet.(1) The accused does [redacted] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. Vol. 1-94

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Pros see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on First charge(s). [illegible]

(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (2).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Page Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans .....

Do you intend to call witnesses on your behalf?

Ans .....

Are they witnesses as to character only? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(3).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith.

and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 358. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 358, 330, 563-566, Overseas RO 309, 2323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, No D.61157 PRIVATE FERNAND DESCHAMPS, INCREMENT TO NO 11 CANADIAN PROVOST COMPANY, CANADIAN PROVOST CORPS, A SOLDIER OF THE CANADIAN ARMY OVERSEAS PLACED ON ACTIVE SERVICE, IS CHARGED WITH:

FIRST CHARGE
Sec 6
Para 3(d)
Army Act.

WHEN ON ACTIVE SERVICE, COMMITTING AN OFFENCE AGAINST THE PROPERTY OF AN INHABITANT OF THE COUNTRY IN WHICH HIS IS SERVING,

in that he

On the 13 Sep 44, whilst on Active Service stole approximately Seven hundred and fifty (750) francs, the property of Mr Paul Michel POLLIN a baker and pastry merchant at LONDINIERES, SEINE INFERIERE, FRANCE

"E. Porter"
(E. Porter) Captain
Officer Commanding
No 11 Canadian Provost
Company - CANADIAN PROVOST
CORPS

In the Field
15 Sep 44

Approved pursuant to KR(Can)540 and
Overseas RO 4756.
In the Field
16 Sep 44.

"D.G. Dean" Capt
(D.G. Dean) Capt
ADJA A Tps Area, First Cdn Army

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"R.O.G. Morton"
(R.O.G. Morton) Brig
Comd A Tps Area
First Cdn Army.

In the Field
17 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-61137	Pte	Pte	Fernand	DESCHAMPS	Incr to No 11 Cdn Provost Coy, Cdn Pro Corps

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [XXX] committed the offence[X] set forth in the Charge Sheet(s) attached and on (date) 17 Sep 44 endorsed by me, ([XXXX

MEDICAL OFFICER'S CERTIFICATE

I certify that No D-61157 Pte DESCHAMPS, F., Increment to No. 11 Cdn Provost Company, Canadian Provost Corps, is fit to undergo trial by Court Martial.

18 Sep 44

"A.J.W. ??????? Capt
M.O. 1st Cdn Army (Adm)

SUMMARY OF EVIDENCE IN THE CASE OF
D-61157 Pte F DESCHAMPS

INCREMENT TO NO 11 CANADIAN PROVOST COMPANY - CANADIAN PROVOST CORPS

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS C-41986 Sergeant J.R.R. Carrier, No. 1 S.I.S., First Canadian Army HQ having been duly sworn states:-

At about 0845 hrs., 14 Sep 1944 Mr. P.M. POLLIN residing at Londinieres accompanied by a local gendarme complained to me that at about 2300 hrs. the previous night, two members of the Canadian Provost Corps had forced their way into his house and before leaving one of them stole twenty fifty franc notes. I brough this complaint to the attention of the Officer Commanding S.I.S. and was directed by him to investigate the matter.

At about 1030 hrs, 14 Sep 1944 accompanied by Mr. Pollin and the gendarmes I attended an identification parade and saw Mr. Pollin identify Pte Deschamps as the man who had taken his money and threatened him with his revolver. I immediately cautioned him and acquainted him with the accusation, he replied, "I do not wish to say anything". Later I searched Pte Deschamps' person. He was in possession of only a five franc note. On finding a photo of a baby in Deschamps' possession I showed it to the complainant in Deschamps presence and he identified it as a photo shown to him the previous evening by Deschamps. I produce this photo as exhibit "A" . Deschamps then asked to see Capt Porter the Officer Commanding privately. This request was granted. A few minutes later I accompanied Capt Porter and Deschamps to a little wood near the cookhouse and there saw Deschamps retrieve a bundle of notes which he handed to Capt Porter. This was then handed to me by Capt Porter and on counting these notes found that there were ~~fifty~~ fifteen fifty franc notes. I produce these fifteen notes being exhibit "B". Deschamps then said, "If the man lost more I am willing to pay it back". "I had been drinking a lot". Later after having been duly cautioned I took a statement from Deschamps and he signed it in my presence.

The photograph referred to in the evidence of the above witness is attached hereto as exhibit "A".

The bundle of notes amounting to 750 francs referred to in the evidence of the above witness is attached hereto as Exhibit "B".

The statement of Pte Deschamps referred to in the evidence of the above witness is attached hereto as Exhibit "C".

"JRR Carrier"
C-41986 Sgt JRR Carrier.

Second Witness Mr Paul Michel Pollin, LONDINIERES.

I certify that in my opinion, the attendance of this witness is owing to the loss of time which would be involved in securing his attendance, not really procurable and a written statement of his evidence signed by him has been read to the accused and is attached hereto as exhibit "D" together with an English translation of same.

"M.A. Fitz-Gibbon"
Lieut M.A. Fitz-Gibbon.

THIRD WITNESS: Mrs Georgetta Pollin, LONDINIERES

I certify that in my opinion, the attendance of this witness is owing to loss of time which would be involved in securing her attendance, not readily procurable and a written statement of her evidence signed by her has been read to the accused and is attached hereto as Exhibit "E" together with an English translation of same.

"M.A. Pitz-Gibbon"
Lieut M.A. Pitz-Gibbon.

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:

First Witness for Defence:

The accused, D-61157, Pte P. Deschamps, Increment to No. 11 Canadian Provost Company, Canadian Provost Corps, having been duly sworn states:-

I admit I must have taken the money but I do not remember taking it or in any way threatening the complainant. I was very drunk and can remember nothing after entering the bakers' shop. The whole evening was very hazy. I found the money after I returned to camp. I hid it in a wood intending to return it to its rightful owner as soon as possible.

The reason I hid the money is that I only drew a hundred francs on Pay Parade and I know that if any of my companions saw the money they would wonder how I had got it in my possession. I wanted to stay out of trouble if possible. Pte Derry received none of this money and to my knowledge knew nothing about it until this morning when I told him.

"P. Deschamps" Pte
P. Deschamps, Private.

Second Witness for Defence:

B-26382, L/Cpl W.C. Lennon, Increment to No. 11 Canadian Provost Company, Canadian Provost Corps, having been duly sworn states:

At approximately 0100 hrs, 14 Sep 1944 I was just going on guard over some Italian prisoners, when I saw Pte Deschamps coming into camp. I noticed that he was well und under the influence of liquor and I saw Todtz, who was on guard over the vehicles, take Pte Deschamps to bed.

"W.C. Lennon"
W.C. Lennon, L/Corporal.

ird Witness r Defence:

A.33225 L/Cpl N.C. Todtz No 11 Canadian Provost Company, Canadian Provost Corps, having been duly sworn states:-

At approximately 0100 hrs, 14 Sep 1944 I was on guard over the vehicles in Company lines. I saw Pte Deschamps coming into camp. He was under the influence of liquor and not wanting to get him into trouble I put him to bed. He was causing no disturbance but he could not find his tent.

"N.C. Todtz"
N.C. Todtz, Lance Corporal.

I certify that the foregoing summary of evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4(c)(d)(e) and (f) have been complied with.

"M.A.Fitz-Gibbons" Lieut
No 11 Cdn Provost Coy
Cdn Provost Corps.

Field
1d Sept 1944.

The following exhibits are retained by the ADJA, HQ A Tps Area, First Cdn Army, pending the issuance of an order as to their disposal.

Exhibit "A" - photograph of baby
Exhibit "B" - 750 Francs.

22 Sept 44.
Order for disposal of m/n exhibits has now been made.

"D.D."
ADJA

EXHIBIT "C"

D-61157 Pte DESCHAMPS, P.

I left camp at about 1800 hrs and started for Londinieres. At about ¾ of a mile I met Pte Derry and we went to Londinieres where we had a lot to drink. After the Cafes closed I was very drunk and I remember going to the bakers place and we had something to drink there. All I remember is that before we left he gave us a bread each. When I came in last night in camp I noticed that I had a lot of money and I counted it this morning - I had 750 frs. I then went in the wood near the camp, where I took Capt Porter and yourself and I hid the money there. I intended to take it back this afternoon. I was wearing my revolver last night, but I don't remember threatening the baker ~~last night~~ with it. I did not give any money to Pte Derry and I only told him this morning that I had taken this money.

"Deschamps, P"

14 Sep 44.

Mercedes 4,000 sous - Officer.

Aufhibie(?) 8,000 un sous Officer
Que un autre Chateau
d A.V. Hallines.

EXHIBIT "D" ("M.F.S.")

14 Sep 44

Statement of Mr. Paul Michel Follin, Londinieres.

Around 11 pm last night I was busy in my shop counting my cash when I heard a knock at my door which faced the street. After insistent knockings and on hearing the names of Police I opened the door. Two military policemen were at the door and came into the shop. One of them had his hand on his revolver. The holster was unbuttoned. The Tallest mentioned the light which could be seen from the street. My wife came down the stairs with the three children which were then in bed. Both of them were very threatening and the one who spoke French told me, that he suspected me of hiding some Germans and that they wanted to satisfy themselves. Both of them although they were not drunk had been drinking. After ten minutes they calmed down and started to talk with the children. So then I invited them into the kitchen and I gave them a calvodos, thinking that they would go away without causing me too much trouble. During the discussion in my shop, these two men had their hands on their revolvers which were in their open holsters.

During the few minutes that they were in my kitchen, the tall one, the one who talked French showed me a photograph of his child and it is the same photograph that you are now showing me. Before leaving they asked me for some bread and I gave them one each. They insisted in paying for them and I refused the money, but they left fifteen francs on the table. When going out, I went first to open the door. The one who talked French was following me; at the moment that I was opening the door, I saw this man slide his right hand behind his backand take a handful of notes that I had left on the counter, when they arrived. At this same moment as he was placing these notes in the right hand side

/page 2

pocket of his trousers, I pushed his arm and a one hundred franc note fell on the floor. I informed him that he was robbing me. He picked up the note and placed it on the counter. He denied that he had robbed me and as I was insisting that he empty his pocket he placed his hand on his revolver and said to me several times in menacing voice "open the door for me". The other man who does not speak French then arrived and I tried to make him understand what had happened, but he did not appear to understand. So then I was forced to open the door and they left. I do not think that the one who only speaks English saw this incident.

After they had left I ascertained that twenty notes of fifty francs had been taken. Today 14 Sep 44 at 10 am accompanied by a gendarme and a military police I attended and identification parade and there designated a soldier who had accompanied the one who robbed me.
Later at another parade I indicated the one who had robbed me.

"M.Pollin"

CERTIFIED TRUE TRANSLATION

"J.R. Carriere"

EXHIBIT "E" ("M.P.S.")

14 Sep 44.

Statement of Mrs Georgette Pollin, Londinieres.

Around 11 pm last night I was upstairs putting my three children to bed, when I heard knocking at the door of our shop. I then went downstairs and my husband was then in the shop. Someone knocked four or five times and then someone said "Open up its the English Military Police". So then we looked through the curtain and we saw the white belts and knew that it was the police. So then we opened the door and two policemen came in the shop. One of them, the one who does not speak French had his revolver out of his holster and was carrying it in his hand. I did not notice if the other was holding his revolver. So then the tall one, the one who talked French asked why we had not opened the door. He mentioned the blackout and then said that he suspected us of hiding some Germans. Each time that we tried to explain he would tell us to shut up and in all, their conduct was very menacing. They finally calmed down and one must state that both had been drinking. So then my husband offered them a drink which they accepted. We gave them each a loaf of bread and both started towards the shop of my husband. It is then that I went upstairs and put my children to bed. Whilst these men were at my place, one of them, the one who talked French showed me a photograph of his baby and it is the same photograph that you are now showing me.

"G.Pollin"

CERTIFIED TRUE TRANSLATION
"J.R.R. Carriere"

Accused duly sworn states:

I admit having the money on me last night. I do not remember taking the money the night before. I don't remember threatening the occupant of the house. When I counted the money next day I saw Pte Derry and told him about it. He told me to return it as soon as possible which I had intended to do anyway. I hid the money so that my comrades not suspect me of stealing it as I had drawn only 100 francs on pay day, 13 Sep. Before I had time to return it, an identification parade was held which found me in possession of the money.

X-Exam by Prosecutor

I hid the money a few minutes after I got up, about 0630 hrs. The bakers was the only place I could remember being, although I couldn't remember what I did there. I knew the money wasn't mine so presume I must have got it there. I was going to return it to the bakers. I realized I must have stolen the money. I am not used to drinking, We had a lot to drink, calvados, rum, wine, cognac and cider. I remember being in the bakery but remember nothing that happened there. When I saw Derry he told me it was probably the bakers as we had been there.

RP 83(B) is complied with.

DEFENDING OFFICER IN MITIGATION

Acc left school and enlisted 3 Sep 39 at 19 years. He went to Iceland June 1940 and England Dec 1940. He transferred to Provost Sec 1941. He was trained and worked in Sgts Mess. In May 42 posted to 9 Provost Co and came to France from there in Aug. He is happily married in England and has one child. He has assigned pay of $23 per month. While with 9 Prov Co for over two years he had only three very minor charges. The other charges well all very minor - no drunk charges. It is clear that he was completely drunk at the time.

His record iw excellent. This charge was not premeditated - it was done while drunk. Nothing in his record shows any criminal tendency.

M.F.H. 155
2234—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-61137	Private	Fernand DESCHAMPS	Increment to No.11 Cdn Provost Coy - Cdn Provost Corps.

1. The following is a fair and true summary of the entries in the [redacted] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For Absent without Leave	1 times	Absent without leave	7	times
For	times	Causing disturbance in a public place	1	times
For	times			times
For	times			times

Number of instances of gallantry or distinguished conduct Nil

or,

[redacted]

NOTE.—[redacted]

2. [redacted]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act A.F.A. 73 and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement. N/A

3. The accused is not under sentence at the present time.

[redacted] N/A [redacted] N/A

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and One (1) days in military custody, making a total of One (1) days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is [redacted] 24 years

6. The date of his commission specified in his record of service is attestation paper N/A

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [redacted] decoration military N/A military possession of or entitled to). State any [redacted] military decoration or reward. Cdn Voluntary Service Medal

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. D. 61157 Name Deschamps F. Sqn., Battery, or Company Edm Prov Corps Date of enlistment 9.9.39. G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.11.40	Pte	Nil	AWN from 2230 hrs. 11.11.40 to 0630 hrs 11.12.40 AA Sec 15(1)	Ptrudar Maj.	1 days pay 3 days CB		Ptrudar Maj	
Field	30.11.40	Pte	Nil	AWN from 2230 hrs. 29.11.40 to 0630 & 30.11.40 - Absent 8 hrs. AA 15(1)	Sgt C. Julian	1 days CB		Ptrudar Maj.	Forf 1 days pay FR&J. 149(1)(9)
Field	17.7.41	Pte		WOAS Absenting himself without leave from 2400 hrs. the 17.7.41 till 2200 hrs 19.7.41. Time 34 hrs.	Cpl Courcelles.	14 days CB	23.7.41	F Shutterson	2 days pay.
Field	30.7.41	Pte		WOAS Absenting himself without leave while on CB at 1800 hrs 29.7.41 till 2200 hrs 29.7.41. Time 4 hrs.	D-62572 Cpl Beauregard. D-62543 L/Cpl. C Cavalieri	14 days CB.	30.7.41	H L Langlois Maj.	

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-61137	Private	Fernand DESCHAMPS	Increment to No.11 Cdn Provost Coy - Cdn Provost Corps.

1. The following is a fair and true summary of the entries in the [redacted] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Absent without Leave	1 times	Absent without leave	7 times
For		times	Causing disturbance in a public place	1 times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct Nil

or,

[redacted]

NOTE.—[redacted]

2. [redacted]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement. N/A

3. The accused is not under sentence at the present time.

[redacted] N/A [redacted] N/A

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and One (1) days in military custody, making a total of One (1) days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 24 years

6. The date of his commission specified in his record of service is attestation attestation paper N/A

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to [redacted] decoration or is in possession of or entitled to). State any N/A military decoration or reward. N/A military Cdn Voluntary Service Medal

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
N/A dated N/A, and in his regiment (or corps), the rank of unit
N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— N/A Date of promotion.

In the rank of N/A years.
In the rank of N/A years.
In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number N/A Rank N/A Unit Air Force
Name N/A of N/A Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14 Sep 1944 day of SEPTEMBER 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked N/A signed by the president, and annexed to the proceedings.

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. D. 61157 Name Deschamps F. Sqn., Battery, or Company Edm Prov Corps Date of enlistment 9.9.37. G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.11.40	Pte	Nil	AWN from 2230 hrs. 11.11.40 to 0630 hrs 11.12.40 AA Sec 15(1)	Ptrudar Maj.	1 days pay 3 days CB		Ptrudar Maj	
Field	30.11.40	Pte	Nil	AWN from 2230 hrs. 29.11.40 to 0630 & 30.11.40 - Absent 8 hrs. AA 15(1)	Sgt C. Julian	1 days CB		Ptrudar Maj	Forf 1 days pay FR&I 149(1)(4)
Field	17.7.41	Pte		WOAS Absenting himself without leave from 2400 hrs. the 17.7.41 till 2200 hrs. 19.7.41. Time 34 hrs.	Cpl Courcelles	14 days CB	23.7.41	F S Mathewson	2 days pay
Field	30.7.41	Pte		WOAS Absenting himself without leave while on CB at 1800 hrs 29.7.41 till 2200 hrs 29.7.41. Time 4 hrs.	D-62572 Cpl Beauregard. D.62543 L/Cpl C Cavalieri	14 days CB	30.7.41	[illegible] Longlois Maj.	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispensing with trial	By whom awarded	Remarks
Field	16.9.41.	Pte.		WOAS awn in that he after being warned for draft, absented from Tattoo Roll call at 2200 hrs till 0600 hrs sept 15th 41. Since 1 day 8 hrs. (ad. sec 15)	D. 41040 Sgt. Benoit G.	14 days CB.	18.9.41.	FS Matthewson Rt Col.	2 days pay.
Field	8.6.42	Pte	Lil.	WOAS awn In that he was absent from his quarters without permission from 2359 hrs 6.6.42 until 2310 hrs 7.6.42	A 11073 Sgt. Re Conte.	5 days CB.	10.6.42.	W.G. Eldu. Capt.	1 day Pay.
Field.	16 Aug 42	Pte		Conduct to the Prej etc. creating disturbance in Tarn Ham at 2300 hrs 16 Aug 42.	RSM Gotton R/Cpl. Greenwell.	3 days CB.	18 Aug 42.	Lt RA. Ogilvie	[illegible]
Field.	16.4.44	R/Cpl.		AA 15(1) WOAS awn from 1755 hrs. 16.4.44 to 2359 hrs. 16.4.44 Absent 6 hrs. 4 min)	RSM Whitworth	Reduced to pte.	17.4.44.	J P Lone. Capt.	Conf. 1 day pay FR & I 1.9 (1) (9)
Certified true copy.				" 49 Fitz/Gibbon " (49 Fitz/Gibbon) No 11 Cdn Prov Coy.	Lt.				

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D61157 L/CPL DES CHAMPS F. #7 CDN PROVOST COY CPC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40	NOT GUILTY	NOT GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~To undergo imprisonment for ... beginning (on date)~~
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial: a total of ... days, of which ... days were spent in hospital.~~
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court:~~

(Sgd) J. K. Kidd Capt — Judge-Advocate, if any. 27 AUG 45 — Date awarded. (Sgd) Fred Nash Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP (20)(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51–56, 120, MML pp 759–761, KR Can 567–577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 114(2)(b). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) ...
Date ...
Commanding ...
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

PROPOSED AT CMHQ IN AB 140 5-8-45

CPA96 (In lieu of AFA2)
40-P.A.B.-1608 (3864)

FIELD GENERAL COURT-MARTIAL

RE: Convened by Order of BRIG N N BOSTOCK Comd A TPS AREA FIRST CDN ARMY dated 24 AUG 45

1 SEP 1945 JAG BRANCH CMHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) appmt, A/ronk or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61157	PTE A/CPL	FERNAND	DESCHAMPS	#7 CDN PRO COY CPC

PROCEEDINGS REVIEWED
10 Sept 45
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND on (date(s)) 27 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (4) amenable to military law, and each charge discloses an offence.(5)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (4) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (4) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~
(1. KR Can 557. 2. AA 84(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... to interpreter? Ans ... Do interpreter is sworn(1). Do you object to ... as shorthand writer? Ans ... The shorthand writer is sworn(1).~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO SIR (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	F M NASH	16 CDN SPEC EMP COY
Member	CAPTAIN	J A CHAMPIGNY	1 CDN FD EDUC SEC
Member	LIEUT	J P BLOUIN	3 CDN PRO COY CPC
Judge-Advocate	CAPTAIN	J K KIDD	HQ ATPS AREA FIRST CDN ARMY
Prosecutor	CAPTAIN	A E HARRISON	FIRST CDN ARMY LEAVE CENTRE
Defending Offr	LIEUT	R M SIMPSON	HQ ATPS AREA FIRST CDN ARMY

Questions by President: Is the Prosecutor a lawyer? Ans NO SIR Is the Defending Offr a lawyer? Ans YES SIR
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused D61157 PTE A/CPL DESCHAMPS F before arraignment makes(1) (no) plea.
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 13(2), RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (4) arraigned (separately) on all charges in the charge sheet.(1) The accused does (4) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 52; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason save authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 30(B) by explaining to the accused the nature and meaning~~ of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 2.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty,(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 2, see 3. MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded~~ by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded ~~GUILTY~~ are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using~~ Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (a) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 91(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty of the latter charges.~~ (4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans NEITHER Do you intend to call witnesses on your behalf? Ans No SIR Are they witnesses as to character only? Ans N A
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using~~ Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character~~ (1)(2)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 3.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. ~~The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which~~ is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 70(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 116, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 753?-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 48(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1 - 2nd

MEDICAL OFFICER'S CERTIFICATE
R.A. (CAN) PARA 557

I CERTIFY THAT I HAVE THIS MORNING EXAMINED [illegible] DESCHAMPS F
No. 2 Cdn Provost Coy AND IN MY OPINION HE IS ~~UNFIT~~ FIT TO UNDERGO
TRIAL BY COURT MARTIAL.

STATION:- FIELD
DATE:- 27 August 1945

SGD [illegible] Capt.
(MEDICAL OFFICER)
3 Cdn C.C.S.
R.C.A.M.C.

Fmd

FIELD GENERAL COURT-MARTIAL

CFA50 (In lieu of AFA3)
40/P&S/1607 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-61157	Pte	L/Cpl	Fernard	DESCHAMPS	7 Cdn Pro Coy CPC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 24 Aug 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR (Rank.) F M NASH (Must be named. RP 106.) 16 Cdn Spec Emp Coy (Unit.)

MEMBERS.

Captain To be detailed by OC 1 Cdn Fd Educ Sec

Capt or Lieut to be detailed by OC 3 Cdn Pro Coy CPC (Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by ADMS HQ A Tps Area (Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.) J K KIDD (Must be named, if any. RP 106.) HQ A Tps Area, First Cdn Army (Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed personally, RP 105 fn 2.)
(W N Bostock)

Brig (Rank.)

Date 24 Aug 45

Commanding A Tps Area, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, D61157 L/Cpl Fernard DESCHAMPS, No. 7 Cdn Provost Coy, Cdn Provost Corps, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field at approx 1740 hrs on 21 July 45 did drive WD Veh No. CM 4283809 in a negligent manner, [redacted]

In the Field
12 Aug 45

.....Capt
(T Crawshaw)Commanding,
No. 7 Cdn Provost Company,
Cdn Forces in the Netherlands.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
24 Aug 45

(W N Bostock) Brig
Comd A Tps Area, First Cdn Army

FIRST WITNESS FOR THE PROSECUTION
B 139576 2/cpl MESKY B.C. #7 Provost Coy Seven
States:

Exam. - I am as above, On 21st Jul at about 1745 hrs we approached intersection of Jacob Van Compent Street + a Motorcycle shot out into the intersection from Pas Hall Street. We sounded the horn before we arrived on the intersection + a M.C. shot out from Hall Street. When we hit the Motorcycle the curtain more or less recoiled off the jeep. We stopped + I drew a sketch of the accident. I was with Deschamps at the time the accident happened.

The prosecutor produces as an exhibit a sketch of the scene of the accident showing layout of streets + general directions the defending officer does Not object to the sketch being produced as an exhibit. Sketch Marked exhibit "A".

I saw the Motorcycle about 4 or 5 feet away before it Hit Us. Our first warning that the M/C was approaching was the scratch of the M/C tires on the pavement. Pavement was dry asphalt. We were proceeding down Mainstreet. M/C came out of Sidestreet. Jeep was proceeding east on Main street. We were on roving patrol at the Time proceeding To the Main part of the Town.

Cross Exam. I was Co driver of Vehicle that Deschamps drove. I was on side of Vehicle next accused. M/C hit jeep on that side. M/C was travelling considerably faster than we were. When I saw M/C it had its brakes on + it was still going at a good speed. I dont know what accused has been doing since accident

I
Re Exam
COURT.

None

As we approached intersection we ~~[illegible]~~ we moved over to the centre of the road. The M/C came out of a Hallstreet - M/C was travelling down about the centre of the side street. The Rd Cpl Deschamp was driving on was about 36' wide. The street M/C came out of was about 33' wide. We were better than halfway across the intersection that would be 24' or so across. The jeep was about 15' out from right hand side of the road. A Civilian Mr Name of Russ was driving the Motorcycle. On the left Handside of road in the direction we were travelling there was a Civilian car parked. A Ford Convertible Coupe Car was parked two feet from the Curb. The Civilian Car was about twenty or thirty feet from the Corner. The Motorbike hit the right corner of the jeep at the bumper. The Motorbike carromed off right front bumper + ended up in front of the Civilian car. Motorbike ended up about 5' from Civilian Car. Civilian ended up ahead of the Motorbike. The Civilian landed beside ~~left~~ front door of Civilian Car. I dont know how Civilian got to the Car I didnt see Him Until He was on the ground. When struck by the Motorbike we moved through intersection + pulled up by right Curb. Accused put on His brakes + we skidded 5 feet. We were practically To a stop.

III

The Motorbike Had shot across the road by the Time we Moved on. The Wheel of motorbike struck the jeep & then Carromed off. Front Wheel of M.C was smashed. Jeep only had grill on radiator bent. where Handle bars of ~~jeep~~ bike had passed along. We went on duty at 1730 hrs. We had supper at 1700 hrs. I dont believe Deschamps had been drinking. M/C skidded about 29 Ft. There are No stops signs on either road. We approached intersection at 15-20 MPH. We geared down before intersection we were in 2nd gear. Few people on Street. I dont know Number of jeep Deschamps was driving.

R.P. 83 (A) Complied With

SECOND WITNESS FOR THE PROSECUTION

William Hindrick Murmbeld of N Amstelhaen 171 Amsterdam South. duly sworn state.

Exam. I am as above. At about 1730 on Sat 21 July I was standing by garage at Jacob Van Compenstraat & Frans Hale straat. I was about 35 metres from where the accident happened. Van Compenstraat runs east & Jeep was travelling on that street. I was ~~west~~ east of intersection. I was standing on the left side of road. I was standing ~~of~~ by the front of the Curtian car. Nothing obstructed My View I was in front of car at the Time of the accident. I was talking To a friend. I saw the jeep coming towards Me & I saw a motorcycle come out of side street. I heard a bump. & the Motorcyclist was flung through air about 20 Meters collapsed against Curtian car in front of Me. I walked over To Cyclist who was lying Near rear wheel of car. I didnt see that either Vehicles were trying To Stop. I was standing on the sidewalk. Building come out closed to the street. It is a right angle intersection.

IV

I couldnt say how fast jeep was travelling. Motorbike was going about 30 Kilometres an hour. Motorbike shedded about 7 metres. Motorbike was right in front of jeep at time of impact. Cyclist was flung into the air. Motorbike went off at about an angle of 30°. Curlian trimped against the Curlian car. Body of cyclist came towards me before bike came. There was dust on ground by Curlian car. Bike didnt strike Curlian car. The body must have. I went over to Curlian body I thought him dead. He came too + asked me what happened + told him to be quite. I saw accused around jeep after accident. Jeep was on right of side of road. He didnt break rules of road it was in normal position. Motorbike was on rightside. I didnt hear any shrieching before accident. Pavement dry, Vision clear.

Cross Exam - I was talking to a Curlian in front of car. Both streets were not very busy. I just said good bye to my friend. At moment of impact the Motorbike was going at 30 Kilometres an hour. The Motorbike did not swerve to avoid jeep

RE Exam None

Court - I didnt notice any shedmarks behind jeep. I did notice shedmarks behind motorbike. No stop signs on corner. My impression was the jeep was going faster than Motorbike but I am not sure.

R.P. 83 (b) Complied With

Balbas School, Amsterdam, 27 Aug 45

President and Members of the Court:

In my opinion the 2 witnesses presented for the prosecution and the sketch of the scene of the accident have provided ample evidence for the consideration of the court. It has been clearly defined that the intersection in question is a rather dangerous one from the driver's point of view he is approaching the intersection from any direction. Further there were no "stop" signs or traffic control of any type. Neither street could be considered a "main" street and both vehicles were travelling on their respective correct side of the road. The road surface was a dry asphalt and skid marks indicate an attempt was made to stop but speed & very late warning would tend to indicate that it was impossible to stop soon enough. I do believe all the necessary data etc has been presented to the Court and I now wish to let the case rest with the Court for decision.

Prosecutor

A E Harrison Capt
HQ 1st Cdn Army Leave Centre

Argument on Finding (Pte Deschamps)

I know that the DJA will advise the Court on the law involved but it appears to me that the whole question thing boils down to whether Dese Lamps was guilty of negligence such to such a an extent that the Court as Regimental Officers fel that he deserves to be punished.

The evidence of Lt/Col Meskey is to the effect that on entering the intersection the accused sounded the horn slowed down and then was speeding up for the crossing having attained a speed of 15-20 m p h at the time of the accident and that the MC was going considerably faster than the Jeep. The civilian witness on the other hand states that at the time of the impact the MC was going 30 ~~M~~ kilometers per hour and as he had skidded for 29 ft he would have been going approaching the intersection at a speed considerably in access of this speed. The civilian ~~witness~~ witness explained he was in no position to estimate the speed of the Jeep and in fact was in conversation at the time immediately prior to the accident and I suggest could have missed a lot that actually happened.

It must also be borne in mind that Lt/Col Meskey was on the right of the Jeep, the side nearest the on coming MC. but as he also failed to see it any sooner than the accused and would be positioned to obscure the accused's field of vision. Is it fair to expect the accused to see more on the right side of the Jeep and another man on that side and also on duty

I suggest what actually was this. The Jeep entered the intersection having exercised the usual precautions of honking ~~his~~ the horn and slowing down while the MC was still on a considerable

J.A. Sums Up

Adverse Court ① Function of J.A.
② Court Sole judge of the facts
③ Analysis of charge.
④ Special Finding RP. 44.

Reads + Explains to Court Amdt 50 A A Sec 40. June 1942. "Neglect to be punishable - - - - - - - - - - - - - - - deserving of punishment"

Adverse Court re ① Credibility of Witnesses
② Accused innocent till proven guilty
③ Onus of proof
④ Reasonable doubt

Prosecutor, defending officer Nor court request any further adviser on being asked.

[signature]

Exhibit A

finish.

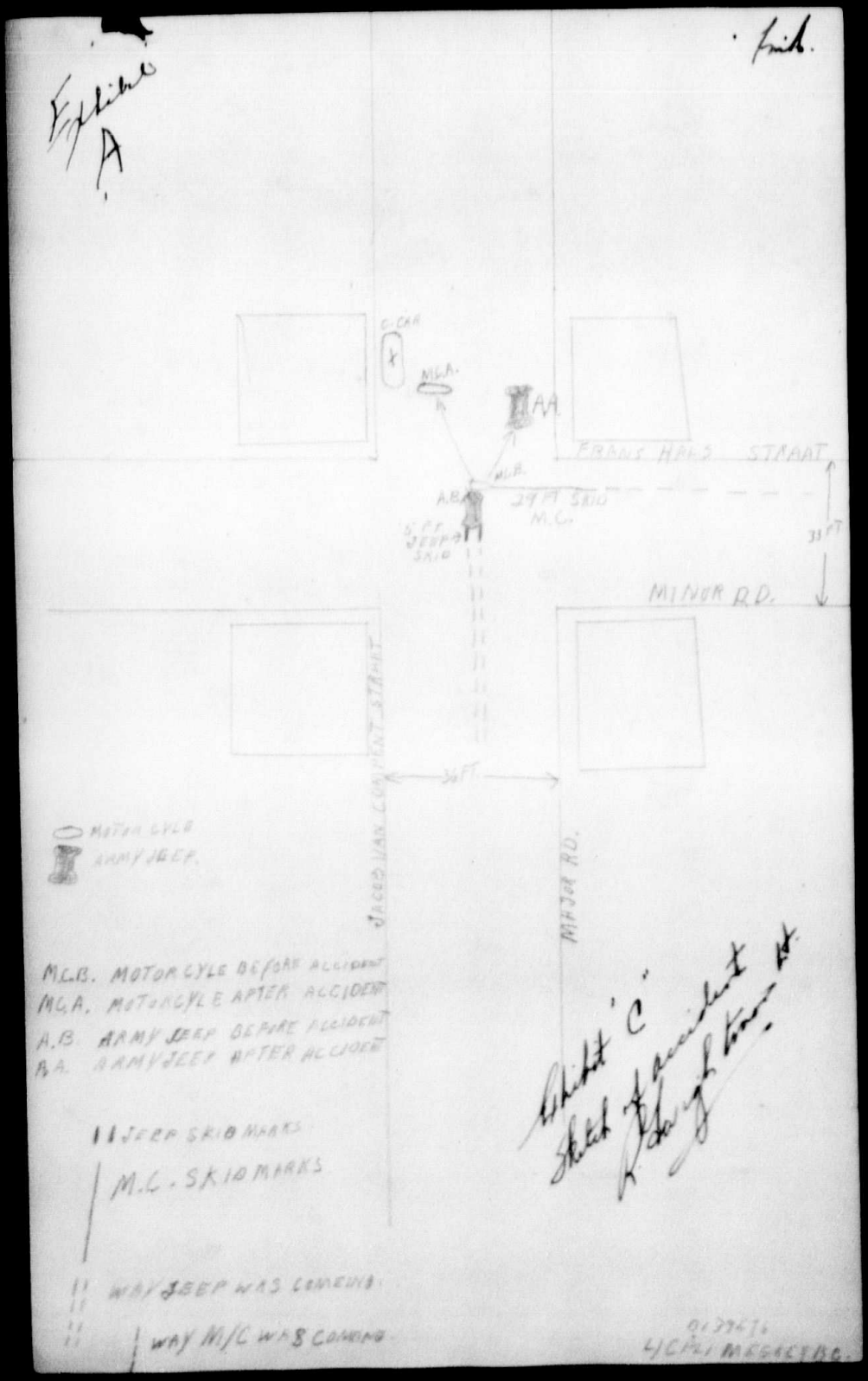


Exhibit "C"
Sketch of accident
R. Gough Tomas Lt.

0139676
L/CPL MEGAGE BC.

Summary of Evidence

Summary of evidence in the case of D61157 L/Cpl Desclamps F No 7 Coy Canadian Provost Corps First Cdn Army Troops. Charged with being involved in a fatal accident (AA Sec 40)

By direction of the Commanding Officer the evidence is taken on oath

First Witness B139576 L/Cpl Mesley B.G. No 7 Cdn Provost Coy 1 Cdn Army Troops. Having been duly sworn states -

I am B139576 L/Cpl Mesley B.G. a member of 7 Provost Coy. At about 1740 hrs on 20 st July 1945 I was on roving patrol in a jeep driven by L/Cpl Desclamps. We were proceeding East on Jarol Va Compert street at about 15 to 20 miles per hour and had just changed from second into high gear when a M/C coming north on Trans Wals street drove out in front of us. L/Cpl Desclamps put on the brakes but it was too late and the jeep struck the M/C.

Q When did you first see the M/C.
A Just before we hit it - when I heard the brakes screech.
Q Whose brakes?
A The M/C's.
Q Have you any idea how fast the M/C was travelling
A No he was really zipping along
Q What was the road surface
A Dry pavement
Q What are the relative sizes of the two streets
A Approximately the same width were main streets.
Q Were you L/Cpl Desclamps on duty
A Yes.

The accused declines to cross examine the witness

B.G. Mesley.

2nd Witness Willem Hendrick Murenbeeld of M. Amstellaan 171. Amsterdam South doctor having been duly sworn states

I am Willem Hendrick Murenbeeld of M. Amstellaan 171 Amsterdam

At about five thirty on Saturday 21 July I was standing near the intersection of Jacob Van Compentstraat & Frans Hals Straat. I saw a motor cycle going north on Frans Hals Str at I would say about 30 Km. A jeep was coming east towards me along Jacob Van Compentstraat. Meeting vehicle sounded its horn a collision took place near the centre of the intersection. I can't say how fast the jeep was travelling as it was coming towards me. The cyclist was thrown about 20 metres. After the accident I noticed skid marks of the M/C for about 5 metres. I did not notice the M/C attempt to survive at all.

Q. Is the visibility at that corner good or bad

A Very bad its a right Lngd corner.

Q You gave first aid to the civilian

A Yes

Q What do you consider the cause of the death

A The man was thrown against a parked motor car and if it had not been there he would perhaps have escaped with minor injuries.

Cross examined by accused

Q How far were you from the corner when the accident happened.

A About 30 metres at the west of the intersection

Q. The car which the M/C rider struck was it between you and the scene of the accident

A No.

Murenbeeld

P. 3. [illegible]

Third Witness S.C.M. Spoor of Amsterdam, Geneesheer director of Burger Zeekenhuis:

I certify that in my opinion the attendance of this witness is not readily procurable and a written statement of his evidence, signed by him has been read over to the ~~witness~~ accused and is attached hereto as Exhibit A

E. J. Phoenix
Capt
Officer Tabs Summary

I do not require the attendance of S.C.M. Spoor for purpose of cross examination.

F. Deschampes

The Form CMHQ 1000:42A in the matter produced as documentary evidence, was read over to the accused, marked exhibit B, signed by me and attached hereto.

E. J. Phoenix
Capt
Officer Tabs Summary

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

A I wish to make a statement
Q On Oath or not on Oath
A On Oath.

The accused having been duly sworn states:

At approximately 1740 hrs on 21 July I was on duty as roving patrol in Amsterdam proceeding from Company H.Q. driving Jeep W.D. # CM. 4283209 east on Jacob Van Campert Straat. I suddenly came in contact with a M.C. driven by a civilian named Eca Rus, he was coming north out from Frans Hals straat a side street to a major road. I was driving at approx 15 - 20 m.p.h. as it was impossible to see the rider at the time from my right hand side. As soon as I saw him I applied my brakes but it was too late. The rider was knocked down. I got out of my jeep and ran to him. The ambulance was called and the civilian was evacuated to hospital. Everything possible was done to help the civilian. The accident was reported to the civilian police and a report submitted to my H.Q.

[signature]

The accused does not call any witnesses.

I certify that the foregoing summary of Evidence consists of four (4) pages was taken down by me in writing in the presence and hearing of the accused and the R.P. 4 C (D)(E)(F) & (G) have been complied with

E.S. Thorne Capt

(E.S. THORNE)
4th Cdn Recce Regt (4 P.L.D.G)

In the Field
29 July 45

Fmk.

Additional Summary of Evidence

First Witness Recalled
B139576 L/Cpl Mesley B.C. No 1 Can
Provost Coy 1 Cdn Army Troops having previously been
duly sworn states I am

Q Did you draw a sketch of the accident
A yes
Q Can you produce it
A yes. I hereby produce the sketch of this accident
as Exhibit "C" (Sketch of Accident and Marked Exhibit "C")

Q Were these measurements of the streets taken by
you
A yes
Q Where was the civilian car that the decease landed on
A The deceased landed against civilian car marked
X on Exhibit "C"

Accused defines to cross examine this witness

L. B. Mesley

I certify that the foregoing Additional Summary
of Evidence consist of one (1) page was taken down
by me in writing in the presence and hearing
of the accused and the R.P. 4 C (d)(e)(f) and
(g) have been complied with.

In the field
13 Aug 1945

D. Lew Wightman Jr
Mrs Cos

NO. 7 CDN PROVOST COMPANY
CDN FORCES IN THE NETHERLANDS

5-4-1
14 Aug 45

RE:- APPLICATION FOR F.G.C.M.
Reg No. D61157 L/Cpl DESCHAMPS, Fernard.
No. 7 Company, Canadian Provost Corps.

LIST OF WITNESSES FOR THE PROSECUTION

B139576 L/Cpl Meskey B.G., No. 7 Cdn Provost Coy.
William Hendrick MURENGEELD, N Amsterdaan 171, Amsterdam.
S.C.M. SPOOR Linnaeusstraat 89, Amsterdam.

LIST OF WITNESSES FOR THE DEFENCE

D61157 L/Cpl Deshamps F, No. 7 Cdn Provost Coy.

LIST OF EXHIBITS

Exhibit "A" Statement of M.C.M. Spoor
Exhibit "B" Road Accident Report
Exhibit "C" Sketch of Accident submitted by L/Cpl Meskey.

.....Capt
(T Crawshaw)Commanding,
No. 7 Cdn Provost Company,
Cdn Forces in the Netherlands.

I hereby acknowledge receipt of one copy of all the statements and evidence taken at a Summary of Evidence concerning charges against me on 29 July 1945 and additional Summary of Evidence concerning charges against me on 13 Aug 45.

.....L/Cpl
(D61157 Deschamps F)

The accused having been requested to name an officer to defend him at his trial stated he wished an officer to be named to defend him, namely Lieut Simpson, 13 Lancs.

.....L/Cpl
(D61157 Deschamps F)

4A-2

Pte Deschamps. H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D61157 Pte. Fernand Deschamps. Demobilised To 11 Can Prov'l Coy. Can Prot Sqn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 63(1)(a)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

~~Accused under sentence for~~ ~~(beginning on date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of two (2) years.

(Sgd) ~~J.D. Moran~~ Capt. 18 Sept 44 (Sgd) W. Morsedale Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be ~~not committed to~~ ~~detention~~ or detention barracks until further orders.(1)

(1. AA 57 ~~detention~~ not used.)

(Sgd) R.O.S. Morton Brig

Date 19 Sep 1944 Commanding Army Troops Area 1 Can Army Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused. Date. Signature of Offr.

Deschamps F. 21 Sept 1944 E/ Potter Capt

Capt.

RQ Hq Tp Bn, Coy.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT OTTAWA IN AB 160 4A-2

RECEIVED 27 OCT 1944 JAG BRANCH C.M.H.Q.

CFA86 (In lieu of AFA31) 40M-6/10/98 (1943)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig R.O.S. Morton Comd A Tps Area dated 17 Sept 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D61157	Pte		Fernand	Deschamps	11 Can Prov'l Coy

PROCEEDINGS REVIEWED 28 Oct 44 J.C. Snook Capt REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 27 Oct 44 D.J.A. Sec G.H.Q. 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (~~country~~) En France on (date(s)) 18 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 11/79

A1. The President, Members, waiting Member, JA, if any, and ~~Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmo ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 8. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CAO.~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~The President to accused: Do you object to ~~as interpreter?~~ Ans~~

~~The interpreter is sworn(1). Do you object to ~~as shorthand writer?~~ Ans~~

~~The shorthand writer is sworn(1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W. Morsedale	HQ A Tps Area
Member	Captain	R.R. Dowswell	2 Cdn Repl Dep
Member	Lieutenant	A.W. Davin	9 Mot Fmly Sqn RCE
Judge-Advocate	Capt	D.J. Dean	HQ A Tps Area
Prosecutor	Lt	E.B. Kaufman	11 Prov'l Coy
Defending Offr	Lt	R.D. Dunn	11 Prov'l Coy

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See QI p 31)

A8. The accused D61157 Pte Deschamps before arraignment makes(s) (no) plea (?)

(1. If a special plea is made for separate trial on one or more charges (RP 62(C), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), it by one of several accused charges jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references at fns to RoP stated. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~upon~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) ~~considers~~ the Instrs on Procedure after Arraignment at top of p 9. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 80, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N o t h i n g .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ~~F i n d~~ charge(s). ~~The accused is advised accordingly, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans.....Do you intend to call witnesses on your behalf ? Ans.....Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), fn 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(f) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B. and Ex C. respectively.(3)
(*1. MFB 255 or AFB 294. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and as provided, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas AO 309, 2323. MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 58(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NO. D.61157 PRIVATE FERNAND DESCHAMPS, INCREMENT TO NO. 11 CANADIAN PROVOST COMPANY, CANADIAN PROVOST CORPS, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, PLACED ON ACTIVE SERVICE, IS CHARGED WITH:-

FIRST CHARGE
Sec. 6
Para. 3(d)
Army Act.

WHEN ON ACTIVE SERVICE, COMMITTING AN OFFENCE AGAINST THE PROPERTY OF AN INHABITANT OF THE COUNTRY IN WHICH HE IS SERVING,

in that he

On the 13 Sep 44, whilst on Active Service stole approximately Seven hundred and fifty (750) francs, the property of Mr. Paul Michel FOLLIN, a baker and pastry merchant at LONDINIERES, SEINE INFERIERE, FRANCE

(E. Porter) Captain
Officer Commanding
No.11 Canadian Provost
Company - CANADIAN PROVOST
CORPS

In the field
15 Sep 44

APPROVED PURSUANT TO KR(CAN)540 AND OVERSEAS RO 4756
In the Field
16 Sep 44

(C.G. Dean) Capt.
ADJA A Tps Area, First Cdn Army

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

R. O. G. Morton
(R.O.G. Morton) Brig
Comd A Tps Area
First Cdn Army

In the field
17 Sep 44

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFA3)
40/P&S/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D.61137	Pte	Pte	Fernand	DESCHAMPS	Incr to No.11 Cdn Provost Coy, Cdn Pro Corps

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 17 Sep 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to [illegible] Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W. MOSEDALE	HQ Army Tps Area

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	G.R. DOWSWELL	2 Cdn Inf Tps Wksp
Lieutenant	A.W. DERVIN	9 Mob Lndy & BU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	D.G. DEAN, ADJA	HQ Army Tps Area

On Active Service in the Fd

in FRANCE (Country.)

R. O. G. Morton
~~(Signed personally. RP 105 fn 2.)~~
(R.O.G. Morton)

Brigadier (Rank.)

Date 17 Sep 44

Commanding A Tps Area, First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

WJM

MEDICAL OFFICER'S CERTIFICATE

I certify that No. D.61157, Pte. DESCHAMPS, F., Increment to No. 11 Cdn Provost Company, Canadian Provost Corps, is fit to undergo trial by Court Martial.

18 Sept. 1944

A J W Campbell Capt
MO - 1st Cdn Army (Admn)

SUMMARY OF EVIDENCE IN THE CASE OF

D.61157, PRIVATE F. DESCHAMPS

INCREMENT TO NO. 11 CANADIAN PROVOST COMPANY - CANADIAN PROVOST CORPS

The commanding Officer directs that the evidence be taken on oath.

First Witness: C.41986 Sergeant J.R.R. Carrier, No.1 S.I.S., First Canadian Army H.Q. having been duly sworn states:-

At about 0845 hrs., 14 Sept 1944 Mr. P.M. FOLLIN residing at Londinieres accompanied by a local gendarme complained to me that at about 2300 hrs. the previous night, two members of the Canadian Provost Corps had forced their way into his house and before leaving one of them stole twenty fifty franc notes. I brought this complaint to the attention of the Officer Commanding S.I.S. and was directed by him to investigate the matter.

At about 1030 hrs., 14 Sept 1944 accompanied by Mr. Follin and the gendarme I attended an identification parade and saw Mr. Follin identify Pte. Deschamps as the man who had taken his money and threatened him with his revolver. I immediately cautioned him and acquainted him with the accusation, he replied, "I do not wish to say anything". Later I searched Pte. Deschamps' person. He was in possession of only a five franc note. On finding a photo of a baby in Deschamps' possession I showed it to the complainant in Deschamps presence and he identified it as a photo shown to him the previous evening by Deschamps. I produce this photo as exhibit "A". Deschamps then asked to see Captain Porter the Officer Commanding privately. This request was granted. A few minutes later I accompanied Captain Porter and Deschamps to a little wood near the cookhouse and there saw Deschamps retrieve a bundle of notes which he handed to Captain Porter. This was then handed to me by Captain Porter and on counting these notes found that there were fifteen fifty franc notes. I produce these fifteen notes, being exhibit "B". Deschamps then said, "If the man lost more I am willing to pay it back". "I had been drinking a lot". Later after having been duly cautioned I took a statement from Deschamps and he signed it in my presence.

The photograph referred to in the evidence of the above witness is attached hereto as Exhibit "A".

The bundle of notes amounting to 750 francs referred to in the evidence of the above witness is attached hereto as Exhibit "B".

The statement of Pte Deschamps referred to in the evidence of the above witness is attached hereto as Exhibit "C".

J.R.R. Carrier

C.41986 Sgt JRR Carrier

Second Witness: Mr. Paul Michel Follin, LONDINIERES.

I certify that in my opinion, the attendance of this witness is owing to the loss of time which would be involved in securing his attendance, not readily procurable and a written statement of his evidence signed by him has been read to the accused and is attached hereto as Exhibit "D" together with an English translation of same.

Lieut. M.A. Fitz-Gibbon.

Third Witness: Mrs. Georgetta Follin, LONDINIERES

I certify that in my opinion, the attendance of this witness is owing to loss of time which would be involved in securing her attendance, not readily procurable and a written statement of her evidence signed by her has been read to the accused and is attached hereto as Exhibit "D" together with an English translation of same.

M A Fitz-Gibbon

Lieut. M.A. Fitz-Gibbon.

same photograph that you are now showing me."

This signed G. Follin

The accused declines to cross-examine the witness.

J.R.R. Carrier

J.R.R. Carrier, Sergeant

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:-

First Witness For Defence:

The accused, D.61157, Pte. F. Deschamps, Increment to No. 11 Canadian Provost Company, Canadian Provost Corps, having been duly sworn states:-

I admit I must have taken the money but I do not remember taking it or in any way threatening the complainant. I was very drunk and can remember nothing after entering the bakers' shop. The whole evening was very hazy. I found the money after I returned to camp. I hid it in a wood intending to return it to its rightful owner as soon as possible.

The reason I hid the money is that I only drew a hundred francs on Pay Parade and I knew that if any of my companions saw this money they would wonder how I had got in my possession. I wanted to stay out of trouble if possible. Private Derry received none of this money and to my knowledge knew nothing about it until this morning when I told him.

F. Deschamps

P. Deschamps, Private

Second Witness For Defence

B.26382, L/Cpl. W.C. Lennon, Increment to No. 11 Canadian Provost Company, Canadian Provost Corps, having been duly sworn states:-

At approximately 0100 hrs., 14 Sept. 1944 I was just going on guard over some Italian prisoners, when I saw Pte. Deschamps coming into camp. I noticed that he was well under the influence of liquor and I saw Todtz, who was on guard over the vehicles, take Pte. Deschamps to bed.

W.C. Lennon

W.C. Lennon, L/Corporal.

- P.T.O. -

Third
Witness
For
Defence

A.33225, L/Cpl. N.C. Todtz, No. 11 Canadian Provost Company, Canadian Provost Corps, having been duly sworn states:-

At approximately 0100 hrs., 14 Sept 1944 I was on guard over the vehicles in Company Lines. I saw Pte. Deschamps coming into camp. He was under the influence of liquor and not wanting to get him into trouble I put him to bed. He was causing no disturbance but he could not find his tent.

N.C. Todtz

N.C. Todtz, Lance Corporal.

I certify that the foregoing Summary of Evidence consisting of four pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

M.A. Fitz-Gibbon

M.A. Fitz-Gibbon, Lieutenant,
No. 11 Canadian Provost Company,
Canadian Provost Corps.

Field,
14 Sept 1944.

~~FGCM - 14 Sep 44~~
~~B 56005 Pte McCoy C E~~
~~64 Army Tpt Coy RCASC~~

The following exhibits are retained by the ADJA, HQ A Tps Area, First Cdn Army, pending the issuance of an order as to their disposal.

Exhibit 'A' - photograph of baby
Exhibit 'B' - 750 Francs

22 Sept 44
Order for disposal of my exhibits has now been made. [illegible]

(EXHIBIT C)

Exhibit C.

31

D. 611517 Pte
DESCHAMPS. F.

I left camp at about 1800 hrs last night and started for Londemieres. At about 3/4 of a mile I met Pte Derry and we went to Londemieres where we had a lot to drink. After the cafes closed I was very drunk and I remember going to the bakers place. We had something to drink

there. all I
remember is that
before we left he
gave us a bread
each. When I
came in last
night in camp
I noticed that
I had a lot of
money and I
counted it this
morning. I had
750 Pesos. I then
went in the wood
near the camp
where I took Capt
Porter and yourself
and I hid the
money there. I
intended to take

it leak this
afternoon. I was
wearing my
revolver last
night but I don't
remember threatening
the leaker with
it. I did not
give any money
to Pte Derry and
I only told him
this morning that
I had taken this
money.

(Sd) Ham Jr

14 Sept 44.

34

Mercedes
4,000
sous-officier

Amphibie
8,000
un sous officier
avec un autre
Chateau
d'AT HALLINES

(Ex H.B.T.)
D
(Mat S)

14 sept. 44.
Exhibit D.

Déclaration de M. FOLLIN. PAUL. MICHELE.
Boulanger & Patissier à Londinières.

Vers 11 P.M. hier soir j'étais occupé dans mon magasin à faire ma caisse quand j'ai entendu frapper à la porte donnant sur la route. Après bien des insistences et au nom de police j'ai ouvert. Deux policiers militaires étaient à la porte et sont entrés dans mon magasin. L'un deux avait sa main sur son revolver. La poche était déboucle. Le plus grand a fait allusion à la lumière qui pouvait se voir de la rue. Ma femme est alors descendue avec les trois enfants qui étaient couchés. Tous les deux étaient très menaçants et celui qui causait français

m'a dit qu'il me confisquait
de cacher des allemands et
qu'ils voulaient s'en rendre
compte. Tous les deux malgré
que ils n'étaient pas saouls avaient
bu. au bout de deux minutes ils
se sont adoucis et se sont mis
à causer aux enfants. Alors je les
ai invité à passer dans ma
cuisine et je leur ai donné un
calvados pensant qu'ils s'en iraient
sans me causer trop de trouble.
Pendant les discussions dans ma
boutique ces deux hommes avaient
la main sur leurs revolvers
qui étaient dans leurs poches
et qui étaient aussi armés.
Pendant les quelques minutes
qu'ils furent dans ma cuisine
le grand celui qui causait français
m'a montré la photo de son
son enfant et c'est la même
photographie de bébé que vous

me montrer en ce moment.

Avant de partir ils m'ont demandé un pain et je leur ai donné un chacun. Ils ont insisté pour payer et j'ai refusé l'argent mais ils ont laissé 15 frs sur la table. En sortant j'ai passé le premier pour ouvrir la porte. Celui qui cause le français me suivait, au moment où j'ouvrais la porte j'ai vu ce type glisser sa main droite derrière son dos et prendre une poignée de billets que j'avais laissé sur le comptoir à leur arrivée. Au même instant comme il était à placer ces billets dans sa poche droite de pantalons. Je lui ai poussé le bras et un billet de 100 frs est tombé par terre. Je lui ai fait remarquer qu'il me

volait. Il a ramassé le billet et il l'a posé sur le comptoir. Il a dérivé qu'il m'avait volé et comme j'insistais qu'il mette sa poche, il a posé la main sur son revolver et m'a dit plusieurs fois dans un ton menaçant "Ouvrez-moi la porte". L'autre type qui ne cause pas le français est alors arrivé et j'ai essayé de lui faire comprendre ce qui c'était passé mais il n'a pas eu l'air de comprendre. Alors j'ai été forcé d'ouvrir la porte et ils sont partis. Je ne crois pas que celui qui cause seulement que l'anglais ait vu l'incident.

Après qu'ils furent partis je me suis rendu compte que l'on m'avait pris 20 billets de 50 frs.

Aujourd'hui le 14 Sept. 44 à 10 am. accompagné d'un gendarme et de la police

militaire j'ai assisté à une
parade et là j'ai indiqué
le soldat qui accompagnait
celui qui m'a volé. Plus tard
à une parade j'ai signalé
celui qui m'a volé.

M.O.H.

Statement of Mr. Paul Michel Follin, Londinieres.

Around 11 pm last night I was busy in my shop counting my cash when I heard a knock at my door which faces the street. After insistent knockings and on hearing the name of Police I opened the door. Two military policeman were at the door and came into my shop. One of them had his hand on his revolver. The holster was unbuttoned. The tallest mentioned the light which could be seen from the street. My wife came down the stairs with the three children which were then in bed. Both of them were very threatening and the one who spoke French told me, that he suspected me of hiding some Germans and that they wanted to satisfy themselves. Both of them although they were not drunk had been drinking. After ten minutes they calmed down and started to talk with the children. So then I invited them into my kitchen and I gave them a calvados, thinking that they would go away without causing me too much trouble. During the discussion in my shop, these two men had their hands on their revolvers which were in their opened holsters.

During the few minutes that they were in my kitchen, the tall one, the one who talked French showed me a photograph of his child and it is the same photograph which you are now showing me. Before leaving they asked me for some bread and I gave them one each. They insisted in paying for them and I refused the money, but they left fifteen francs on the table. When going out, I went first to open the door. The one who talked French was following me; at the moment that I was opening the door, I saw this man slide his right hand behind his back and take a handful of notes that I had left on the counter, when they arrived. At this same moment as he was placing these notes in the right hand side pocket of his trousers, I pushed his arm and a one hundred franc note fell on the floor. I informed him that he was robbing me. He picked up the note and placed it on the counter. He denied that he had robbed me and as I was insisting that he empty his pocket he placed his hand on his revolver and said to me several times in a menacing voice "open the door for me". The other man who does not speak French then arrived and I tried to make him understand what had happened, but he did not appear to understand. So then I was forced to open the door and they left. I do not think that the one who only speaks English saw this incident.

After they had left I ascertained that twenty notes of fifty francs had been taken. Today 14 Sep 44 at 10 am accompanied by a gendarme and a military police I attended an identification parade and there designated a soldier who had accompanied the one who robbed me. Later at another parade I indicated the one who had robbed me.

CERTIFIED TRUE TRANSLATION

J.R. Carine

E. 4, B.T.
(E)
(m. 7 S)

14 Sept. 44
Exhibite [illegible]

Declaration de MME. FOLLIN. GEORGETTE.
Londinières.

Vers 11 pm hier soir j'étais au haut à coucher mes enfants trois enfants lorsque j'ai entendu frapper à la porte de notre boutique. Alors je suis descendu et mon mari était dans la boutique. L'on a frapper 4 ou 5 fois et ensuite quelqu'un a dit "Ouvrez c'est la police anglaise." Alors l'on a regarder par le rideau et comme l'on a aperçu les ceinturons blancs l'on a bien vu que c'était la police. Alors l'on a ouvert la porte et deux policiers sont entrés dans la boutique. L'un d'eux, celui qui ne causait pas français avait son revolver sortit de l'étuit et le portait à la main. Je n'ai pas remarqué si l'autre tenait

son revolver. Alors le grand celui qui causait français a demandé pourquoi nous n'avions pas ouvert. Il a fait allusion au camouflage de la lumière et ensuite a dit qu'il nous soupçonnait de cacher des allemands. Chaque fois que l'on essayait de faire explication, il nous disait de nous taire et enfin leur conduite était très menaçantes. Ils se sont finalement calmés et il faut dire qu'ils avaient bu tous les deux. Alors mon mari leur a offert un verre qu'ils ont accepté. L'on leur a donné un pain chacun et ils se sont dirigés tous les deux vers la boutique avec mon mari. C'est alors que j'ai monté en haut coucher les enfants.

Pendant que ces types étaient chez moi, l'un d'eux, celui qui causait français m'a montré la photo de son bébé et c'est la même photo que nous ne montrer en ce moment.

Statement of Mrs. Georgetta Follin, Londinieres.

Around 11 pm last night I was upstairs putting my three children to bed, when I heard knocking at the door of our shop. I then went downstairs and my husband was then in the shop. Someone knocked four or five times and then someone said "Open up, its the English military police. So then we looked through the curtain and we saw the white belts and knew that it was the police. So then we opened the door and two policemen came in the shop. One of them, the one who does not talk French had his revolver out of his holster and was carrying it in his hand. I did not notice if the other was holding his revolver. So then the tall one, the one who talked French asked why we had not opened the door. He mentioned the blackout and then said that he suspected us of hiding some Germans. Each time that we tried to explain, he would tell us to shut up and in all, their conduct was very menacing. They finally calmed down and one must state that both had been drinking. So then my husband offered them a drink which they accepted. We gave them each a loaf of bread and both started toward the shop of my husband. It is then that I went upstairs to put my children to bed. Whilst these men were at my place, one of them, the one who talked French showed me a photograph of his baby and it is the same photograph that you are now showing me.

CERTIFIED TRUE TRANSLATION

J. L. Clarence

Accused, duly sworn states -

I admit having the money, I on me the next morning. I do not remember taking the money the night before. I dont remember threatening the occupant of the home. When I counted the money next day I saw P.C. I erry a told him about it. He told me to return it as soon as possible which I had intended to do any way. I hid the money so that my comrades to suspect me of stealing it as I had drawn only 100 francs on pay day, 13 Sept. Before I had time to return it, an identification parade was held which found me in possession of the money.

Xex amined by P.ros.

~~I dont~~ I hid the money about few minutes after I got up, about 0630 hrs. S.T. bakers was the only place I could remember being, although I could not remember what I did there. I knew the money was it mine so presume I must have got it there. I was going to return it the bakers. I realized I must have stolen the money. I am not used to drinking. We had a lot to drink, calvados, rum, wine cognac acides. I remember being in the bakery but remember nothing that happened there. When I saw I erry he told me it was probably the bakers as we had been there.

RP. 83 (B) is complied with.

Defendant, Officer in Mitigation.

Acc. left school & enlisted 3 Sept 39 at 19 yea. He went to Iceland June 1940 & England Dec. 1940. He transferred to Provost Sept. 41. He was trained & worked in Sgts Mess. In May 42 posted to 9 Provost Co & came to Francofron then in Aug. He is happily married in England & has 1 child. He has assigned pay of $23 per month. While with 9 Prov Co for over 2 years he had only 3 very minor charges. The other charges well all very minor — no drunk charges. It is clear that he was completely drunk at the time.

His record is excellent. This charge was not premeditated — it was done while drunk. Nothing in his record shows any criminal tendency

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D.61137	PRIVATE	Fernand DESCHAMPS	INCREMENT TO NO. 11
	CANADIAN PROVOST COMPANY - CANADIAN PROVOST CORPS.		

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	ABSENT WITHOUT LEAVE ONCE	times	ABSENT WITHOUT LEAVE Seven Times	times
For		times	CAUSING DISTURBANCE IN A PUBLIC PLACE ONCE	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct NIL

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—~~If the charge is for drunkenness, the entries for drunkenness must be stated separately.~~

2. ~~The accused has not been previously convicted.~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement. N/A

3. The accused is not under sentence at the present time.

~~or,~~

~~The accused at the present time is under sentence for~~ N/A ~~beginning on the~~ N/A ~~day of~~ ~~N/A~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and ONE (1) days in ~~Air Force~~ military custody, making a total of ONE (1) days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is 24 Years ~~attestation paper is~~

6. The date of his commission specified in his record of service is attestation attestation paper N/A

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~no air force decoration~~ decoration ~~or air force reward~~ (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. N/A military N/A military Canadian Voluntary Service Medal

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the ~~Air Force~~ regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion.

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number N/A Rank N/A Unit Name N/A of N/A Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14 SEP 1944 day of SEPTEMBER 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked N/A signed by the president, and annexed to the proceedings.

No. D61157 Name Deschamps F. Sqn., Battery, or Company CDN PRC Corps

Date of enlistment 9-9-39 G.C. Badges

Service or Proficiency Pay

M.F.M. 6 (A.F.B. 178)

Date of last entry in Company Conduct Sheet

No. and date of last drunk

Period not reckoning towards freedom from extra fine

Sheet No.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	11-11-40	PTE	NIL	AWL from 2230 hrs, 11-11-40 to 0630 hrs, 11-12-40 AA Sec15(1)	Ptrudar,Maj	1 days' pay 3 days' C.B.		Ptrudar,Maj	
FIELD	30-11-40	PTE	NIL	AWL from 2230 hrs, 29-11-40 to 0630, 30-11-40 - Absent 8 hrs. AA. 15(1)	Sgt. C. Julian	1 days' C.B.		Ptrudar,Maj	Forf 1 days Pay FR&I 149 (1)(a)
FIELD	17-7-41	PTE		"W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE", from 2400 hrs, the 17-7-41, till 2200 hrs, 19-7-41. TIME: 34 Hrs.	Cpl, Courcelles	14 days C.B.	23-7-41	F.S.Mathewson Lt-Col.	2 day's PAY
FIELD	30-7-41	PTE		"W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE", while on C.B. at 1800hrs 29-7-41, till 2200 hrs, 29-7-41 Time: 4 hours	D62572 Cpl Beauregard T. D62543 L/Cpl. Chevalier A.	14 Day's C.B.	30-7-41	H.N. Langlois, Major	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	16/9/41	PTE		"W.O.A.S. A.W.L." in that he, after being warned for draft, absented from Tattoo Roll Call at 2200 hrs, till 0600 hrs, Sept 18th,41. Time: 1 day 8 hrs. (A.A. Sec, 15.)	D41040 Sgt Benoit G.	14 days C.B.	18/9/41	F.S.MATHEWSON Lt-Col.	2 day's PAY
FIELD	8.6.42	PTE	NIL	W.O.A.S. A.W.L. "In that he was absent from his quarters with-permission from 2359 hrs, 6-6-42 until 2310 Hrs. 7-6-42	A 11073 Sgt. LeConte	5 days C.B.	10-6-42	W.G. Elder Capt	1 days Pay
FIELD	16 Aug 42	PTE		Conduct to the prejudice etc creating disturbance in Farnham at 2300 hrs 16 Aug 42	RSM Golton L/Cpl Greenwell	3 days C.B.	18 Aug 42	LT. R.A. OGILVIE	
FIELD	16/4/44	L/C.		A.A.15(1) WOAS AWL from 1755 hrs 16-4-44 to 2359 hrs 16-4-44. (Absent: 6 hrs, 4 min.)	RSM. Whitworth	Reduced to pte.	17-4-44	J.P. Love Capt.	Forf. 1 days pay FR[illegible]I 149 (1) (a)

"CERTIFIED TRUE COPY:" (MA. Fitz/Gibbon) LIEUT
No. 11 Cdn Provost Company.

O. H. M. S.

Deschamps, F.
D. 61157

M. F. B. 270
[illegible]
H. Q. 1772-[illegible]-67

H.Q. 37/DESCHAMPS F/1

B.F.B. 287
100M—8-43 (1552)
H.Q. 1773-59-460

DEPARTMENT OF NATIONAL DEFENCE (ARMY)

CROSS REFERENCE

D61157 Pte Deschamps F

XUK 287

Central Registry	Date	P.A. or B.F.	Initials	Referred to	For Remarks	Initials	Date
					(If purpose for which referred cannot be expressed on one line, add minute to file, and enter here "With Minute")		
24 OCT 1945	[illegible]	BF		A8	Per Reg	GR	20 Oct 45
		BF	JWB				
29 OCT 1945	29 Oct	PA	[illegible]	A8	Papers	CR	27/10
17 NOV 1945	17 Nov	BF	[illegible]	A8	BF	CR	14/11
23 NOV 1945	22 Nov	PA	[illegible]	A8	Papers	CR	22 Nov
				A8	Paper	CR	15 Dec
DEC 17 1945	31 Dec	BF	[illegible]	A8	BF	GR	17 Dec
DEC 18 1945	18 Dec	PA	[illegible]	A8	WITH PAPERS	GR	DEC 18 1945
				A8	WITH PAPERS	GR	DEC 20 1945

H.Q.

DO NOT WRITE BELOW THIS LINE

SOLDIER UNDER SUSPENDED SENTENCE

PART II ORDER EXTRACT FORM

99/20/

TO: D&P A-8 | 28 DEC 19 45

EXTRACTS FROM: Unit 2/4 CDN PRO COY C PRO C CAOF

Part II Order No. 22 dated 31 DEC 45

STRENGTH INCREASE

(a) TOS from 7 CDN PRO COY C PRO C 20 DEC 45(Auth EA2/5914 d/13 DEC 45)
D61157 L Cpl DESCHAMPS F

FOR INFO--Please Acknowledge

The following documents are attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials dls

(H T VERGETTE) Capt for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40/P & S/1276 (9787)

99/37 DESCHAMPS F

CDN SEC 2 PCH HQ BRIT ARMY OF THE RHINE

22 Dec 45

Canadian Military Headquarters
2 Cockspur Street
London, S. W. 1

Attn: AAG, Pln.

D61167 Pte Deschamps F.
7 Cdn Pro Coy

1. Herewith AF A1104 in respect of the sentence set forth below for custody:

Sentence	Date	Suspended	Received by
2 yrs detn	18 Sep 44	16 Jan 45	C of S/DA & QMG - CFS on 11 Dec 45

2. A certified copy of the proceedings is also enclosed.

(J. A. V. Cade) Major
for Officer i/c
Cdn Sec 2 Pch HQ Brit Army of the Rhine

A S

Please ensure that correct casualty return has been rendered and documentation of remission is completed.

CERTIFIED TRUE COPY

Army Form A 3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

D. J. A.,
Can. Sec. G.H.Q. 2 Echn. 21 Army Gp.

Increment to No.11

I. Case of No. D-61157 Pte DECHAMPS, F. Unit Cdn Pro Coy

Sentenced to TWO (2) YEARS DETENTION on 18 Sep 44

Age on, and date of, enlistment 20 yrs - 9 Sep 1939 Term of service Five years

FIRST TRIAL.

For details of officers, see paragraph VII. *For C.O.'s remarks, see paragraph IX.

II. To ..... Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date ..... Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) (1) and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

SECOND TRIAL.

For details of officers, see paragraph VIII. For C.O.'s remarks, see paragraph XII.

IV.—(5) To ..... Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date ..... Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....) (of which I remit .....) (1) (2) (be suspended) (be put into execution) and that it run (concurrently) (consecutively) (1) with the previous (6) sentence of ..... and be reviewed on .....(3).

Place .....

Date ..... Superior Military Authority (4).

(1) Every words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with Discharge with Ignominy, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the case is convicted a third time, a fresh form, using only paragraphs IV and V, will be made out and attached to this form, and all further records will be on the attached form.
(6) A previous sentence of imprisonment or detention, or a state of suspension is awarded by the award of a subsequent sentence of penal servitude.

(2)[illegible] W.[illegible]/211 50,000 11/43 A.M.S. W. Ltd. 650,679 Forms A.3104/11.

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Direction	Signature and Appointment of Authority giving the direction.	If sentence suspended, actual date of release and marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks
	BF for review. 15 Dec 44	"A W. Bramt" Brig OIC Cdn Sec 3 HQ, 18 ch 21 Army Gp 4 Jan 44	
	Suspended wef 16 Jan 45	ELM BURNS Major Gen Officer i/c Cdn Sec GHQ 1 Ech 26 Dec 44	Date Susp 18 Jan 45 Date Rel 18 Jan 45 A Rochon Major No 1 Fd Punishment Camp Cdn Pro C
	BF 7 Aug 45	(J. F. A. LISTER) Brigadier. DA & QMG First Cdn. Army. 31 May 45	
23 Sep 45	BF 7 Dec 45	JFA Lister Brig DA&QMG Cdn Forces in the Netherlands	
11 Dec 45	remit balance of sentence	do	

(Continued on page 4.)

All recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. When on Active Service committing an offence against the property of an inhabitant of the Country in which he is serving, in that he, on the 13 Sep 44 m whilst on active service stole approx seven hundred and fifty francs (750 francs) the property of Mr. Paul Michel FOLLIN, a baker and pastry merchant at LONDINIERES, SEINE INFERIERE. "E. Porter" Capt. Signature of Officer making entry.	13 Sep 44	18 Sep 44
VIII.—Second Trial. Signature of Officer making entry.		

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
21 Sep 44	I consider the evidence submitted was complete in every detailand that the finding and punishment was just and deserved.	"E. Porter" Capt OC No. 11 Parov Coy

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
21 Sep 44	I concur wholeheartedly in the propriority of the sentence and the COs remarks	"ROG Morton" Brig Comd Army Tps 1 Cdn Army.

If further space required, an additional slip should be pasted here.

2 May 45

In view of the irreproachable conduct of D-61157 Pte DECHAMPS, F. I recommend that suspension of sentence be continued.

R Gough

(J.R.R. Gough) Brig
Comd A Tps Area, First Cdn Army

In the Field
2 May 45

OVERSEAS ROUTINE ORDER 4532

REPORT AND RECOMMENDATION BY COMMANDING OFFICER

Since rejoining this Unit Deschamps has performed his duties very satisfactorily. His conduct has been irreproachable. I recommend suspension be continued.

19 Apr 45.

.....Lieut
(L.M. Fourney) A/Commanding,
No. 7 Provost Company,
First Canadian Army Troops.

RECOMMENDATION BY THE OFFICER NEXT SENIOR IN COMMAND TO THE COMMANDING OFFICER HAVING THE POWER TO CONVENE F.G.C.M.

COPY

No. D-61157 Name DESCHAMPS, F. Sqn, Battery, or Company Corps CDN.PROV. CORPS Date of enlistment 9-9-39 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/F&S/136 15418

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
CERTIFIED THAT NO ENTRIES HAVE BEEN MADE SINCE THE DATE OF SUSPENSION OF SENTENCE							...	[signature] LIEUT. (L.M. FOURNEY) A/O.C.	

(PTO)

No 7 Cdn Provost Company
Cdn Forces in the Netherlands
17 Dec-45

Cdn Sec 2 Ech
HQ BAOR

D-61157 Pte Deschamps,F
Remission of Sentence

37/Deschampsf/
88

1. Reference your message form(A2) 131500A Dec 45 and the m/n.

2. Sentence remitted by C of S/DAQMG Cdn Forces on 11 Dec-45.

3. M/n soldier posted this date to 2/4 Cdn Pro Coy (CAOF).

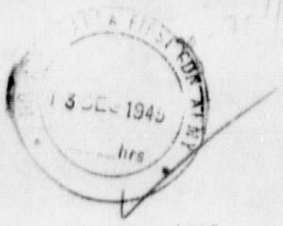
4. May his repatriation be now considered. His point score is 212.

5. Copy of letter from S/DA & QMG,HQ CFN attached.

6. For your consideration,please.

Capt..
(W A FitzGibbon.) Commanding
No 7 Cdn Provost Company





HQ A Tps Area
First Cdn Army

120/CM REVIEW CDN/1/12 (A Pers)

HQ Cdn Forces in the Netherlands
12 Dec 45

REVIEW OF SUSPENDED SENTENCE
D-61157 L/Cpl Deschamps F
7 Cdn Pro Coy

Ref your 20-7-1/Cdn Review/A dtd 3 Dec 45.

1. AF A3104 concerning the m/n soldier is enclosed herewith, review having been completed.

2. It will be observed that the balance of the sentence in this case has been remitted by C of S/DA & QMG Cdn Forces in the Netherlands. Steps should be taken that such decision is promulgated to the soldier by his unit and the necessary extracts taken for publication in Part II Orders.

3. After completion of all necessary action the unit concerned should fwd AF A3104 direct to Cdn Sec 2 Ech HQ Brit Army of the Rhine for their retention.

Extension 823
/IE
Encl: 1

J C Beatty) Capt
SCA Pers 1
for C of S/DA & QMG

COPY TO: Cdn Sec 2 Ech HQ Brit Army of the Rhine.

EA 2/5914d/131500 A Dec

So 5 7 Cdn Prov Coy to 2/4 Cdn Prov Coy Dec
immediately

120/CDN REVIEW CDN/1/ 12 (A Pers)

HQ Cdn Forces in the Netherlands
12 Dec 45

HQ A Tps Area
First Cdn Army

31/Deschamps F/11

REVIEW OF SUSPENDED SENTENCE
D-61157 L/Cpl Deschamps F
7 Cdn Pro Coy

Ref your 20-7-1/Cdn Review/A dtd 3 Dec 45.

1. AF A3104 concerning the m/n soldier is enclosed herewith, review having been completed.

2. It will be observed that the balance of the sentence in this case has been remitted by C of S/DA & QMG Cdn Forces in the Netherlands. Steps should be taken that such decision is promulgated to the soldier by his unit and the necessary extracts taken for publication in Part II Orders.

3. After completion of all necessary action the unit concerned should fwd AF A3104 direct to Cdn Sec 2 Ech HQ Brit Army of the Rhine for their retention.

Extension 523
/IE
Encl: 1

(J C Beatty) Capt
SCA Pers 1
for C of S/DA & QMG

CC/Y TO: Cdn Sec 2 Ech HQ Brit Army of the Rhine.

Date 17 Nov 45

HQ
CPN (Attn: A Pers)

D61167 Pte Deschamps P.
7 Cdn Provost Coy

120/CM REVIEW CDN/1/11 (A Pers)

HQ Cdn Forces in the Netherlands
25 Oct 45

Cdn Sec 2 Ech
HQ BAOR

D-61157 Pte DESCHAMPS F
7 Cdn Prov Coy

J A8

Ref your 99/37/DESCHAMPS F/1 (A8) dated 20 Oct 45.

1. AF A3104 concerning the m/n soldier is enclosed herewith for retention, the purpose for which it was requested having now been served.

P F F
C F N

(M W Babe) Maj
DAAG Pers
for GOC CFN

Extension 523
Encl:
/IE

RSDS/SDS

99/37/DESCHAMPS F/1 (A-8)

CDN SEC 2 ECH HQ BRIT ARMY OF THE RHINE

20 Oct 45

HQ
CFN

AFA 3104
D-61157 Pte Deschamps F
7 Cdn Prov Coy

1. Ref your TPM AG-944 of 191615 A.

2. Herewith AFA 3104 as requested.

(J.A.V. Cade) Major
for Officer i/c
Cdn Sec 2 Ech HQ Brit Army
of the Rhine

JAVC/WLB
COURIER
Encl.

JEDS V ACRR 401

FROM HQ CDN FORCES IN THE NETHERLANDS 191615A

TO CDN SEC 2 ECH HQ BAOR

ST

A8

Ag-944 UNCLASSIFIED(.) REF OUR 120/CM [redacted] REVIEW CDN/1/ -
CA PERS) DATED 24 SEP 45(.) MAY AF A3104 RESPECT D-61157
PTE DESCHARPS F 7 CDN PRO COY BE FWD THIS HQ EARLIEST(.)

ST 191615A

Ag944 120/CM REVIEW CDN/1/ 24 45 AF A3104 D61157 DESCHARPS F 7
- LINE 2 RESPECT INT RESPECT

JO B A

RD ACRR 40 2015 VJF B

IN RD PSE AREND 401 INT 401

JEDB V ACRM 461

FROM HQ CDN FORCES IN THE NETHERLANDS 191615A

TO CDN SEC 2 ECH HQ BAOR

BT

AG-944 UNCLASSIFIED(.) REF OUR 120/CM [redacted] REVIEW CDN/1/ 2

(A PERS) DATED 24 SEP 45(.) MAY AF A3104 RESPECT D-61157

PTE DESCHAMPS F 7 CDN PRO COY BE FWD THIS HQ EARLIEST(.)

BT 191615A

AG944 120/CM REVIEW CDN/1/ 24 45 AF A3104 D61157 DESCHAMPS F 7

LINE 2 RESPECT IMI RESPECT

JO B K

RD ACRM 46 2315 VOF B

IN RD PSE AMEND 461 IMI 461

103

120/CM Review Cdn/1/9 (A Pers)

HQ Cdn Forces in the Netherlands
24 Sep 45

Cdn Sec 1 Ech
HQ Brit Army of the Rhine

Review of Suspended Sentence
D-61167 Pte DESCHAMPS F
7 Cdn Pro Coy

1. AF A3104 concerning the m/n soldier is returned herewith, review having been completed.

2. C of S/DA & QMG Cdn Forces in the Netherlands has directed that the sentence remain in suspension until 7 Dec 45 at which time it should again be brought forward for review.

(J C Beatty) Capt
SC A Pers 1

for GOC, CFN

Extension 523
/AJE
Encl:

RSDS/SDS

Copy to:- HQ A Tps Area First Cdn Army
(Your 20-7-1/Cdn Review/A
dated 17 Sep 45 refers.)

510/Deschamps F/1 (S.1.b)

CDN SEC 1 ECH HQ BRIT ARMY OF THE RHINE

25 Sep 45

H. CFN

D.61157 Pte. Deschamps, F.
7 Pro Coy

Ref this HQ letter of even reference
hereto c/
27 Jul and 31 Aug 45.

1. To date the AF A3104 has not been returned to this HQ. May it be traced and its return expedited.

(H. O. Moran) Colonel,
OIC,
Cdn Sec 1 Ech HQ Brit Army of the Rhine.

SDS/APC/HAND

20 Sep 45

PFA

D.61157 Pte Deschamps F - 7 Pro Coy 14 Apr 45

PFH
for 2 folios

510/ Deschamps F/1 (AG.12)

CDN SEC 1 HQH HQ 21 ARMY GP

31 Aug 45

Hq CFN

D.61157 Pte. Deschamps F
7 Pro Coy

1. Ref this HQ letter, same file number as above d/ 27 Jul 45.

2. No reply has yet been received to the s/f correspondence. Please expedite or advise reason for delay.

R.S.C.

(E.C. Brown) Lt Col
AAG
Cdn Sec 1 Hqh HQ 21 Army Gp

SDS/APC/HAND

PFH

510/Personal Files/1 (AG 12)

CDN SEC 1 ECH HQ 21 ARMY GP

27 Jul 45.

Adm HQ First Cdn Army

Attention: 'A' Pers

Review of Suspended Sentences

1. AF B3104 is enclosed herewith for the undermentioned soldiers for action in accordance with Overseas HQ 4732, para - (b).

No.	Rank	Name	Initials	Unit
C-12947	Pte	Belleville	E J	Inst (B) ICA HQ Cdn Coy
E-14886	Pte	Berube	R	1 Cdn Gen Hosp Coy
C-116102	Pte	Brabant	J A	3/D de Chaud
A-42165	Pte	Cameron	H J	4 Armd Bde Coy
D-61157	Pte	Deschamps	F	7 Prn Coy
E-14045	Pte	Dufour	A G	5 CAD Tpt Coy
E-2332	Pte	Jacobs	F L	Vector Regt
H-103122	Pte	Lloyd	D A	3 Cdn Div Dist
H-41612	Rfn	Lozinski	P	[illegible]
B-144838	Cpr	McMahon	W	2 Cdn [illegible]
D-98666	Tpr	Marshall	A E	8 Hosp Regt
A-118063	Pte	Phillips	J Y	Perth Regt
D-139715	Pte	Pollock	W	[illegible]

2. On completion of Part VI, may the forms be returned direct by the reviewing authority to this HQ.

(E.L.H. Burns) [illegible]
GO IC
Cdn Sec 1 Ech HQ 21 Army Gp

SDS
Encls.

510/PERS FILES/1 (AG 12)

PFF

18 Jul 45

OIC
Cdn Sec 2 Ech
HQ 21 Army Gp

Attn:- Card Index
A-5

LOCATION OF PERSONNEL

1. May present disposition of the u/m personnel be received at this HQ earliest.

C.10247	PTE	BELLEVILLE	E J	
F.97269	PTE	BEST	L S	
C.116102	PTE	BRABANT	J A	
H.65775	PTE	BROWN	C	
A.42165	PTE	CAMERON	H J	
D.61157	PTE	DESCHAMPS	F	7 PRO COY 14 APR 45
E.14045	PTE	DUFOUR	A G	
F.57093	PTE	HILLIER	W J	
K.2332	PTE	JACOBS	F L	
H.103322	PTE	LLOYD	D A	
A.118063	PTE	PHILLIPS	J W	
L.34036	PTE	PICKARD	D G	
D.139715	PTE	POLLOCK	W E	
A.110350	PTE	SULLIVAN	K J	

2. Sufficient copies of this letter are enclosed herewith so that when a reply is received at this HQ there will be a copy for each soldier's personal file. Also enclosed is a copy for file at your HQ.

for (E. C. Brown) Lt-Col
AAG
Cdn Sec 1 Ech HQ 21 A Gp

BDS/APO/HAND

20

510/PERS FILES/1 (AG 12)

18 Jul 45

OIC
Cdn Sec 2 Ech
HQ 21 Army Gp

Attnr- Card Index
A-5

LOCATION OF PERSONNEL

1. May present disposition of the u/m personnel be received at this HQ earliest.

C.10247	PTE	BELLEVILLE	E J
F.97269	PTE	BEST	L S
C.116102	PTE	BRABANT	J A
H.65775	PTE	BROWN	C
A.42165	PTE	CAMERON	H J
D.61157	PTE	DESCHAMPS	F
E.14045	PTE	DUFOUR	A G
F.57093	PTE	HILLIER	W J
K.2332	PTE	JACOBS	F L
H.103322	PTE	LLOYD	D A
A.118063	PTE	PHILLIPS	J X
L.34036	PTE	PICKARD	D G
D.139715	PTE	POLLOCK	W E
A.110350	PTE	SULLIVAN	K J

2. Sufficient copies of this letter are enclosed herewith so that when a reply is received at this HQ there will be a copy for each soldier's personal file. Also enclosed is a copy for file at your HQ.

for D.E. Clapperton Capt
(E. C. Brown) Lt-Col
AAG
Cdn Sec 1 Ech HQ 21 A Gp

SDS/APO/HAND

120/CM REVIEW CDN/1/4 (A Pers)

Adm HQ First Cdn Army
10 May 45

19

Cdn Sec 1 Ech
HQ 21 A Gp

PFL

12

Review of Sentence
D61157 Pte Deschamps F
11 Coy C Pro C

1. AF A3104 relating to m/n soldier is returned herewith after review.

2. You will no doubt observe that further review is directed for 7 Aug 45.

(H W Babe) Dept
SC A Pers 1
for SCC in C

Extension Adm
HWB/lfm
Encl:

RADS/SCS



510/DESCHAMPS F/1 (AG 12)

CDN SEC 1 DCH HQ 21 ARMY GP

5

Adm HQ First Cdn Army

12 May 45

Review of Suspended Sentence
D61157 Pte Deschamps F
5 Cdn Pro Coy

1. Ref this HQ letter, same file number as above d/ 12 Apr and 30 Apr 45.

2. No reply has yet been received to the a/m correspondence. Please expedite or advise reason for delay.

for (F.C. Brown) Lt Col
AAG
Cdn Sec 1 Dch HQ 21 Army Gp

SDS/APC/HAND

PFH

510/ Deschamps F/1 (AG 12)

CDN SEC 1 ECH Hq 21 A GP

Adm HQ First Cdn Army

30 Apr 45

2 2

Review of Suspended sentence
DC1157 Pte Deschamps F
7 Cdn Pro Coy

1. Ref this HQ letter, same file number as above, d/ 12 Apr 45.

2. No reply has yet been received to the a/m correspondence. Please expedite or advise reason for delay.

DSC Capt
for (J.T. Harvey) Major
DAAG 'Dis'
Cdn Sec 1 Ech Hq 21 A Gp

~~DELS/POST/COURIER~~
SDS/APO/HAND

510/Deschamps, F./1 (AG 11)

PFH.

CDN SEC 1 ECH HQ 21 A GP

12 Apr 45.

21

Adm HQ First Cdn Army (3)

~~Review of Suspended Sentence~~ Att'n: 'A' Pers

~~[illegible] Deschamps, F.~~

7 Cdn Pro Coy

1. AF A3104 is enclosed herewith for action in accordance with Overseas RO 4732, para 4 (b).

2. On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ.

3. The attached certified copy is forwarded as it is understood the original forwarded with this HQ letter same file number as above d/21 Mar 45 was destroyed by fire.

(J. M. Burns) Maj-Gen
GO i/c
Cdn Sec 1 Ech HQ 21 A Gp

DRLS

20.

510/ DESCHAMPS F /1 (AG.10)

CDN SEC 1 ECH HQ 21 A GP

7 Apr 45.

C.R.
CDN SEC GHQ 1 ECH
21 ARMY GROUP

I

OIC
Cdn Sec 2 Ech HQ 21 A Gp

Att'n: Card Index.
Att'n: A.F.

D.61157 Pte Deschamps, F.

May present disposition of the
1. m/n soldier be received at this HQ earliest, please.

II

The m/n is with 7 Cdn Pro Coy as at 25 Jan 45.

(J. T. Hafney) Major
DAAG 'Dis'
Cdn Sec 1 Ech HQ 21 A Gp

(M.A. Unsworth) Capt.,
for OIC Cdn Sec 2 Ech,
H.Q., 21 Army Group.

DRLS

9 Apr 45

207

19

DESCHAMPS F

510/ /1 (AG.10)

CDN SEC 1 ECH HQ 21 A GP

7 Apr 45.

OIC
Cdn Sec 2 Ech HQ 21 A Gp

Att'n: Card Index.

D.61157 Pte Deschamps, F.

Att'n: A.5

1. May present disposition of the m/n soldier be received at this HQ earliest, please.

(J. T. Harvey) Major
DAAG 'Dis'
Cdn Sec 1 Ech HQ 21 A Gp

DRLS

510/Chanda DR/1
510/Bertrand JP/1 (AG 11)
510/Deschamps F/1
510/LaChapelle JE/1
510/Vedel R/1

26 Mar 45.

TO: DJA (Rev)

REVIEW OF SENTENCES IN SUSPENSION
D.11175 Pte Bertrand, J.P.
M.136313 Pte Chanda, D.R.
D.61157 Pte Deschamps, F.
R.52227 Sigmn LaChapelle, J.E.
E.10362 Pte Vedel, R.

1. AFs A3104 in respect to sentences in suspension were forwarded to Adm Hq First Cdn Army for review. Advice has now been received that all documents relating to the m/n soldiers have been destroyed by fire.

2. May certified copies of AFs A3104 be passed to this Branch earliest, please.

DSC. Capt
for (J. T. Harvey) Major,
DAAG (Dis)
Cdn Sec 1 Sch Hq 21 A Gp.

DRLS/POST

510/Deschamps F/1 (AG 11)

CDN SEC 1 ECH HQ 21 A GP

21 Mar 45

17

Adm HQ First Cdn Army (3)

Review of Suspended Sentence

D61157 Pte Deschamps F
11 Cdn Pro Coy

Att'n: 'A' Form

1. AF A3104 is enclosed herewith for action in accordance with Overseas RO 4732, para 4 (b).

2. On completion of Part VI, may the form be returned direct by the reviewing authority to this HQ.

3. Also att is certified copy of Proceedings of FGCM.

[signature]
Major
for (L.L.E. Burns) Maj-Gen
GO i/c
Cdn Sec 1 Ech H, 21 A Gp

DHLS
Encl/2

~~99/25~~/529/DESCHAMPS F/1 (DJA-Rev)

Cdn Sec 1 Ech, HQ 21 Army Gp
20 Mar 45

GOIC
Cdn Sec 1 Ech
HQ 21 Army Gp

(Attn A G 5)

(16)

REVIEW OF SENTENCE
D-61157 Pte Deschamps F
11 Cdn Pro Coy

1 Herewith att AFA 3104 together with certified true copy of m/n proceedings.

2 On completion of Part VI of AFA 3104 may the same be returned to this HQ.

3 It is understood that this soldier's present disposition is X2 List CPC (1 Cdn Detn and FP Bks (C), 10 Jan 45 to 18 Jan 45, X4 List Cdn Pro Corps 19 Jan 45 to25 Jan 45, No 7 L of C Coy Cdn Pro C 26 Jan 45 to date.

(W H Waugh) Major
DJA (REV)
Cdn Sec 1 Ech
HQ 21 Army Gp

Encl
~~xxxxxxx~~

TIME _____

C.R.
21 MAR 1945
CDN SEC GHQ 1 ECH
21 ARMY GROUP

1 Cdn Detn/86
No 1 Cdn FP Camp & Detn Bks
Cdn Pro C
20 Jan 45

15

OK
PA 22123078
AG8

OC 12 CBRBn

D 61157 Pte DESCHAMPS F
X-4 1ist Cdn Pro C

AG8

1. Under authority EA7x/1218 of 021200A Jan, the m-n soldier is being despatched to your unit, sentence suspended wef 18 Jan 45.

2. 608 days of sentence are placed under suspension.

W D Cain Lieut
A/Comd
No 1 Cdn FP Camp & Detn Bks
Cdn Pro C.

OR
22 JAN 1945
CDN SEC GHQ 1 ECH
21 ARMY GROUP

WDC/BJ

cc: Cdn Sec GHQ 2 Ech 21 A Gp - Ref above file number.
Cdn Sec GHQ 1 Ech 21 A Gp - Ref 510/Deschamps F/1 (AG5)
d/27 Dec 44

Register No. 4

MESSAGE FORM

ARMY FORM C2136 (Small)
40/P&S/2433(5143)(Pads of 100)

Call | Srl No. | Priority | Transmission Instructions

OK

OFFICE DATE STAMP

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator: No 1 Cdn FP Camp & Detn Bks Cdn Pro C

Date—Time of Origin: 180900AJan

For Action: Cdn Sec GHQ 2 Ech 21 A Gp/ - Holding authority

TO (W) For Information (INFO): Cdn Sec GHQ 1 Ech 21 A Gp - Reference 510/Deschamps F AG5 d/27 Dec 44.

Message Instructions — GR —

Originator's No.

1 Cdn Detn/86 (.) Reference EA7x/1218 of 021200A Jan (.) Attn [illegible] FCCM proceedings and AFA 3104 for the S/m soldier who is being held at this unit pending authority for posting to the [illegible] D 61157 Pte DESCHAMPS F (X-4 list)(Cdn Pro C)

C.R. 19 JAN 1945 CDN SEC GHQ 1 ECH 21 ARMY GROUP

Time	System	Op
THI or TOR		
Time (Gmt)		

This Message May Be Sent AS WRITTEN by any means except

Signed

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Signed

Originator's Instructions Degree of Priority

ARMY FORM C2136 (Small)
40/P&S/2433(5143)(Pads of 100)

MESSAGE FORM 99/24/SUSPEND/1

Register No.

Call | Sri No. | Priority | Transmission Instructions

ABOVE THIS LINE FOR SIGNALS USE ONLY

OFFICE DATE STAMP

FROM (A) Originator: CDN 02E 21 A GP (A7)

Date—Time of Origin: 021200A Jan

For Action

1 Cdn Fd Punishment Camp : X-2 List : X-4 List (C Prov C):
12 CBR Bn :

TO (W) For Information (INFO)

CANFOR(EXFOR REAR) : DJA (2 Ech) : CMHQ (AAG Dis) :

Message Instructions | GR

Originator's No.

EA7x/1218 SECRET(.) Under 1 Ech letter 510/Deschamps F/1 (AG5) d/27 Dec 44 auth granted SOS u/m from X-2 list wef 18 Jan 45 to be TOS X-4 List (C Prov C) 19 Jan 45 and to be held as available fd rft(.) Sentence suspended wef 18 Jan 45(.) 1 Cdn Fd Punishment Camp to arrange tpt to 12 CBR Bn at GHENT

D-61157 PTE DESCHAMPS F

This Message may be sent AS WRITTEN by any means EXCEPT WIRELESS

If liable to be intercepted or to fall into enemy hands, this message must be sent IN CIPHER

Originator's Instructions Degree of Priority

Signed: Lieut

Signed: [signature]

Time cleared

Sys. | Op.

510/Deschamps F/1 (AG 5)

11

27 Dec 44.

Comd,
1 Cdn Fd Punishment Camp & Detn Bks

SENTENCE PLACED IN SUSPENSION
D.61157 Pte Deschamps, F.

1. The m/n soldier was sentenced by FGCM on 18 Sep 44 to undergo two years' detention.

2. This sentence was reviewed by OIC this HQ on 26 Dec 44 at which time it was directed as follows:

"Suspend wef 18 Jan 45".

3. Accordingly, herewith attached AF A3104, together with certified true copy of proceedings of FGCM. It is requested that Part VI of AF A3104 be completed and same together with proceedings of FGCM be forwarded directed to "Holding Authority" at Cdn Sec GHQ 2 Nch - 21 A Gp.

4. It is understood that Comd 1 Cdn Fd Punishment Camp & Detn Bks is desirous of having Pte Deschamps posted to his Bks. Accordingly, in the event that a vacancy is available, action will be taken to post Pte Deschamps to 1 Cdn Fd Punishment Camp & Detn Bks. However, in the event that no vacancy is available, the soldier will be despatched to his appropriate Rft Bn where he will be made available as a Rft for the Fd. A copy of the a/m instrns will be forwarded to this HQ.

(H. J. Moran) Lt-Col.,
AAG,
Cdn Sec GHQ 1 Nch - 21 A Gp

DRLS/POST/COURIER
Encls/(1)
Copies to: Cdn Sec GHQ 2 Nch - 21 A Gp (attn: DAAG Records(A5))
" " " " " (attn: F & T)
" " " " " (attn: DJA)

CPM, Cdn Army Overseas,
Govt Bldg, Bromyard Ave.,
ACTON, W.3 (Attn: Pay 2c)

5201 Deschamps F /1 (AG 5)

10

WORK SHEET

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I. PA to OIC Date 25/5/30A

II. No D 61157 Rank Pte Name Deschamps F

Unit Inor No 11 Cdn Pro Coy Age 20

Date Enlistment 9 Sep 39

Offence: Committing an offence against the property of an inhabitant of the country in which he is serving, theft of 75 g francs

Sentence: to undergo detention for a period of 2 years

WEP 18 Sep 44 Last Reviewed 4 Nov 44

III. Extenuating Circumstances:

Nil other than being drunk when offence committed

Rec by Court:

Nil

Character (previous convictions): 7 offences of AWL and one of creating a disturbance in a public place. All AWLs were minor

IV. Rec by CO: 1 Cdn Fd Punishment Camp

I confirm my remarks as outlined in para 3 of the above mentioned letter and further wish to state that upon release from detention this soldier will be posted to this unit to cover off a vacancy in the est." (previous report on folio 8 flagged)

V. Rec by next senior offr: OC 11 Cdn Pro Coy

I consider that the evidence submitted was complete in every detail and that the finding and punishment was just and deserved.

Amd H Tyr First Cdn Army "I concur wholeheartedly in the propriety of the sentence and the CO's remarks."

VI. Rec re review by AG 5:

Previous review sheet is on flagged folio. This former CPro C soldier has received two excellent reports from OC 1 Cdn Fd Punishment Camp and I would recommend consideration be given to suspension and posting to WE of a/m unit of a vacancy exists

"Suspend wef 18 Jan 45"

[signature] Capt.

SC "A"

Cdn Sec. GHQ 1 Ech. 21 A Gp.

520/Reviews/1 (AG 3)

WORK SHEET

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL

I. TO: PA to OIC CDN SEC OHQ 1 ECH DATE _____

II. NO _____ RANK _____ NAME _____

UNIT _____ AGE _____

SENTENCE:

REVIEWED:

III. RECOMMENDATION BY CO:

IV. RECOMMENDATION BY NEXT SENIOR OFFR:

V. RECOMMENDATION BY AG 2:

1 Cdn Detn/86

No 1 FP Camp & Detn Bks,
Cdn Pro C.
15 Dec 44.

Cdn Sec GHQ
1 Ech - 21 A Gp

Review of Sentence
5 61157 Pte DESCHAMPS F

1. Reference 510/Deschamps F/1 (AG5) d/6 Nov 44 and further to our letter above file reference d/1 Nov 44.

2. I confirm my remarks as outlined in para 3 of the above mentioned letter and further wish to state that upon release from detention this soldier will be posted to this unit to cover off a vacancy on the est.

3. These remarksare passed to you for guidance in the next review on the sentence of this soldier.

Major
APM (Comd)
No 1 FP Camp & Detn Bks,
Cdn Pro C.

COR/BJ.

C.R.
22 DEC 1944
CDN SEC GHQ 1 ECH
21 ARMY GROUP

DRLS/POST/HAND.
Time of Signature.....A hrs.

1 Cdn Detn/86

No 1 PP Camp & Detn Bks,
Cdn Pro C.
20 Dec 44

Cdn Sec GHQ
1 Ech 21 A Gp

Review of Sentence
D 61157 Pte Deschamps, F.

1. Reference 510/Deschamps F/1 (AG5) d/13 Dec 44, relative to review of m/n soldier, also your letters 27 Oct and 6 Nov 44.

2. May reference be made to this unit's letters of 1 Nov and 15 Dec giving reference to the character and conduct of this soldier while under detention.

3. It is recommended that due consideration be given at his next review.

Major
AHRS (Comd)
No 1 PP Camp & Detn Bks,
Cdn Pro C.
Time of signature.....AHRS

COR/BJ.

DRLS.

C.R.
22 DEC 1944
CDN SEC GHQ 1 ECH
21 ARMY GROUP

B10/Deschamps F/1 (AGB)

CDN SEC GHQ 1 ECH - 81 A GP

13 Dec 44

OC
1 Can Fd Punishment Camp

Sentence under Review
D 61157 Pte Deschamps F

1. The m/n soldier was sentenced by FGCM on 13 Sep 44 to undergo 2 years detention.

2. AF A3104 has been received for review of sentence from "Holding Authority" Can Sec GHQ 2 Ech - 81 A Gp.

3. Accordingly, it is requested that a report be forwarded to this HQ on the soldier's conduct and behaviour since date of commitment to assist in review of sentence.

(H. C. Moran) Lt-Col.,
AAG,
Can Sec GHQ 1 Ech - 81 A Gp

DRLS/~~FGCP~~

6

O.R.
E. SEC. BRI.
CDN SEC GHQ 1 ECH
21 ARMY GROUP

99/37/DESCHAMPS F/1 (DJA)

Cdn Sec GHQ 2 Ech 21 Army Gp
7 Dec 44

OIC
Cdn Sec GHQ 1 Ech - 21 A Gp
276 AVE VOLIERE BRUSSELS

AGS

Review of Sentence Attn: SC 'A'
D-61157 Pte DESCHAMPS F.

1. Herewith att AF A3104 together with certified copy of the m/n FGCM proceedings.

2. On completion of Part VI of AFM 3104 may same be returned to this HQ.

3. It is understood that this soldier's present disposition is 1 Cdn Pd Punishment Camp & Detn Bks.

4.

W H Waugh
(W. H. Waugh) Major
DJA
Cdn Sec GHQ 2 Ech - 21 A Gp

----/CONFIDENTIAL

Time of Signature 1700 hrs.

PFR

510/Deschamps F/1 (AG 5)

5

5 Nov 44.

OIC,
Cdn Sec GHQ 2 Ech
- 21 A Gp

REVIEW OF SENTENCE
D.51187 Pte DESCHAMPS, F.

Ref your 99/3V/DESCHAMPS F/1 (DJA) d/25 Oct 44.

1. The m/n soldier was sentenced by FGCM to undergo detention for a period of two years on 18 Sep 44.

2. This sentence has been reviewed by OIC this HQ on 4 Nov 44 at which time it was directed that the sentence be brought forward for further review on 15 Dec 44.

3. Herewith attached AF A5104 together with certified true copy of proceedings of FGCM forwarded for your retention and subsequent forwarding to this HQ.

(H. O. Moran) Lt-Col.,
AAG,
Cdn Sec GHQ 1 Ech - 21 A Gp

DELS/POST
Copy to: OC, 1 Cdn Fd Punishment Camp & Detn Bks
(your 1FPC/DETN/86/5-4 d/1 Nov 44 refers)

NO. 1. F.P.CAMP & DETN BKS. CDN. PRO. C.

1FPC/DETN/86/5-4

AAG
Cdn Sec GHQ 1 Ech
21 Army Group
Cdn. Army Overseas.

Re: D.61157 Pte Deschamps F/
REVIEW OF SENTENCE

1. Reference your 510/Deschamps F/1 (AG 5) d/ 27 Oct 44, with regard to the m/n SUS.

2. Pte Deschamps was sentenced on 18 Sep 44, by FGCM, to a term of detention for 2 years for an offence under A.A. Sec 8(2); was admitted to this Detn Bks on 23 Sep 44.

3. Since admittance to this camp this man's conduct has been exemplory. In this unit a daily record is kept of all SUS, and either the 2I/C or myself review these records at frequent intervals in order to accertain if the punishment meted out is helpful to them. No two individuals respond similarily. In the case of Pte Descahmps I took a special interest due to the fact that his past record, since enlistment was exceptionally a good one. When he arrived here his appearance was very smart and his bearing soldierly. He was employed in every capacity and was put under every restriction that governs the S.U.S; he performed his duties and governed himself in a most excellent manner. I have that confidence in him that I recommend his sentence to be suspended, and further, I would like very much to have him posted to this unit as a member of my staff.

4. For your information, please.

Capt.
DAPM (Cond)
No. 1.F.P.Camp & Detn Bks,
Cdn. Pro. C.

1 Nov 44
COR/gsh

510/Deschamps F/1 (AG5)
27 Oct 44

OC,
1 Cdn Fd Punishment Camp.

REVIEW OF SENTENCE
D61157 Pte Deschamps, F.

1. The m/n soldier was sentence by FGCM on 18 Sep 44 to undergo detention for a period of two years.

2. AFA 3104 together with certified true copy of proceedings of FGCM have been received at this HQ for review of sentence.

3. Accordingly may the remarks of OC 1 Cdn Fd Punishment Camp in respect to this soldiers conduct and behaviour since date of committal be fwd to this HQ to assist in review of sentence.

[H.C. Moran] Lt Col
AAG
Cdn Sec GHQ 1 Echn - 21 A Gp

DRLS/POST

99/37/DESCHAMPS F/1 (DJA)

Cdn Sec GHQ 2 Ech 21 Army Gp
25 Oct 44

OIC
Cdn Sec GHQ 1 Ech 21 A Gp
276 AVE MOLIERE BRUSSELS

AG5

Review of Sentence.
D-61157 Pte Deschamps F
No. 11 Coy C Pro C

1. The m/n soldier was awarded a sentence of detention for two years on 18 Sep 44.

2. The original AFA 3104 and certified copy of the m/n FGCM proceedings are accordingly enclosed for review of sentence in execution.

3. May the original AFA 3104 and copy of proceedings be returned to this HQ, please, with action on review endorsed in Part VI of AFA 3104.

4. This soldier, although awarded a sentence of 2 years detention is committed to 1 CDN PD PUN CAMP C PRO C according to No 11 Coy C Pro C Part II Order No 48 of 25 Oct 44 which reads as follows:

"SOS to X-2 LIST C PRO C on comm to 1 CDN PD PUN CAMP C PRO C wef 21 SEP 44 (Awarded 2 yrs Detn 18 SEP 44"

(W.H.Waugh) Major
DJA
Cdn Sec GHQ 2 Ech
21 Army Group

Time of Signature 1000 hrs.

COURIER.

COUNTER NUMBER 546729

HOUR 1250

OPERATOR'S INITIALS JH

RELIEVING OPERATOR DH

D 666.79
CPL DESCHENES L.P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 14404 Cpl. Louise Philippe Deschenes

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~AB present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of 4 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or MF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: ~~Reduced to permanent pro~~ To be reduced to the ranks and to forfeit all ordinary pay for a period of 28 days.

(Sgd) Judge-Advocate, if any. 4 Mar 44 Date awarded. (Sgd) Campbell Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding:

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 44(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence but remit the forfeiture of all ordinary pay for a period of 28 days. (1)

(1. AA 57A. Delete if not used.)

Date MAR 14 1944 (Sgd) W.H. Ingalls Lt-Col. Commanding GOC'S CONFIDENTIAL BOOK Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E.14404 Cpl.Deschenes,L.P.	16 Mar 44.	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

(Page 1 in Red of AFA2) 40-P-M-H-1698 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier Meriam Comd 5 Can Inf Bde dated 13 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E14404	Cpl.	Louis Phillippe	Deschenes	5 Coy RCASC.

PROCEEDINGS REVIEWED
R. Beaulieu Capt
80p-44

PROCEEDINGS REVIEWED 5 Mar 44 Lt Col Wades 2 Can FIELD ARMY

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Held in the Fd in (country) Canada on (date(s)) 14 & 17 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused (is) (are) to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to be sworn as interpreter?~~ Ans ~~—~~

The Interpreter is sworn.(1) Do you object to ~~The shorthand writer is sworn.~~(1) ~~be shorthand writer?~~ Ans ~~—~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J. Campbell	Coldstream Highland Guards (Canadian)
Member	Capt	L. Lacroix	R. de Maisonneuve Regt (Canadian)
Member	Lieut	R.D. Foster	Calgary Highlanders (Canadian)
~~Judge-Advocate~~			
Prosecutor	Capt	D. Whiteside	2 Coy RCASC
Defending Offr	Capt	A.H. Howe	H.Q. 4 Canadian Armd Div

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 26 (3) and fn 2 were not followed. See Dir p 3.)

A8. The accused before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For frames of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when severed accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 39, 113. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir I'll call a character witness
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans NO SIR .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7(1)(1)
(*1. When several accused tried separately see RP 76(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purview, is to be awarded to cover all charges in all charges sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 98, 118, 119(B), KR Con 326, 330, 563-566, Overseas RO 3(9), 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 69(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of accused after trial see instrn on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

E.14404 Cpl. Louis, Philippe, DESCHENES, of 5 Cdn Inf Bde Coy, RCASC, a soldier of the Canadian Army Overseas is charged with:-

CHARGE
A.A.Sec.15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

In the Field, while on Active Service absented himself without leave from 2245 hrs 3 Mar 44 till 2220 hrs 9 Mar 44 (absent 5 days 23 hrs 35 mins).

In the field
11 Mar 44.

(T.V.Kenney) Major,
Officer Commanding,
5 Cdn Inf Bde Coy,
R. C. A. S. C.

TO BE TRIED BY
F.G.C.M.

(W.J.Megill Brigadier)
Comd., 5 Cdn Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2868)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E14404	Cpl		Louis Philippe	Deschenes	5 Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 14 Mar 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J. Campbell (Must be named. RP 106.)	Calg Highrs (Unit.)

MEMBERS.

Capt	L. Lacroix	R de Mais
Lieut (Rank.)	R.O. Porter (Named or detailed. RP 106.)	Calg Highrs (Unit.)

WAITING MEMBER.

Lieut (Rank.)	to be supplied by O.C. 5 Coy RCASC (Named or detailed, if any. RP 106.)	5 Coy RCASC (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in U.K. (Country.)

(Signed personally. RP 105 [illegible]) [signature] (Rank.)

Date 13 Mar 44

Commanding COMD, 5 CDN. INF. BDE.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. Can Para 557

I certify that I have this morning examined E-14404 Cpl. Deschenes, L.P., of 5 Can Inf Bde Coy R.C.A.S.C. and in my opinion he is fit/unfit to undergo trial by Field General Court Martial.

Station: In The Field.

Date: 14 Mar 44

666 [signature] Capt.
(Medical Officer)

SUMMARY OF EVIDENCE

SUMMARY OF EVIDENCE IN THE CASE OF No.E.14404 Cpl. Louis, Philippe, DESCHENES, 5 Cdn Inf Bde Coy, R.C.A.S.C., a soldier of the Canadian Army, Overseas.

Charge A.A. Sec 15 (1)

The Accused is informed of his rights.

The accused does not demand and the O.C. does not direct that the evidence be taken on oath.

FIRST WITNESS for the prosecution: C.30649 L/Cpl. Wittenberg,C.G. 5 Cdn Inf Bde Coy, RCASC, states:-

I, C.30649 L/Cpl. Wittenberg,C.G., was on duty in Composite Platoon on the night of 3 Mar 44, when on calling the roll at 2245 hrs, E.14404 Cpl. Deschenes,L.P. did not answer, and upon investigation found he was not in his billets. This fact was entered on the Tattoo Roll Call Report which I handed to the Orderly Sergeant.

C.G. Wittenberg
C.30649 C.G.Wittenberg, L/Cpl.

The accused declines to cross-examine the witness.

SECOND WITNESS for the prosecution: D.91213 L/Cpl.Turvey,J. 5 Cdn Inf Bde Coy, RCASC, states:-

I, D.91213 L/Cpl. Turvey,J., was duty NCO in Composite Platoon on the night of 4 Mar 44, when on calling the roll at 2245 hrs, E.14404 Cpl. Deschenes,L.P. did not answer, and upon investigation found he was not in his billets. This fact was entered on the Tattoo Roll Call Report which I handed to the Orderly Sergeant.

J. Turvey
D.91213 J.Turvey, L/Cpl.

The accused declines to cross-examine the witness.

THIRD WITNESS for the prosecution: D.91177 L/Cpl. Cooney,J.R. 5 Cdn Inf Bde Coy, RCASC, states:-

I, D.91177 L/Cpl. Cooney,J.R., was duty NCO in Composite Platoon on the night of 5 Mar 44, when on calling the roll at 2245 hrs, E.14404 Cpl. Deschenes,L.P. did not answer, and upon investigation found he was not in his billets. This fact was entered on the Tattoo Roll Call Report which I handed to the Orderly Sergeant.

J.R. Cooney
D.91177 J.R.Cooney, L/Cpl.

The accused declines to cross-examine the witness.

FOURTH WITNESS for the prosecution: D.121611 L/Cpl.Gauthier,C.A. 5 Cdn Inf Bde Coy, RCASC, states:-

I, D.121611 L/Cpl. Gauthier,C.A. was ~~EX~~ duty NCO in Composite Platoon on the night of 6 Mar 44, when on calling the roll at 2245 hrs, E.14404 Cpl. Deschenes,L.P. did not answer, and upon investigation found he was not in his billets. This fact was entered on the Tattoo Roll Call Report which I handed to the Orderly Sergeant.

C.A. Gauthier
D.121611 C.A.Gauthier, L/Cpl.

The accused declines to cross-examine the witness.

FIFTH WITNESS for the prosecution: C.12213 L/Cpl. Labelle,J.A.
5 Cdn Inf Bde Coy, RCASC, states:-

I, C.12213 L/Cpl. Labelle,J.A., was duty NCO in Composite Platoon on the night of 7 Mar 44, when on calling the roll at 2245 hrs E.14404 Cpl. Deschenes,L.P. did not answer, and upon investigation found he was not in his billets. This fact was entered on the Tattoo Roll Call Report which I handed to the Orderly Sergeant.

J.A. Labelle
C.12213 J.A.Labelle, L/Cpl.

The accused declines to cross-examine the witness.

SIXTH WITNESS for the prosecution: G.41223 Cpl. Carver,A.L.,
5 Cdn Inf Bde Coy, RCASC, states:-

I, G.41223 Cpl. Carver,A.L., was duty NCO in Composite Platoon on the night of 8 Mar 44, when on calling the roll at 2245 hrs E.14404 Cpl. Deschenes,L.P. did not answer, and upon investigation found he was not in his billets. This fact was entered on the Tattoo Roll Call Report which I handed to the Orderly Sergeant.

A.L. Carver
G.41223 A.L.Carver, Cpl.

The accused declined to cross-examine the witness.

SEVENTH WITNESS for the prosecution: L.8992 L/Cpl. Long,L.A.
5 Cdn Inf Bde Coy, RCASC, states:-

I, L.8992 L/Cpl. Long,L.A., was duty NCO in Composite Platoon on the night of 9 Mar 44. At approximately 2220 hrs, E.14404 Cpl. Deschenes,L.P. reported to Platoon H.Q. I notified Capt. D.Whiteside, Platoon Commander. Capt.D.Whiteside detailed D.91163 Cpl. Allen,J.J. to put him under close arrest and hand him over to NCO in charge of Regimental Police.

L.A. Long
L.8992 L.A.Long, L/Cpl.

Eight Witness

D.105605 S sgt Deneumoustier L.A. 5 Bde Coy RCASC states:
E.14404 Cpl. Deschenes L.P., did NOT return to his unit from the time of the commencing of the absence charged until 2220 hrs 9 Mar 44, when he was placed under close arrest.

Deneumoustier S/Sgt

The accused declines to ccoss examine the witness.
The accused was warned in accordance with Rules of Procedure 4c.
The accused elects to reserve his defence.

(D.Whiteside) Capt.,
Officer Detailed to take Summary.

Taken in the field
10 Mar 44.

SOMMAIRE D'EVIDENCE Ex 'A'

SOMMAIRE D'EVIDENCE DANS LE CAS DE E.14404 Cpl. Louis, Philippe, DESCHENES, 5 Cdn Inf Bde Coy, R.C.A.S.C., un soldat de l'Armee Canadienne, Outre Mer.

CHARGE AA Sec 15(1)

L'accuse est informe de ces droits.

L'accuse ne demande pas et l'Officier Commandant ne dirige pas que l'evidence soie pris sous parole.

PREMIER TEMOIN pour la prosecution: C.30649 L/Cpl. Wittenberg, C.G. 5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, C.30649 L/Cpl. Wittenberg, C.G., etait sous-officier en devoir dans le Platon Composite le soir du 3 Mars 44 quand appelant les noms a 2245 heures, le Cpl. Deschenes, L.P. E.14404 ne repondit pas et quand j'ai investige j'ai trouve qu'il n'etait pas dans sa chambre, ou il etait suppose d'etre. Ce fais fut rapporte sur le Tattoo Roll Call rapport que j'ai donne dans les mains du Orderly Sergent.

C.30649 C.G. Wittenberg, L/Cpl.

L'accuse declare qu'il na pas de question a mettre au temoin.

DEUXIEME TEMOIN pour la prosecution: D.91213 L/Cpl. Turvey, J. 5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, D.91213 L/Cpl. Turvey, J., etait sous-officier en devoir dans le Platon Composite le soir du 4 Mars 44 quand appelant les noms a 2245 heures, le Cpl. Deschenes, L.P. E.14404 ne repondit pas et quand j'ai investige j'ai trouve qu'il n'etait pas dans sa chambre, ou il etait suppose d'etre. Ce fais fut rapporte sur le Tattoo Roll Call rapport que j'ai donne dans les mains du Orderly Sergent.

D.91213 J. Turvey, L/Cpl.

L'accuse declare qu'il ne pas de question a mettre au temoin.

TROISIEME TEMOIN pour la prosecution: D.91177 L/Cpl. Cooney, J.R., 5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, D.91177 L/Cpl. Cooney, J.R., etait sous-officier en devoir dans le Platon Composite le soir du 5 Mars 44 quand appelant les noms a 2245 hrs, le Cpl. Deschenes, L.P. E.14404 ne repondit pas et quand j'ai investige j'ai trouve qu'il n'etait pas dans sa chambre, ou il etait suppose d'etre. Ce fais fut rapporte sur le Tattoo Roll Call rapport que j'ai donne dans les mains du Orderly Sergent.

D.91177 J.R. Cooney, L/Cpl.

L'accuse declare qu'il na pas de question a mettre au temoin.

QUATRIEME TEMOIN pour la prosecution: D.121611 L/Cpl. Gauthier,C.A.
5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, D.121611 L/Cpl. Gauthier,C.A., etait sous-officier en devoir dans le Platon Composite le soir du 6 Mars 44 quand appellant les noms a 2245 heures, le Cpl. Deschenes,L.P. E.14404 ne repondit pas et quand j'ai investige j'ai trouve qu'il n'etait pas dans sa chambre, ou il etait suppose d'etre. Ce fais fut rapporte sur le Tattoo Roll Call rapport que j'ai donne dans les mains du Orderly Sergent.

C A Gauthier L/Cpl
D.121611 C.A.Gauthier, L/Cpl.

L'accuse declare qu'il na pas de question a mettre au temoin.

CINQUIEME TEMOIN pour la prosecution:- C.12213 L/Cpl. Labelle,J.A.
5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, C.12213 L/ Cpl. Labelle,J.A., etait sous-officier en devoir dans le Platon Composite le soir du 7 Mars 44 quand appellant les noms a 2245 heures, le Cpl. Deschenes, L.P. E.14404 ne repondit pas et quand j'ai investige j'ai trouve qu'il n'etait pas dans sa chambre, ou il etait suppose d'etre. Ce fais fut rapporte sur le Tattoo Roll Call rapport que j'ai donne dans les mains du Orderly Sergent.

J A Labelle
C.12213 J.A.Labelle, L/Cpl.

L'accuse declare qu'il na pas de question a mettre au temoin.

SIXIEME TEMOIN pour la prosecution:- G.41223 Cpl. Carver,A.L.,
5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, G.41223 Cpl. Carver,A.L., etait sous-officier en devoir dans le Platon Composite le soir du 8 Mars 44 quand appellant les noms a 2245 heures, le Cpl. Deschenes,L.P. E.14404 ne repondit pas et quand j'ai investige j'ai trouve qu'il n'etait pas dans sa chambre, ou il etait suppose d'etre. Ce fais fut rapporte sur le Tattoo Roll Call rapport que j'ai donne dans les mains du Orderly Sergent.

A L Carver
G.41223 A.L.Carver, Cpl.

L'accuse declare qu'il ne pas de question a mettre au temoin.

SEPTIEME TEMOIN pour la prosecution: L.8992 L/Cpl. Long,L.A.,
5 Cdn Inf Bde Coy, RCASC, declare:-

Moi, L.8992 L/Cpl. Long,L.A., etait sous-officier en devoir dans le Platon Composite le soir du 9 Mars 44. Environ 2220 heures le Cpl. Deschenes re rapporta aux quartiers generaux du Composite Platon. J'ai avise le Capitaine Whiteside, Commandant du Platon. Le Capitaine Whiteside ordorna au Cpl. Allen,J.J. de mettre Cpl. Deschenes sous "Close Arrest" et de le confie a la charge du sous-officier dirigeant la police regimentale.

L A Long
L.8992 L.A.Long, L/Cpl.

pte. Witness

D-105605 S sgt Denoumoustier L.A., 5 Bde Coy RCASC, declare:

"E-14404 Cpl. Deschenes L.P., n'a pas returne a son unite depuis le commencement de l'absence chargee jusqu'a 2220 hrs le 9 Mar 44 losqu'il fut place sous arret.

L'accuse declare qu'il ne pas de question a mettre au temoin.

L'accuse a ete avise de ses droits en accordance avec les "Rules of Procedure"4e".

L'accuse declare qu'il ne veut rien dire en sa defense pour le moment.

(D. Whiteside) Capt.
officier detaille pour prendre la sommaire.

Pris en campagne
10 Mar 44.

Evidence as to the character of the accused E 14407 Cpl Louis Phillipe Deschenes. 5 Cdn Bde Coy RCASC.

<u>First Witness</u> Capt D Whiteside 5 Cdn Bde Coy RCASC.

Capt D Whiteside being duly sworn. is questioned by the Defend officer and states.

Q1. You are the accused platoon officer

A1. Yes I am.

Q2. How long have you known the accused.

A2. Since the later part of 1940.

Q3. Has his work been satisfactory

A3. Yes. Excellent in fact most satisfactory

Q4. Is this the first time to your knowledge that the accused h been charged under the Army Act.

A4. Yes it is.

Q5. Should the accused remain on strength of the unit would you prefer and be prepared to retain him in his present employment

A5. Yes certainly.

STATEMENT OF CHARADTER & PARTICULARS OF SERVICE
OF ACCUSED.

No. E.14404 Rank. Cpl. Name. Deschenes,L.P.

Unit: 5 Cdn Inf Bde Coy, R.C.A.S.C.

Age: 38 yrs. Married or Single: Married No of Dependents: 10

Date of Attestation: 15 Apr 40

Number of days in close arrest awaiting trial.

Civil..n/a.....Military....4.....Hospital..n/a....Total..4....

Date of appointments, promotions, etc. (if any) L/Cpl. w.e.f. 9 Apr 43
Cpl. 15 May 43.

In the Field

14.9.44.A...
Date.

Officer i/c Records.
5 Cdn Inf Bde Coy, RCASC.

NOTE: Certified true copy of MFM 6 must accompany this form.
To be signed and dated on day of trial.

87236-85-8

M.F.M. 6
(A.F.R. 122)
40/P & S/136 (2637)

14404 Name Deschenes, L.P. Sqn., Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 15 Apr 40 | G.C. Badges n/a | Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet 6 Jul 42 | No. and date of last drunk n/a | Period not reckoning towards freedom from extra fine n/a | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 15 Apr 43:					
				CERTIFIED TRUE COPY					
				for (T.V. Kenney) Major, Officer Commanding, 5 Cdn Inf Bde Coy., R. C. A. S. C.					

(P.T.O.)

56-118.

Ste. Deschenes, O.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused D-58058 Pte Oveda DESCHENES R de Mais, 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 3 7 days, of which 1 1 6 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Nine Months detention.

(Sgd) ..... 25 Feb. 45 (Sgd) J.C. Lovat-Fraser Major.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that~~ the accused be not committed to prison ~~or Detention barracks~~ until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 26 Feb 45 (Sgd) Guy Kindersley Brigadier.

Commanding 2 CBRC Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-58058 Pte Deschenes, O	1 Mar 45	A Hall Lt Col. Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CR 138
2/1 Mar 45

RECORDED AT CMHQ IN AB 160 5-C-118

CPA96 (In lieu of AFA81) 40/P & B/1698 (H1645)

FIELD GENERAL COURT-MARTIAL

1/388

Convened by Order of Brigadier G.S.N. Gostling, ED Comd 2 CBRG dated 22 Feb 45

Can. Sec. 2 Echn. 21 Army Gp.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-58058	Pte		Oveda	DESCHENES	R de Mais 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED FROM A POINT OF LAW

PROCEEDINGS REVIEWED
17 Apr 45
Joseph de Billy Capt
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

held at (country) BELGIUM on (date(s)) 25 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by his CO.~~(1)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5.~~ President to accused : Do you object to ..... as interpreter ? Ans .....

~~The interpreter is sworn.~~(1) Do you object to ..... as shorthand writer ? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J.C. LOVAT-FRASER	RCE	13 CBR Bn
Member	Captain	J.G.G. Robichaud	CIC	" " "
Member	Lieutenant	J.L.A. Gautier	CIC	10 " "
Judge-Advocate				
Prosecutor	Lieutenant	J.M.A. Lalonde	CIC	13 CBR Bn.
Defending Offr	Lieutenant	J.W.R. Hubert Reg't	Les Chas	10 CBR Bn

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 21)

A8. The accused D-58058 Pte Oveda DESCHENES before arraignment make(s) (no) (~~a~~) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B 2 E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG WAR D. P. 21.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), to call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(7) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(*1. MFR 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 70, previo, is to be awarded to sever all charges in all charge sheets on which accused found guilty. RP 68. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(19), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see orders on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D-58056 Pte Oveda DESCHENES, Le Regiment De Maisonneuve, attached to 1 Can Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he
In the Field, in HOLLAND absented himself without leave from 1100 hrs 3 Jan 45 until apprehended in BRUSSELLS at 1610 hrs 29 Jan 45.
(Absent 26 days 5 hrs 10 minutes)

In the Field
22 Feb 45

(A C Wood) Lt-Col
OC 1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
22 Feb 45

(G S Wrgostling) Brigadier
Comd
2 Can Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-58058	Pte		Oveda	DESCHENES	R de Mais 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) 22 Feb 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	J.C. LOVAT-FRASER	RCE	13 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 13 CBR Bn	13 CBR Bn
Lieutenant	To be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.)

(G.S.N. Gostling)

Brigadier (Rank.)

Dat 22 Feb 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 66 (In lieu of AFA 3) 43/F & S/1697 (8143)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. D58058 PTE. DESCHENES. O.
of 1 C D C is in a GOOD state of health,
and IS FIT to undergo Trial by Court martial.

[signature] Capt
Medical Officer

Station # 1 C D C

Date 25/2/45

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

EXHIBIT D

Summary of Evidence in the case of D-58056 Pte Oveda DESCHENES, Le Regiment De Maisonneuve, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Part II Order No 3 dated 17 Jan 45.

Exhibit "B" - Certified true copy of Extract from Part II Order No 6 dated 31 Jan 45.

Exhibit "C" - Certificate of arrest dated 29 Jan 45.

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP4(C) (D) (E) (F) and (G) have been complied with.

J F Rutherford

(J F Rutherford) Capt
R C Signals
Officer detailed to take Summary of Evidence.

In the Field
17 Feb 45

Exhibit A.D. Capt L. Shupe
J.F. Lutherford Capt

PART II ORDER EXTRACT FORM

TO Officer Commanding
1 Cdn Disciplinary Centre

99/20/ FdeMAIS/1 (A5C)

9 FEB 45 19

EXTRACTS FROM: UNIT LE REGIMENT DE Maisonneuve

Part II Order No. 3 dated 17 JAN 45

AWL from 1100 hrs 3 JAN 45 Still absent 1100 hrs 11 JAN 45 (8th day)
D58058 Pte DESCHENES O

Certified to be a true extract from the regimental books and documents in my custody.

[signature] Capt
Officer IC Records
Cdn Sec GHQ 2 Ech 21 A Cp.

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

For your information

Originating Clerk's Initials

Officer in Charge for
Canadian Section, GHQ, 2nd Echelon

1/70 BCR—4
60/P&R/2276 (6706)

Exhibit (B) Capt K. Shupe

PART II ORDER EXTRACT FORM

TO Officer Commanding
1 Cdn Disciplinary Centre

99/20 RDEMAIS/1 (A5C)

9 FEB 45 19

EXTRACTS FROM: UNIT LE REGIMENT DE MAISONNEUVE

Part II Order No. 6 dated 31 JAN 45

SOS as a deserter wef 26 JAN 45 having been dec illegally absent by a CT INQ from 1100 hrs 3 JAN 45 Deficiencies in Kit £13-1-4½
D58058 Pte DESCHENES O

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn Sec GHQ 2 Ech 21 A Gp

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

For your information

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70

Exhibit (C) J Shupe Capt

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT, SECTION 163 (i) (jj)

J. F. Rutherford Capt

I certify that No. D/58068 Rank Pte. Name DESCHENES O.

of (Unit) DE MAISON NEUVE was arrested at BRUSSELS

at 16.10 hrs on 29th. Jan. 45. (date). He was dressed in Uniform ~~Plain Clothes~~

Date 29th. Jan. 45.

Signature of Provost Marshal APM or other officer into whose custody the above named person was taken on arrest.

J Blenkham Sr
(Rank)
(Unit or Appointment)

COMMANDING 120 PROVOST COY. G.H.Q
CORPS OF MILITARY POLICE

NOTES

1. This certificate MUST be signed personally by the Officer concerned.
2. In no circumstances may it be signed by one officer 'for' another, or by anyone who does not hold commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

221 B.

EXHIBIT "E" (A)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D59058	PTE	DESCHENES, O	R de Mais

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be entered to the prejudice of the accused. The numbers entered should correspond with the numbers appended with the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA See 40 — 1 times.

For AA SEC 15(1) — 9 times.

For _____ — _____ times.

For _____ — _____ times.

Date of first entry in Field Conduct Sheet 8 Mar 41

Date of last entry in Field Conduct Sheet 23 Dec 44

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

*3. ~~The accused at the present time is under sentence to~~ ~~beginning on the~~ _____ day of _____

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 27 days in military custody, i.e., NIL days in open arrest, 27 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 24yrs. 6 mos

6. The date of his ~~attestation~~ ~~calling up for military service~~ is 4 Jul 40

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of‡ CVSM & CLASP.

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of _____	_____
In the war substantive rank of _____	_____
In the acting rank of _____	_____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[27933] (D) 24809/3404 34,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25th day of Feb 1945

Admin. Offr.
1 Cdn Disciplinary Centre

EXHIBIT "F" Contd.

No. D58058 Name DESCHENES 0 Sqn, Battery, or Company Corps CIC Date of enlistment 4 JUL40 GC Badges Service or Proficiency Pay 1.50 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23DEC44	Pte		Forfs 28 days pay FR&I 149(2) for AWL 2 days 50 mins. Forfs 3 days pay FR&I 149(1)(a) (completely concurrent with award in DO 70. Total forf 28 days pay					

DUPLICATE CREATED FROM MFM 4 (17FEB 45) RECORD OF CONDUCT IN CANADA NOT AVAILABLE

"J R FENELON" Capt
for Officer IC
Cdn Sec 2 Ech HQ 21 Army Gp

Certified to be a true copy of MFM 6 in my possession

[signature] Admin. Offr.
1 Cdn Disciplinary Centre

(PTO)

EXHIBIT "F" [signature]

No. D58058 Name DESCHENES 0 Sqn, Battery, or Company Corps CIC Date of enlistment 4JUL40 GC Badges Service or Proficiency Pay 1.50 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8MAR41	Pte		Forfs 2 days pay FR&I 149(1)(e) Forfs 1 days pay FR&I 149(1)(a) AWL 12 hrs 15 mins. Total forf 3 days pay					DO No 23/41
"	15FEB43	"		Forfs 10 days pay FR&I 149(2) for AWL 4 hrs 30 mins					DO No 12/43
"	19APR43	"		Forfs 10 days pay FR&I 149(2) for AWL 21 hrs 50 mins Forfs 1 days pay FR&I 149(1)(a) Total forf 11 days pay					DO No 23/43
"	22APR43	"		Fined £5-17-0 for malicious damage					DO No 25/43
"	2JUL43	"		Awarded 10 days detn for Off AA40 Forfs 10 days pay FR&I 149(1) (b)					DO No 36/43

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31AUG43	Pte		Forfs 4 days pay FR&I 149(2) for AWL 9 hrs 30 mins. Forfs 1 days pay FR&I 149(1)(a) Total forf 5 days pay					DO N° 48/43
"	25SEP43	"		Forfs 7 days pay FR&I 149(2) for AWL 7 days 19 hrs 30 mins. Forfs 8 days pay FR&I 149(1)(a). Total forf 15 days pay					DO No 52/43
"	19NOV43	"		Forfs 14 days pay FR&I 149(2) for AWL 21 hrs. Forfs 1 days pay FR&I 149(1)(a) Total forf 15 days pay					DO 63/43
"	14NOV44	"		Forfs 14 days pay FR&I 149(2) for AWL 1 day 10 hrs 30 mins. Forfs 2 days pay FR&I 149(1)(a) Total forf 16 days pay					DO No 65/44
"	13DEC[illegible]	"		Forfs 7 days pay FR&I 149(2) for AWL 4 hrs					DO No 70/44

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Part II Order No 3 dated 17 Jan 45 "A"

Certified true copy of Extract from Part II Order No 6 dated 31 Jan 45 "B"

Certificate of arrest dated 29 Jan 45. "C"

I, D-58058 Pte Ovede DESCHENES, hereby certify that I have received one (1) copy of charge sheet and one (1) copy of Summary of Evidence free of charge on 22 February 45.

D58058 Pte DESCHENES, O

BB-132

PTE DESCOTEAUX F.B.

Pres. Rec'd.

BB-132

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Seventh day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[illegible]~~ Rok

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~ :— Rok

*~~(1. Three Officers to form the Court.)~~ Rok

*~~(2. A Field Officer as President.)~~ Rok

~~for the following reasons, namely:—)~~ Rok

* Omit if not applicable.

Proceedings Reviewed

Reviewing Officer (J.A.G.C.M.H.Q.)

22 Apr 43

Gaston Dallie major president

102

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

Waiting Member

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Unit to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	J.A.G. Vallee	R 22e R

Members.

Rank.	Name.	Regiment.
Captain	G.F. Foster	Carlt & York R
Captain	R.G. Thexton	West N.S. R.
Lieut.	J. Roy	R 22e R.

*Signed [signature] Lt. Col

T/Commanding 3 Cdn Inf Bde

Convening Officer

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E 42[illegible] Pte Frederic George DESCOTEAUX R 22e R	1st Charge Sec 15 A.A.	Guilty	Guilty To undergo detention for a period of 60 days Gaston Dallie major president 8 April 1943	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) [illegible] Lt. Col (Signed) Gaston Dallie Major.
T/Commanding 3 Cdn Inf Bde — R 22e R
Convening Officer (*c*) — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 8th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ [illegible]
*~~(4. The officers under instruction)~~ [illegible]

were duly sworn.

* Omit if not applicable.

Signed this 8th day of April 1943.

Gaston Dallie major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

[illegible]

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, ~~subject to what I have there stated~~, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 9th day of April 1943,

[illegible] Lt. Col
Confirming Officer.

Promulgated and extracts taken in the case of E 42[illegible] Pte Frederic George DESCOTEAUX R 22e R.

(*a*) (Dated) 1 April 43 (Signed) [illegible] R 22e R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C H A R G E S H E E T

The accused, E.4223 Private Frederic George DESCOTEAUX, Royal 22e Regiment, a soldier of the Canadian Army, Overseas, is charged with:-

FIRST CHARGE
A.A. Sec. 15

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

in that he,

In the Field, was absent without leave from 1500 hrs the 31 March 1943 until he was apprehended at the Canadian Legion Canteen in Brighton at about 1800 hrs the 31 March 1943, by Military Police. And by doing so, did not participate in the exercise which was in course.

Total absence: 3 hrs.

G.A. Turcot
(G.A. TURCOT), Major,
T/Commanding Royal 22e Regiment.

In the Field
5 April, 1943.

To be tried by Field General Court Martial.

RDK

R.D. King
(R.D. King)Lt. Col.
T/Commanding
3 Cdn Inf Bde

7 Apr 43

B2
Gaston Dallie major
president

572 36-83-4 Apr 4

MEDICAL CERTIFICATE (K.R. (Can) 5.7)

I certify that I have this morning examined No. E4223 Pte Decoteaux F.C. of Royal 22 and in my opinion he is unfit to undergo trial by Court Martial.

Station In the field

Date 8 April 1943

Gaston Dallie major
president

Acheus Capt
Medical Officer

MEDICAL CERTIFICATE (K.R. (Can) 5.7)

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 8th day of April 1943 by order of

Lieut-Col R. D. King

T/Commanding 3rd Cdn. Inf. Bde

dated the 7th day of April 1943

President.

Major J. A. F. Vallee R22R

Members.

Capt F. F. Foster Cantt & York R

Capt R. F. Thexton West N.S. R.

~~Judge Advocate~~

Trial of* E 4223 Pte Frederic George DESCOTEAUX R22R.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~

~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut H. Chasse R22R

~~Counsel~~‡ or defending officer† Lieut J. Chouinard R22R

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked K signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

WA 10-42203/426. 10,000 sets. 1/41. R. & H., Ltd. G667/21. Forms A 9/35.

B

The President, members ~~and judge advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read?

Question to the accused.

Guilty

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~

Question.

Answer.

The accused having pleaded Guilty to 1st charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ CW CW CW

The accused E4223 Pte Frederic George DESCOTEAUX R.22eR. is found guilty of the 1st charge.

†The summary ~~(or abstract)~~ CW of evidence is read, marked Z signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No

~~The accused in mitigation of punishment says~~ CW

~~[or hands in a written statement, which is read, marked~~ CW ~~, signed by the President, and attached to the proceedings:]~~ CW CW

The defending officer makes the following statement in mitigation —

Pte Descoteaux was forty months in England with the R22R and has never missed a scheme. On the day he went A.W.L. his intention was not realizing to miss the scheme – due to circumstances which are ~~that~~ Pte Descoteaux was in the Tank Bn. of the Bde. and knowing

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

CW

DD

fell out of the ranks to fix up his boots, he lost the column of troops at an intersection of roads. According to these facts, as Pte Bescobrenk did not know which road to take, he decided to come back.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No.

Answer.

Evidence as to character.

SUMMARY OF EVIDENCE

in the case of

E. 4223 Private Frederic DESCOTEAUX, a soldier of the Royal 22e Regiment, Canadian Army Overseas.

By direction of the commanding officer, the summary of evidence was taken on oath.

FIRST WITNESS FOR PROSECUTION

E. 4863 L/Cpl Cote, A. Royal 22e Regiment, having been duly sworn states:-

Acting as section commander, at about 1500hrs the 31st March, 1943, I reported the absence of Private Descoteaux from my section. I did not see him back on the scheme.

.....L/Cpl.

The accused declines to cross-examine this witness.

The accused having been duly cautionned in accordance with Rules of Procedure 4 (e) declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence was taken down by me, in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f), have been complied with.

(J. E. [illegible]), Lieutenant,
Royal 22e Regiment.

Officer detailed to take the Summary of Evidence.

In the Field,
5 April, 1943.

LIST OF WITNESSES

in the case of

E.4223 Private Frederic DESCOTEAUX, Royal 22e Regt., a soldier of the Canadian Army, Overseas.

PROSECUTION

E. 4863 L/cpl. COTE A.

DEFENCE

NIL

STATEMENT BY THE ACCUSED

I, E. 4223 Private Frederic DESCOTEAUX, Royal 22e Regt., desire the services of an officer to represent me at my trial by F. G. C. M.

I desire the services of..... if he is available.

This is to certify that I received free of charge, copies of proceedings, documents, etc, relating to my trial by F. G. C. M.

Gaston Dallier major
president

In the Field,
5 April, 1943.

[signature]

NOTICE IN PURSUANCE OF R.P 76
IN THE FIELD GENERAL COURT
MARTIAL OF E.4223 PTE. FREDERIC
DESCOTEAUX.,ROYAL 22E REGIMENT.

Take notice that at the trial of the above mentioned soldier.

B.63513 Sgt. G. S. PINDER, of the 4 Cdn. Provost Coy., A. F. will be called as a witness to the fact that he arrested E. 4223 Private Frederic DESCOTEAUX, at the Canadian Legion Canteen in Brighton, at about 1800hrs the 31 March 1943.

Gaetan Dallaire major
president

(G. A. TURCOT), Major,
T/Commanding Royal 22e Regiment.

In the Field,
5 April, 1943.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused Guilty of 1st charge

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction before Sentence.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lieut H. Chase R 22 R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* I produce M.F.B 355 and certified true copy of M.F.M. 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked X, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes, sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes, sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes, sir.

Cross-examined by the accused.

(Construction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused See schedule. Sentence.

Lw

S12 36-5-43

No. 5443 Name Lieutenant Sqn., Battery, or Company A Corps R.A.A.C. Date of Enlistment 2-10-17 G.C. Badges Service or Proficiency Pay M.F.M. 5 (A.F.B. 177) (12M—7-41 (1210-25) H.Q. 1772-39-1452

Date of last entry in Company Conduct Sheet 29-5-42 No. and date of last drunk nil Period not reckoning towards freedom from extra duty Sheet No. 2 Signature O.C. Company, etc. Gordon Dallinger Major

Character

Place	Date of offence	Rank	Cause of circumstances	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the R.A.A.C. Officers Mess Lieut. [illegible] was [illegible]									
the premises when [illegible]									
In the Mess [illegible]	21-2-42			Did use obscene language to Lieut. [illegible]	Lieut. [illegible]	Admonished	21-2-42	Lieut. [illegible]	
"	21-2-42			Did use obscene language to Lieut. [illegible]	Lieut. [illegible]	Admonished	21-2-42	Lieut. [illegible]	
"	21-2-42			Did refuse to comply with a lawful command given by Lieut. [illegible]	Lieut. [illegible]	Admonished	21-2-42	Lieut. [illegible]	
"	21-2-42			Did use obscene language to Lieut. [illegible]	Lieut. [illegible]	Admonished	21-2-42	Lieut. [illegible]	
"	21-2-42			Did refuse to comply with a lawful command given by

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
[illegible]	[illegible]	Pte		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
"	[illegible]	"		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
"	[illegible]	"		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
"	[illegible]	"		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	
"	[illegible]	"		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	

[illegible]
[illegible]
[illegible]

872 36-8-[illegible]

Gaston Dallie major president

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E 4223	PTE	FREDERIC GEORGES DESCOTEAUX	ROYAL 22° REGT.

1. The following is a fair and true summary of the entries in the Service and General / Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For W.O.A.S under A.A. SEC 40	2 times	times
For A.A. SEC. 15	4 times	times
For A.A. SEC. 11	3 times	times
For	times	times

Number of instances of gallantry or distinguished conduct —

or,

There are ~~no~~ entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted —

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time —

~~or~~

The accused at the present time is under sentence for — beginning on the day of —

4. The accused has been in confinement awaiting trial on the present charges, for — days in civil custody, and 7 days in Air Force / military custody, making a total of 7 days in custody, of which — days were spent in hospital.

5. The present age of the accused according to his record of service is / attestation paper is 22

6. The date of his commission specified in his record of service is / attestation / attestation paper 2-10-39

7. The service which the accused is allowed to reckon towards discharge is —

8. The accused is entitled to reckon — service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. / military / military / military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the Air Force / regimental rank of —

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated ..., and in his regiment (or corps), the rank of ... dated ....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

... Date of promotion.

In the rank of ... years.

In the rank of ... years.

In the rank of ... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number E4223 Rank PTE Unit Name FREDERIC GEORGE DESCOTEAUX of ROYAL 22° REGT. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

True extract from regimental records

... Lieutenant, ...

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8 APRIL 1943 day of ...

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked X signed by the president, and annexed to the proceedings.

G-111.

Pte. Desforges. P. E.

SCHEDULE

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D142152 Private Paul Emile DESFORGES

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~.....~~ beginning on (date) ~~.....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for Six (6) Months

(Sgd) ..... Judge-Advocate, if any. 10 Nov 44 Date awarded. (Sgd) S H Flake President.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Questions after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until the ~~.....~~ day after promulgation. (1. AA 57A. Delete if not used.)

Date 13 Nov 44 (Sgd) ..... Commanding COMMANDER 1 CDN BASE RFT GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 573, 577.)

Accused.	Date.	Signature of Offr.
D142152 Pte DESFORGES, P.E. (1 CBRB)	21 Nov 44	[illegible] Adjutant 2 Can Reinforcement Units

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AG 16[illegible] 46-111

RECEIVED 9 DEC 1944 JAG BRANCH C.M.H.Q.

CPA86 (To lieu of AFA81) 40/P & S/1000 (40/10) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened at 1 CDN RFT BN by LT COL L J FLYNN Comd 1 CDN RFT BN dated 8 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prnnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D142152	PRIVATE		PAUL EMILE	DESFORGES	1 CDN RFT BN

PROCEEDINGS REVIEWED 11 Dec 44 JAG W. C. Inches Lt Col. REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED 25 Nov 44 Can Sec Lieut Tech AAI for Major

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 10 NOV 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2E 21

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM ▲ MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, for procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	S H Flake	1 CDN RFT BN.
Member	Capt	G W J R Wilson	1 CDN RFT BN.
Member	Lieut	M Martin	1 CDN RFT BN.
Judge-Advocate		NIL	
Prosecutor	Capt	C C Brown	1 CDN RFT BN.
Defending Offr	Lieut	M G O'Neil	1 CDN RFT BN.

Questions by President: Is the Prosecutor a lawyer? Ans No SIR Is the Defending Offr a lawyer? Ans No SIR

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D142152 Pte P E DESFORGES before arraignment makes(s) (no) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) ~~The President records this plea in Part I of the Schedule.~~

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A9s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~adjourns~~ and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Band E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. L135

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~as JA to duty~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) & to call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO SIR .....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s) on ..... charge(s).~~ Part I of the Schedule is amended accordingly.

(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)

(1. *If "yes", see RP* 39(A) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D6.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)

(1. *AA* 54(3) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. NO SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)

(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statements and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. YES SIR .....(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence(s).(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the Court Offrs~~.(2)

(1. *When several accused tried sequentially see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 69, 138, 139(*A*), *KR Can* 308, 330, 563-566. *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44 (*B*), 68(*1*), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE-SHEET

THE ACCUSED, NUMBER D 142152, PRIVATE PAUL EMILE DESFORGES, OF 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:-

1st Charge

A.A. Sec 15

(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, Italy, on 22 Oct 44, did absent himself without leave, from 1330 hrs 23 Oct 44 until apprehended at approximately 1215 hrs 31 Oct 44.
(Total absence: 8 days - 22 hrs - 45 minutes).

L. J. Flynn

(L J Flynn) Lt.-col.,
Commanding,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
8 Nov 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

L. J. Flynn

(L J Flynn) Lt.-col.,
Commanding,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
8 Nov 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 142152	PRIVATE	Paul Emile	CHAMPAGNE	4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet attached and on (date) [illegible] endorsed by me, "For by order of my chief of staff." To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) [illegible], (b) a Fd Offr as President, for the reasons I have attached hereto. None available

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate the next the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Capt.	G. M. [illegible]	4 Cdn Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	A. M. [illegible]	4 Cdn Rft Bn
Lieut.	R. [illegible]	4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	M. [illegible]	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
[illegible]	[illegible]	

On Active Service in the Fd

in ITALY
(Country.)

Date 9 Nov 44

L. O. Lyon
(Signed personally. RP 105 fn 2.)

Lt.-Col.
(Rank.)

Commanding 4 Cdn Rft Bn - 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (For Abs (to Dec) of AFB's 60/F & S/1867 (1951))

872 36-83-4 [illegible]

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

NOV 10th 194

I hereby certify that I have this morning examined No D142 152 PTE DESFORGES P.E on strength 4 Cdn Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo trial by Court Martial

[signature] Capt
Medical Officer 4 Cdn Rft Bn.

Plea of mitigation in the case of.

D-142152 Pvt. Desforges. P.E

Defending Officer.

The Defence wants to point out that this man's record up to the time he went A.W.L. is quite good. This man was injured and shell shock at Gothic Line and claims that ever since his nerves are very bad. He does not feel fit to go back to the line he finds he would be a liability if he went back to his unit. He claims that was made quite understood by his sergeant before he was evacuated; he found that going A.W.L. was the only way to prevent his going up to the line again, and thus possibly risking the lives of his companions by his unfitness.

The Defence suggest that this man be given a medical ubord. which would propably proove that this man is quite unstable. The Defence wishes Court to take these points and the Accused's age into consideration in dealing with the sentence. —

10 Nov 44

[illegible]

Exhibit "C"

SUMMARY OF EVIDENCE IN THE CASE OF D 142152 PRIVATE PAUL EMILE DESFORGES OF 4 BN, 1 CDRGp, WHO IS CHARGED WITH: WOAS ABSENTING HIMSELF WITHOUT LEAVE A.A. SEC 15 (1).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st WITNESS: D 138919 Sgt Blanchette F. of R 22e Regt.

A written statement of the evidence of this witness, purporting to have been signed by him, has been read over to the accused, and is attached hereto as exhibit "A".

I certify that owing to the exigencies of the service, and the time and expense involved, the attendance of this witness at the taking of this summary of evidence cannot be readily procured.

(R.H. Brown) Captain,
Officer taking Summary.

The accused does not demand the presence of this witness for cross-examination.

2nd WITNESS: A 22296 Sgt White J.F., of 4 Bn 1 CDRGp, having been duly sworn, states:

I am A 22296 Sgt White J.F., Orderly Room Sgt, 4 Bn 1 CDRGp.

I produce a certificate under AA Sec 163 (1)(jj) purporting to relate to the accused and showing that Pte Desforges was arrested at Jesi, at approximately 1215 hrs on 31 Oct 44. (Produced, shown to accused, marked exhibit "B" and attached hereto.

(J.F. White) Sgt.

The accused declines to cross-examine this witness.

Question to the accused:

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or togive evmidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused:

I have nothing to say at this time.

I certify that R.P. 4 (C)(D)(E)(F) & (G) have been complied with.

I certify that this summary was taken down by me in the presence and hearing of the accused.

(R.H. Brown) Captain,
Officer taking Summary.

In the Field
8 Nov 44.

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STATEMENT OF EVIDENCE in the case of D-142152 Pte DesForges, C.E.

I am No. D-135919 Sgt Blanchette S. F. of R22+R Coy

4 Cdn Rft Bn - 1 Cdn Base Rft Group, C.A., C.M.F.

On the 22 day of October 1944, the a/m Soldiers was on strength of the said Coy (# "17") and his name and number were on the Draft rolls.

At about 1330 hrs on the 22 October 1944, in performance of my duty, as Duty Sgt, I called the R22+R Draft roll, including the number and name of the a/m Soldiers. He did not answer nor was he present on parade. I thereupon searched the Coy lines calling his name, and inquiring as to his whereabouts, but was unable to locate him or to obtain any information concerning him. I thereupon reported him absent without leave from 1330 hrs, 22 October 1944.

Date 22 October 1944. Signature J. Blanchette Sgt

(# or in Guard Room, or as the case was)

Exhibit "A"

[illegible] Capt

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CERTIFICATE IN ACCORDANCE WITH A.A. SEC 163 (i)(jj)

I certify that No D.142752 Rk. PTE. Name DESFORGES P.

Unit 1ST BN. THE ROYAL 22ND REGT OF CANADA was arrested at JESI

at about 1215 hrs on OCT 31ST 1944.

Nov 1st 1944

Signature of Provost Marshal, APM., or other Officer into whose custody the a/n soldier was taken on arrest.

[illegible signature]

Commanding PROVOST DETACHMENTS.
C. M. POLICE.

[illegible signature]
[illegible] Capt

[illegible]

Exhibit "D"

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D 142152	PTE	DESFORGES P.E.	4 Cdn Rft Bn - 1Cdn Base Rft C

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, promotions being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15 (1)	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

2. ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for FROM 1215 hrs 31 Oct 44 days ~~XXXXXXXXXXXX~~ 10 days in military custody, making a total of 10 days, of which n.i. ~~XXXXXXXXXXXXXXXXXXXX~~

5. The present age of the accused according to his ~~XXXXXXXXXXXXXXXXXXXX~~ record of service is 20 yrs.

6. The date of his ~~XXXXXXXXXXXXXXXXXXXX~~ attestation specified in his ~~XXXXXXXXXXXXXXXXXXXX~~ record of service is 20 Aug 43.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated and in his regiment (*or corps or department*) the rank of N/A dated

(*18250) W.T.13802/244 120,000 6/43 A.&E.W.Ltd. Gp.698

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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 142153 Rank PTE Name DESFORGES J.E. of CIC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N/A		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 9TH day of November 44

(A E Davidson) Capt, Adjt,
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

In the rank of , years,

(Instruction—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

S12 36-8-1-Sept-1

Exhibit "E"

No. [redacted] Name [redacted] Sqn, Battery, or Company [redacted] Corps R.A.O.C. Date of enlistment [redacted] GC Badges [redacted] Service or Proficiency Pay [redacted]

MFM 6
(AFB 122)
49/FAS/136 (3438)

Date of last entry in Company Conduct Sheet [redacted] No and date of last drunk [redacted] Period not reckoning towards freedom from extra fine [redacted] Sheet No 1 Signature OC Company, etc [redacted] Character [redacted]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-8-44	Pte		(1) Con Sec 15 (1) (a) in that without lawful authority he absented himself from the place where it was his duty to be, to wit, in the field, on 14 and 15 Aug 44, left route march from 3CC Lablaus and without authority remained absent (Total absence 4 hrs)		6 days C.B.	17-8-44	[illegible]	
				[illegible]					
				[illegible]					
				[illegible]			

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 5 Nov 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of AWL AB1260

for which I was remanded for Court Martial.

P E Desforges
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut M P O'Neil if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

P E Desforges
(Sig of Accused)

& RP 89 fn 2

Pursuant to Chap V Sec V Sub Sec [illegible] of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

P E Desforges
(Sig of Accused)

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VV-128

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 14th day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Forestry Corps, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ C.E.C.*

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint:~~

~~*(1. Three Officers to form the Court.)~~ C.E.C.*

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~

Proceedings Reviewed

W. C. Inch Lieut. 8 Dec 43

Reviewing Officer (J.A.G.) C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.T. Colquhoun,	No.22 Coy, C.F.C.

Members.

Rank.	Name.	Regiment.
Captain	E.E.H. Pierce,	No.25 Coy, C.F.C.
Captain	J. Bonneau,	No.27 Coy, C.F.C.
Major	WAITING MEMBERS M.T. MacLaggan,	No.16 Coy, C.F.C.
Lieutenant	J.F.A. Dale,	No.25 Coy, C.F.C.

*Signed C.E.C. Jones (C.E.F. Jones) Colonel,

A/Commander Commanding Canadian Forestry Corps C.A.(O)

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.110294, Private Joseph Phileas DESGAGNE, No.13 Coy, C.F.C.	First Charge: Sec.12(1a) Army Act	not Guilty	not Guilty of Desertion. Guilty of A.W.L. RJC	I confirm the findings on the first and third charges, but I do not confirm the finding on the second charge.
	Second Charge: Sec.24(2) Army Act	not Guilty	Guilty RJC	
	Third Charge: Sec.40 Army Act.	Guilty.	Guilty RJC	
			180 days detention Stoppage of pay $25.58 and " " Cost of apprehension $1:10:6 26 Oct 43 RJC	I confirm the sentence, but I remit the stoppage of pay of $25.58
				C.E.K. Jones Col. 26 Nov 43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No Sir

(Signed) C.E.K. Jones Colonel, (Signed) Robt. Colquhoun Major
(C.E.F. Jones)
A/Commander, ~~[illegible]~~ Cdn Forestry Corps. 22 Coy. C.F.C.
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the twenty sixth day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 26th day of Oct. 1943.

Robt. Colquhoun Major
President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

* See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~[illegible]~~

Signed this 26th day of November 1943

C.E.K. Jones Colonel, Commander, Cdn. Forestry Corps.
Confirming Officer.

Promulgated and extracts taken in the case of D110294 Pte. Joseph Phileas DESGAGNE No. 13 Coy. C.F.C.

(a) (Dated) 30th day of Nov. 1943 (Signed) C.C. Thomson, Lt. & Adjt. No. 13 Coy., C.F.C.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W. & Co., Ltd. Gp. [illegible]

Exhibit "C"

CHARGE SHEET

The accused, D.110294 Pte. DESMARAIS, Joseph Philias, No. 13 Company, CANADIAN FORESTRY CORPS, a soldier in the Canadian Army, Overseas, is charged with:-

FIRST CHARGE
A.A. SEC.12(1A)

While on Active Service,
DESERTING HIS MAJESTY'S SERVICE- In that he at No. 13 Company, C.F.C. SOUTHERN CAMP, absented himself without leave from 0700 hours, 12 JUL 43 until apprehended by a Civil Power at 1545 hours, 30 Aug 43, at 455 Ballater Street, GLASGOW, and thereby causing expense to the public of £1-10-6 for his apprehension and return to his Unit.

SECOND CHARGE
A.A. SEC.24(2)

While on Active Service:-
LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSITIES, In that he at No. 13 Company, C.F.C., SOUTHERN CAMP, on the 6 Sep 43, was deficient the following:

		3/4 VOCAB. PRICE
Greatcoats, drab	1	$18.98
Helmets, Steel	1	1.30
Packs, Web, Patt.1937	1	1.45
Straps, Shoulder, left	1	.32
Straps, shoulder, right	1	.32
Capes, anti-gas	1	1.97
Straps, web, supporting	2	.45
		1/2 VOCAB. PRICE
Boots, ankle, leather, prs.	1	$ 2.46
Drawers, Cellular, short	1	.28
Vests, under cotton	1	.16
Vests, cotton, gym	2	.32
Badges, cap, C.F.C.	1	.05
Badges, Canada, prs.	1	.05
Discs, identity, prs.	1	.01
Knives, clasp	1	.56
Patches, distinguishing prs.	1	.05
Shorts, gym, prs.	1	.20
Brushes, hair	1	.28
Brushes, tooth	1	.06
TECHNICAL CLOTHING		
Suits, rubber, trousers, prs.	1	2.37
		TOTAL AMOUNT OF DEFICIENCIES $35.76

THIRD CHARGE
A.A. SEC. 40

While on Active Service:-
IMPROPERLY WEARING RANK BADGES TO WHICH HE IS NOT ENTITLED- In that he at 455 Ballater Street, GLASGOW, on 30 Aug 43, when apprehended by a Civil Power, was impersonating a SERGEANT, in that he was wearing three bar chevrons on his tunic sleeves.

F Barnes
(F. BARNES) Major
O.C. No. 13 Coy.,
Canadian Forestry Corps C.A.(O/S)

SOUTHERN CAMP,
No. 13 Coy., C.F.C.
8 Sep 43

Remanded for Summary of Evidence to be taken:
ABOYNE, Aberdeenshire,
No. 2 District Headquarters, C.F.C.
4 Sep 43

(C.A. WILLIAMS) Lt.-Col.
O. C. No. 2 District,
Canadian Forestry Corps.

Remanded for F.G.C.M.
In the Field,
No. 2 District H.Q., C.F.C.
7 Sep 43.

(C.A. WILLIAMS) Lt.-Col.
O. C. No. 2 District,
Canadian Forestry Corps,
Canadian Army (overseas)

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To be tried by Field General Court-Martial.
14 October, 1943.

(C.E.C. Jones) Colonel
A/Commander, C.F.C.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD AT SOUTHESK CAMP, BRECHIN, ANGUS-SHIRE, SCOTLAND ON THE 26TH DAY OF OCTOBER 1943 BY ORDER OF COL. C.E.F. JONES, A/COMMANDER, CANADIAN FORESTRY CORPS, DATED 16TH OCTOBER 1943:-

PRESIDENT: / Major R.T. COLQUHOUN,
No. 22 Company,
Canadian Forestry Corps.

MEMBERS: / Capt. E.E.M. PIERCE,
No. 25 Company,
Canadian Forestry Corps.

Capt. J. BONNEAU,
No. 27 Company,
Canadian Forestry Corps.

Trial of D.110294 Pte. DESCAGNE, Joseph Philias, No. 15 Company, Canadian Forestry Corps.

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23 (Legal constitution of the Court, amenability of the accused and validity of the charges).

The accused and all persons, including witnesses, are brought before the Court.

PROSECUTOR: - Capt. J.S. PREBBLE (NON-LEGAL)
No. 4 Company,
Canadian Forestry Corps.

DEFENDING OFFICER - Lieut. J.O.R. ROCHON, (NON-LEGAL)
No. 4 Company,
Canadian Forestry Corps.

At 1010 hours the Trial commences.

The Order convening the Court is read, and is marked exhibit "A", signed by the President and annexed to the proceedings.

The Medical Certificate is laid before the Court by the Prosecutor, signed by the President, marked exhibit "B" and annexed to the proceedings.

The names of the President and Members of the Court are read over in the hearing of the accused, and they severally answer to their names.

QUESTION BY THE PRESIDENT TO THE ACCUSED:

Q.1. Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over?

A.1. No, sir.

THE PRESIDENT AND MEMBERS OF THE COURT ARE DULY SWORN.

THE FOLLOWING OFFICERS UNDER INSTRUCTION ARE DULY SWORN:-

Major M.T. MacLAGGAN,
No. 16 Company,
Canadian Forestry Corps.

Major F. BARNES,
No. 13 Company,
Canadian Forestry Corps.

Lieut. J.F.A. DALE,
No. 25 Company,
Canadian Forestry Corps.

Q.2. Do you object to K.41216 Sgt. Hea J. McSUBNEY acting as short-hand writer?
A.2. No, sir.

Q.3. Do you object to B.115156 Sgt. B.J. SAUVE, acting as interpreter?
A.3. No, sir.

THE SHORTHAND WRITER IS DULY SWORN.

THE INTERPRETER IS DULY SWORN.

The Charge sheet is signed by the President, marked exhibit "C" and annexed to the proceedings.

The accused is arraigned upon the charges in the above mentiond charge sheet.

FIRST CHARGE:- A.A. SEC. 12 (1A)
While on Active Service, Deserting His Majesty's Forces, in that he at No. 13 Company, C.F.C., SOUTHERN CAMP, absented himself without leave from 0700 hours, 12 Jul 43 until apprehended by a Civil Power at 1545 hours, 30 Aug 43, at 455 Ballater Street, GLASGOW, and thereby causing expense to the public of £1-10-6 for his apprehension and return to his Unit.

Q.4. Do you plead guilty or not guilty to the first charge?
A.4. Not guilty, sir.

SECOND CHARGE:- A.A. SEC. 24(2)
While on Active Service, Losing by neglect his equipment and regimental necessaties in that he at No. 13 Company, C.F.C., SOUTHERN CAMP, on the 6 Sep 43, was deficient the following:

		3/4 Vocab. Price
Greatcoats, drab	1	$12.92
Helmets, Steel	1	1.30
Packs, Web, Patt.1937	1	1.45
Straps, shoulder, left	1	.32
Straps, shoulder, right	1	.32
Capes, anti-gas	1	1.97
Straps, web, supporting	2	.45
		1/2 Vocab.Price
Boots, ankle, leather, prs.	1	$ 2.45
Drawers, cellular, short	1	.23
Vests, under cotton	1	.16
Vests, cotton, gym	2	.39
Badges, cap, C.F.C.	1	.06
Badges, Canada, prs.	1	.06
Discs, identity, prs.	1	.91
Knives, clasp	1	.56
Patches, distinguishing prs.	1	.05
Shorts, gym, prs.	1	.22
Brushes, hair	1	.22
Brushes, tooth	1	.06
TECHNICAL CLOTHING		
Suits, rubber, trousers, prs.	1	8.97
TOTAL AMOUNT OF DEFICIENCIES		$32.26

Q.5. Do you plead guilty or not guilty to the second charge?
A.5. Not guilty, sir.

THIRD CHARGE:- SEC. 40 A.A.
While On Active Service - Improperly wearing rank badges to which he is not entitled in that he at 455 Ballater Street, GLASGOW, on 30 Aug 43, when apprehended by a Civil Power, was impersonating a Sergeant, in that he was wearing three bar chevrons on his tunic sleeves.

Q.6. Do you plead guilty or not guilty to the third charge?
A.6. Guilty, sir.

BY THE DEFENDING OFFICER TO THE COURT
If the word "NEGLECT" is deleted from the second charge, the accused has expressed his wish to plead guilty to same.

BY THE COURT
Request is not granted.

With reference to Charge No. 3, the provisions of R.P. 38(b) are duly complied with.

The President announces that charges Nos. 1 and 2 will be proceeded with.

BY THE PRESIDENT TO THE ACCUSED
Q.7. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?
A.7. No, sir.

THE PROSECUTOR MAKES AN OPENING ADDRESS AS FOLLOWS:-
The Charge Sheet contains three charges under sections 12, 24 and 40 of the Army Act. The first charge has to do with desertion and is in fact backed up by the third charge to which the accused has pleaded guilty. However, evidence supporting the third charge will necessarily be called by proving the first charge.

THE PROSECUTION PROCEEDS TO CALL WITNESSES:

FIRST WITNESS FOR THE PROSECUTION - F.85617 CSM McKINNON, R.H., No. 13 Company, C.F.C., is called, being duly sworn, is examined by the Prosecutor:-

Q.8. Would you give your number, rank, name and Unit, please?
A.8. F.85617 C.S.M. McKINNON, R.H., No. 13 Company, Canadian Forestry Corps.

Q.9. Do you recognize the accused?
A.9. Yes, sir, D.110294 Pte. E.P. DESGAGNE, (pointing to the accused)

Q.10. Did you issue Pte. DESGAGNE with a leave pass?
A.10. Yes, sir.

Q.11. Could you identify this as the pass?
A.11. (examines pass) Yes, this is the pass, sir.

Leave pass is tendered as an exhibit, read and signed by the President, marked exhibit "D" and annexed to the proceedings.

Q.12. When was he due to return to this Unit?
A.12. At 0700 hours 12 Jul 43.

Q.13. Did he return at that time?
A.13. He did not.

Q.14. Will you tell the Court your method of ascertaining this fact?
A.14. Pte. DESGAGNE was employed in the bush and paraded every morning at 0730 hours in his regular platoon. On the morning of the 12 Jul 43 he was absent from this parade. I never saw him again until I took him over from the Canadian Provost Corps escort at BATHURST station on the 21 Aug 43. I brought Pte. DESGAGNE to Camp under close arrest under which he has been ever since.

DEFENDING OFFICER DECLINES TO QUESTION WITNESS.

WITNESS IS EXAMINED BY THE COURT
Q.15. You issued the accused with a pass, did you issue him with a Railway Warrant?
A.15. No, sir.

Q.16. You are quite sure?
A.16. Yes, sir.

Q.17. Did you take any other steps to ascertain whether the accused was in camp during the time stated?
A.17. I kept looking for him all the time.

SECOND WITNESS FOR THE PROSECUTION IS CALLED - No. 290 Constable James MAXWELL, Central Division, GLASGOW POLICE being duly sworn is examined by the Prosecutor:-

Q.18. Will you identify yourself, please?
A.18. I am Constable James MAXWELL, No. 290, of the Central Division, GLASGOW POLICE.

Q.19. Can you identify the accused?
A.19. Yes, sir (Witness points to the accused and says "That is the man")

BY THE DEFENDING OFFICER
I object to the method of identification of the accused, used by the Prosecution. It is obvious that the man sitting on my right is the accused, and appears as such immediately to any witness entering the Court.

BY THE COURT
You are quite right Mr. HOCHOY. The prosecution will alter his method of getting the witnesses to identify the accused, if you are basing your defence on mistaken identity.

BY THE DEFENDING OFFICER
I am not offering that as a defence.

EXAMINATION BY PROSECUTION CONTINUES
Q.20. Will you tell the court, please, the circumstances under which you have previously seen the accused?
A.20. At about 1515 hours, Monday 30 Aug 43, I was summoned by the manager of the STRATHCLYDE DISTILLER CO. LTD., occupying the premises at 455 Ballster Street, GLASGOW. The manager informed me that he had, a short time previously, found a Canadian Soldier, giving the name of Sgt. COTES, in his office. He further asked me if I knew whether this man was wanted on any charge. I at once proceeded to the premises occupied by the STRATHCLYDE DISTILLERS CO. LTD., and from there communicated with the Criminal Investigation Department, Glasgow Police, asking them to check over their files of absentees and other wanted persons. I explained to them the position of the soldier who was found on the a/m premises and that he had given the name of Sgt. COTES. The Criminal Investigation Department informed me that there was a Pte. COTES listed as an absentee in their files. I telephoned Lanmoor Police sub-office and obtained the assistance of Sgt. CHURCHSHANK, No. 20, of the Central Division of the Glasgow Police, who arrived at the above mentioned premises. We went to the manager's Office and found the man who had given the name of Sgt. COTES there. When questioned regarding his being there he stated that he was interested in that particular industry and was there to have a look around. He further stated that he had been admitted by the man at the gate. Inquiries revealed that the gate man was responsible for Sgt. Cotes being there. The man giving the name of Sgt. COTES was then asked for his pay book, etc., to establish his identity, he stated that he had lost all his papers the Saturday previous. He was asked to accompany us to the LANMOOR POLICE sub-office with a view to communicating with the Canadian Military Police. On arrival at the Lanmoor Police sub-office, the accused produced his pay book with the name of Joseph Philips Desgagne and the leave pass expired on the 12th July 1943. He admitted that this was his real name and admitted being A.W.L. from his Unit from the 12 July 43. He was cautioned and charged with [illegible] at 1540 hours 30 Aug 43, to which he replied that is quite correct I am

fed up with the army anyway. He was detained to await the arrival of the Military Police Escort and was removed under escort. Pte. DESCAINE was quite sober at the time of his apprehension.

Q.21. Could you identify these as the Sgt's stripes worn by Pte. DESCAINE when he was apprehended by you?
A.21. These are similar stripes to those worn by Pte. DESCAINE. They were removed by the accused before he was removed by the Military escort.

WITNESS IS EXAMINED BY THE COURT

Q.22. When the accused was at Lawmoor Police Office, did he freely offer his pay book and pass?
A.22. Immediately upon arrival at the Police Station he produced his pay book which he had on his person.

WITNESS IS CROSS-EXAMINED BY DEFENDING OFFICER

Q.23. Were you the first police officer there?
A.23. I was the first Police Officer to be called to 455 Ballater Street.

Q.24. You were the first one to arrive there?
A.24. That is quite correct.

Q.25. Did you ask the accused his name?
A.25. When I arrived at 455 Ballater Street I only made the initial inquiry as to whether or not there was a Sgt. COTES there.

Q.26. When you reached the distillery did you ask the accused his name?
A.26. No, I did not, Sgt. CRUICKSHANK being the senior Officer, asked the questions.

Q.27. Are you definitely sure that you heard the accused making this statement "That is quite correct, I am fed up with the army anyway"?
A.27. The reply was definitely "You are quite correct, I am fed up with the Army anyway".

Q.28. When the accused was brought into the Police Office he produced his pay book and pass and stated that he was Pte. DESCAINE?
A.28. Yes, that is correct.

WITNESS AGAIN EXAMINED BY THE COURT

Q.29. Did you hear the accused, either at the Distillery or at the Lawmoor Police sub-office give his name as Sgt. COTES?
A.29. At the distillery Pte. DESCAINE gave the name of Sgt. COTES to the Manager and to Sgt. CRUICKSHANK in my presence and stated that he was on leave from ABERDEEN.

THIRD WITNESS FOR THE PROSECUTION IS CALLED - Lieut. C.C. THOMPSON, No. 13 Company, Canadian Forestry Corps, being duly sworn, is examined by the prosecutor:-

Q.30. Would you give your name, rank, unit and appointment, please?
A.30. Lieut. C.C. THOMPSON, Adjutant and O/i.c Records, No. 13 Company, Canadian Forestry Corps.

Q.31. Kindly identify the accused to the Court, please?
A.31. D.110294 Pte. DESCAINE, J.P., sitting second from the right at the opposite table

Q.32. Please tell the Court what this book is?
A.32. That is Army Book 161, record of declarations of Courts of Inquiry on illegal absence of soldiers.

Q.33. Is there an extract in the book concerning the accused, Pte. DESCAGNET
A.33. Yes.

Q.34. Give us the date of the Court of Inquiry and the total amount of deficiencies as found by the Court?
A.34. The 2nd day of August 1945 the court assembled. Pte. DESCAGNE was found deficient to the sum of $31.93

Q.35. What was the cost of apprehension?
A.35. One Pound-Ten Shillings-and sixpence.

Q.36. Have you a receipt?
A.36. Yes sir, (hands receipt for £1-10-6 to President who signs it and marks it Exhibit "G" and annexes same to proceedings.)

BY THE DEFENDING OFFICER
Q.37. Is that the original Court of Inquiry you are referring to now?
A.37. Yes.

Q.38. I would request that it be stricken from the evidence as the original is supposed to have been destroyed after the entry has been made in the A.B. 161.

BY THE COURT
Request is granted.

THE PROSECUTOR CONTINUES HIS EXAMINATION
Q.38. What was the total value of the clothing worn by the accused when he returned to this Unit?
A.38. I have a list here, compiled from personal inspection, of the clothing worn by the accused on his return to this Unit, the total of which is $6.35, which has to be deducted from the total amount found deficient from the Court of Inquiry namely $31.93.

Q.39. What total would this leave outstanding against the accused?
A.39. That leaves a net total of $25.58 outstanding against the accused.

CROSS EXAMINATION BY THE DEFENDING OFFICER

Q.40. Will you tell the court your occupation in this Company?
A.40. Adjutant.

Q.41. Do you handle Q.M. Stores also?
A.41. No.

Q.42. You did not perform the kit inspection on the accused personally?
A.42. The Court of Inquiry did, but aside from that, no.

Q.43. Since the Court of Inquiry took place was there any part of the equipment received by the Company?
A.43. I know that some equipment was received from the R.T.O. in London.

Q.44. When the accused was returned to this unit did he make any statement as to the deficiencies in his kit and how he came to be short this equipment?
A.44. Not to my knowledge or not in my hearing.

Q.45. Did you ask the accused how he lost his kit?
A.45. No.

Q.46. Previous to that did the accused say that he had lost his equipment by accident or anything like that?
A.46. Previous to his being A.W.L. from the 12 Jul 45? No.

Q.47. Did you receive from the R.T.O. in London, part of the accused's kit?
A.47. I did not receive it myself.

Q.48. Have you any knowledge of who could give that information?
A.48. Yes, the Quartermaster Sergeant.

WITNESS IS RE-EXAMINED BY THE PROSECUTOR

Q.49. Please give the court the date of your check of the clothing worn by Pte. DESGAGNE after he returned to this Unit?
A.49. I checked his clothing on the 6 Sep 43.

WITNESS EXAMINED BY THE COURT

Q.50. The accused was brought back to this unit after apprehension, was his kit checked immediately?
A.50. I do not know.

THE PROSECUTOR DOES NOT WISH TO CALL ANY MORE WITNESS.

THE PROSECUTION IS CLOSED.

BY THE COURT TO THE ACCUSED

Do you wish to give evidence on oath, or do you wish to make a statement not on oath? You do not have to do either. If you elect to give evidence on oath, you are liable to cross-examination, as any other witness. If you make a statement, you will not be sworn, and you will not be cross-examined, nor will you be obliged to answer any question. Evidence on oath carries more weight than a statement. If you make a statement it will be taken down in writing, and will be given due consideration.

Q.51. Do you apply to give evidence yourself as a witness?
A.51. No, sir.

Q.52. Do you intend to call any other witnesses in your defence?
A.52. Yes, sir.

Q.53. Is he a witness as to character only?
A.53. No, sir.

Q.54. Is he a witness as to facts?
A.54. Yes, sir.

FIRST WITNESS FOR THE DEFENCE IS CALLED: - F.25443 CQMS W.R. BRENTON, No. 13 Company, Canadian Forestry Corps, being duly sworn, is examined by the Defence:;

Q.55. Will you tell the Court your Number, rank, name and unit, please?
A.55. F.25443 CQMS W.R. BRENTON, No. 13 Company, Canadian Forestry Corps.

Q.56. Can you give the date of the last kit inspection of the accused prior to his going A.W.L.?
A.56. I am not positive sir, of the date. After Pte. DESGAGNE came to this Company he had nothing but a water bottle and a respirator. After that his kit came in and we inspected it.

Q.57. Can you give me the date that the kit came in?
A.57. No sir.

Q.58. At the time you found the accused deficient so much kit, did you ask him the reason?
A.58. Yes sir, he said that it was lost in transit.

Q.59. He stated that it was lost in transit?
A.59. Yes, sir.

Q.60. Was that all he said?
A.60. As far as I can remember, sir.

Q.61. When, last, did you make a kit inspection of the accused?
A.61. On the 2nd August 1943.

Q.62. Since that time of that kit inspection, which you performed yourself, was any part of the accused's kit turned in?
A.62. Yes sir.

Q.63. Were those articles turned in by the accused himself?
A.63. Yes sir.

Q.64. Could you name that article?
A.64. Trousers, rubber, sir.

Q.65. What is the price of that article?
A.65. $2.37, sir.

Q.66. Could you give the date these trousers were turned in?
A.66. No, sir.

Q.67. Was it after his return to the Unit or before?
A.67. It was after his return that he turned them in.

Q.68. After the trousers were turned in, was there any additional kit received by this Company?
A.68. On the 7th October from the R.T.O. London.

Q.69. After all deductions made from kit returned could you state the amount now due for deficient kit?
A.69. Yes, $80.62.

Q.70. Could you state the articles still missing?
A.70. Not without looking up the list, sir.

WITNESS IS CROSS-EXAMINED BY PROSECUTOR

Q.71. Have you Part III of M.B.M. I of the accused?
A.71. Yes sir (same is handed to Prosecutor).

Q.72. Are the deficiencies listed by the original Court of Inquiry held on 2 Aug 43 taken from Part III of the M.B.M.I?
A.72. Yes sir, it was checked against the M.B.M.1, Part III.

Q.73. Did you make out the Part III of Pte. DESJARDIN'S M.B.M.I?
A.73. No sir, Cpl. TAYLOR did.

Q.74. Do you know if Pte. DESJARDIN initialed the pages of his Part III to the M.B.M.1 and signed the last page?
A.74. Our ruling was that the books could not be released until such had been done. I did not actually see him initial them.

Q.75. Do you know if Capt. MacKAY signed in the appropriate place, only after Pte. DESJARDIN had signed it?
A.75. I do not know sir.

BY THE PROSECUTOR:- I would like to present M.B.M. I Part III of Pte. DESJARDIN J.F., to the Court as evidence. Same is read, signed by the President and marked Exhibit "F" and annexed to the proceedings.

EXAMINATION BY THE COURT

Q.76. You say that the last kit inspection on the accused 2 Aug 43?
A.76. Yes sir.

Q.77. Did you not make one when he was returned to Camp?
A.77. No sir.

Q.78. Did you make the kit inspection on the 6 Sep 43?
A.78. No sir. I remember it was made by Lieut. G.C. THOMPSON.

Q.79. On the 2 Aug 43 was he short to the total of $81.98.
A.79. Yes, sir.

Q.80. Have you any knowledge of the clothing that was brought back with him when he was apprehended and returned here?
A.80. No sir.

Q.81. On the 7 October 43 you know that some equipment of the accused was returned
A.81. I have the list here, sir.

Q.82. What was the value of it?
A.82. $2.37 was returned on the 7 Oct 43, sir.

Q.83. Do you know what condition the kit of the accused was in on the 3 Jul 43 when he was given his leave pass?
A.83. No, sir.

Q.84. What was it like when he arrived at this Company?
A.84. It wasn't with him sir.

BY THE COURT TO THE ACCUSED

Q.85. Have you any further witnesses for the defence?
A.85. No, sir.

Q.86. Have you anything to say in your defence?
A.86. The accused, in his defence, says:- On the first charge when I had privilege leave I asked Major BARNES if I could work on a farm, he says yes. I worked about 4 days and on Friday night about 3 days before my leave was finished, I received an amount of money from the Farmer for whom I had been working and I went to Dundee for the weekend. I met a french canadian Sgt. and we did some drinking, he later took me on the bus for GLASGOW. On Sunday morning I was ready to return to my unit, as I was due back on Sunday night. We were feeling pretty good, probably about half drunk. The first thing I knew I woke up Monday morning and I was alone. I went out to find my way around and to see if I could find the Sergeant. I could not find him. I met another Canadian Soldier who could speak French. He told me that there was a Scotchman working in the Strathclyde Distillery who had spent quite a time in Canada and to go and see him, the Sgt. also stated that the gateman would let me through. The manager of the Distillery was out and one of the young boys that work around there told me that the manager was out but would be back in a few minutes. He told me to sid down in his private office. I waited about five minutes and a gentleman, not the manager, came in and asked me what I was doing there. He said that was a private Office. I explained to him how I came to be there. He made inquiries and asked the man at the gate and found out that I was right. He said that he would not put a charge against me for that. He said "I don't blame you for that, the gate man is responsible. I said I don't think you are the man I am looking for. I said I would go back to my Unit. He then asked me who had sent me there. I tried to explain about Sgt. COTES, as he had lost his pay book and money the previous Saturday. When I was talking to him the Sergeant of the Police and the Constable came in and the way they asked me the first question I thought they wanted to know how Sgt. COTES lost his pay book and money. I did not understand their language. Sgt. CHULCHMARK was busy talking to the Manager of the Distillery. I just turned around to explain something and Constable MAXWELL says "shut up, shut up, we know you fellows around GLASGOW". The Manager says "don't put any charges against him. Constable MAXWELL again told me to shut up and they took me outside without a chance to explain. They took me down to the Police Station. Constable MAXWELL asked what my name was and I told him J.P. DESCARIE. He insisted that that was not my name.. He said "You gave the name of Sgt. COTES, I said "Pardon me sir, I did not give his name, you misunderstood me. I said "I am not going to change my name. I showed him my pay book and pass. I told them they had better call the Provosts. I told them that it had been raining most of the time I had been there in Glasgow and that I was fed up with that stuff and that I was going back to my Unit as soon as possible. That is where they made their mistake, if they had not called the Provosts I would have been back here in my unit. On the 27th March 1945, after I had served 22 days detention they gave me my ticket to return to Headquarters, C.P.O., at BRADLY. They also gave me a few sandwiches to take with me. I went as far as EUSTON station, London, where I changed trains and took the 2315 hours train for ABERDEEN. I put all my kit together in the train and I went to sleep. Around 0400 hours in the morning I woke up and saw that the train was slowing down. There was a soldier sitting beside me and I asked him what station it was, he

told me that it was Preston. I opened the door of the coach and asked an Officer that was standing there how long the train stopped, he advised me 8 or 10 minutes. I decided to try and get some tea in my mess tin. When I came out of the Canteen the train was just pulling outand I missed it. I went immediately to the R.T.O. in [redacted] in PRESTON and reported the incident. They advised me that they would contact the R.T.O. in EDINBURGH and try and locate my kit. They also advised me that there would be a train for EDINBURGH at 1040, I took this train and when I arrived in EDINBURGH I reported to the R.T.O. there, who stamped the piece of paper that the R.T.O. at PRESTON had stamped and given to me. They sent me to the parcel Office but there was not any trace of my kit. They advised me that if my kit was found they would forward same to INVERNESS. I got on the next train for Inverness and on arrival there inquired at the R.T.O. but they advised that no trace could be found of my kit. From BEAULY I was sent back here and I waited quite a long time with only about half my equipment. Lately they called me to Q.M. Stores and said that they had received my equipment from the R.T.O. London. But only the pack sack was mine and the rest of the equipment belonged to someone else.

THE PROSECUTOR MAKES THE FOLLOWING FINAL ADDRESS:-

Sir, in summing up the case for the prosecution I would like to deal with each charge separately.

The first charge is one of desertion and the evidence is present that Pte. DESGAGNE began his illegal absence on the 12th July 43 and that he was apprehended in GLASGOW by a civil power on the 30th day of August 1943. I contend that evidence has proved that he was using an assumed name at the time of his apprehension, namely, Sgt. COTES and that he was impersonating a Sgt. by wearing three bar chevrons to which he was not entitled. I contend that this reveals his intention of not to return to his Unit and therefore is guilty of deserting his Majesty's Forces. He was illegally absent 49 days.

The second charge was losing by neglect his clothing, necessaries and equipment to the value of $25.58. The basis for this charge is actually the declaration of the Court of Inquiry held on the 2nd August 1943, which, in turn, was based on Part III of the M.S.M.I of the accused, properly initialed and signed by him. The only method of losing clothing, necessaries and equipment whilst illegally absent is by neglect. In this connection, may it please the Court, I would refer them to the foot note No. 6 Section 24 of the Army Act. I contend [redacted] THAT further verbal evidence reducing the findings of the Court of Inquiry held on the 2 Sep 43 of the total to $25.58, though uncorroborated, is absolutely reliable and dependable and in any event favorable to the accused. On the third charge to which the accused pleaded guilty and therefore warrants no comment.

THE DEFENCE MAKES THE FOLLOWING CLOSING ADDRESS

With the permission of the Court I will deal with the three charges separately. The Prosecution has just stated that the accused, by calling himself Sgt. COTES and by wearing 3 bar chevrons shows that the accused intended to desert his Majesty's Forces, this is not sufficient proof that the accused was deserting his Majesty's Forces. This is the only reason that the prosecution can find to support the charge of desertion. In the accused's statement he states that his words were misunderstood and I contend that the prosecution did not prove that the accused ever gave his name or ever called himself Sgt. COTES. In the accused's statement, he stated on three definite occasions his willingness to return to his Unit. I would refer the court to Section 17 under Offences and Punishments in the manual of Military Law (the Defending Officer quotes). I contend again, that the prosecution has failed to prove that the accused had intent to desert His His Majesty's Forces. On the second charge the statement made by the accused should be considered. The fact that the R.T.O. had forwarded part of the lost kit, would indicate that all of the kit had been found but not forwarded, should be sufficient proof that the accused is telling the truth and he should not be punished for an unavoidable accident. As to the Court of Inquiry on the deficiencies of

the accused's kit, no one appears to know who madethe kit inspection, there has been no proof that anyone made a kit inspection. I further contend that the Prosecution had not positive proof of the authenticity of the signature of the accused on Part III Of the M.B.M.I. I claim that neither the prosecution nor any of the witnesses could prove that the accused was, at any time, in possession of the amount of kit mentioned.

With reference to the third charge, the accused pleaded guilty. The Prosecution did not try very hard to prove anything malicious on the part of the accused. It was stated in the evidence that the accused was impersonating a Sergeant. I wish to stress that the act was in no way malicious. There is no proof that the accused was seen either in the Distillery or ina public place or in a Military Camp, impersonating a Sergeant. When the accused was taken to the Police Station, he voluntarily produced his Service Book and Pass and gave his number rank and name.

THE PRESIDENT SUMS UP THE CASE

There are two charges to be considered. The first under A.A. Section 12, Desertion. The distinction between Desertion and Absence without Leave consists of intention and if the accused is not found guilty of desertion he can be found guilty of A.W.L. or not guilty of either. A.W.L. is when a man is voluntarily absent without leave from the place where he knows or ought to know his duty requires him to be. Desertion is when he absented himself the soldier intended to quit his Majesty's Service or to avoid a particularly important duty. The question to be decided in the first charge then is, did he intend to quit his Majesty's Forces. The existence of intention must be proved but its existence is only proved when facts are established from which the intention may reasonably be inferred.It is a rule of law that every man is presumed to intend a natural and probably consequence of his act. The fact to be considered then is, did this man, the accused, intend to stay away indefinitely unless apprehended. Further there is the natural inferences to be drawn from the circumstances proved in the evidence . There is (a) length of his absence to be considered (b) the circumstances and the locality of his arrest. The evidence given by one witness that the accused stated that he had lost his pass. Did he give a wrong rank and wrong name, was he wearing Sergeant's stripes to hide his identity, did he make the remark that"I am fed up with the army anyway." Points also to be considered is the fact that one witness states that he even produced his pass and pay book without evasion. All these points of the first charge must be carefully considered.

With reference to the second charge it may be considered that there is a certain amount of conflicting evidence with regard to deficiencies of the accused's kit. It must be born in mind that the second charge is that "on the 6 Sep 43 there were certain deficiencies" and it is the duty of the Court from the evidence submitted to find what the deficiencies were on that date or whether there were any deficiencies at all.

THE COURT IS CLOSED

THE COURT RE-OPENS and the accused is again brought before it and the charge to which the accused has pleaded guilty is read to him again

R.P. 35(b) is here, again, complied with and the accused still pleads Guilty.

[redacted]

The summary of evidence is read, marked exhibit "G", signed by the President and annexed to the proceedings.

BY THE COURT TO THE ACCUSED

Q.87. Do you wish to make an address in mitigation of punishment?
A.87. No, sir.

THE COURT IS CLOSED FOR CONSIDERATION OF THE FINDINGS.

THE COURT HAVING RE-OPENED, THE ACCUSED IS AGAIN BROUGHT BEFORE IT,

THE THIRD WITNESS:- Lieut. C.C. THOMPSON, Adjt. and O/i.c Records, No. 18 Company, C.F.C., is recalled, and, being still under oath is examined by the Court:-

Q.88. Have you any evidence to produce as to the character and conduct of the accused?
A.88. Yes, sir, I have here the A.F.B. 296 and M.F.M. 6 of the accused. The above statement, with the schedule of convictions and of cases in which trial has been dispensed with, is read, marked Exhibit "R" signed by the President and annexed to the proceedings.

Q.89. Is the accused the person named in the statement which you have heard read?
A.89. Yes sir.

Q.90. Have you compared the contents of the above statement with the regimental books?
A.90. Yes, sir.

Q.91. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?
A.91. Yes, sir.

WITNESS IS CROSS-EXAMINED BY THE ACCUSED

Q.92. What sort of worker am I, when I work?
A.92. During the time which you have been with No. 18 Company I have not had the opportunity of observing you at your work. I have heard no serious complaint or criticism of your ability to work.

Q.93. To your knowledge, have I ever refused to do any kind of work?
A.93. No, not to my knowledge.

Q.94. Do you wish to address the Court?
A.94. No, sir.

Q.95. Do you wish to say anything further, either as to character or in mitigation of punishment or otherwise?
A.95. The defence says:- It is agreed upon that the accused is a good worker from the time he joined the army up to the time he came to this Country, he never had a crime against him. After arriving in this Country the accused found himself amongst strangers, not understanding their language. He could not speak to anyone, he felt very unhappy. He developed a very inferiority complex, feeling that everyone was against him. He did wrong, and was punished severly The accused is an orphan, never receiving letters from anyone, nor cigarettes. He had to buy everything time after time, he was deprived of money and had to go without smoking, and felt very unhappy. One day he went A.W.L., the Scotch people were very nice to him and he was well treated everywhere he went and he could smoke and drink, he was then very happy. Before closing I would, in the interests of him everyone concerned, recommend that the court consider recommending an examination of the accused as to his mental stability.

BY THE PRESIDENT OF THE COURT
The Court is closed for the consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later. The proceedings in open Court are accordingly terminated.

LIST OF EXHIBITS

In the case of D.110294 Pte. DESCHENES, Joseph Philias, No. 15 Company, Canadian Forestry Corps, C.A. (O/S)

EXHIBIT "A"
A.F.B. [illegible] - CHARGE SHEET issued by No. 6 Provost Coy., Scottish Detachment, on 31 Aug. 43.

EXHIBIT "B"
Certificate by Civilian Police, GLASGOW, in accordance with Section 163(1)(m) of the Army Act.

EXHIBIT "C"
Letter from No. 6 Provost Coy., Scottish Detachment under file S/106/43 dated 30 Aug 43.

EXHIBIT "D"
Certificate issued by No. 6 Provost Coy., Scottish Detachment in accordance with P.C. 2797 of 10 Apr 42.

EXHIBIT "E"
Leave Pass issued to D.110294 Pte. DESCHENES J.P., by O.C. No. 15 Coy., C.F.C., dated 3 Jul 43.

EXHIBIT "F"
Chevrons (3 bar) worn by accused, D.110294 Pte. DESCHENE, J.P., on his tunic at time of apprehension by Civil Powers.

EXHIBIT "G"
Statement of costs of apprehension and return to Unit issued by No. 6 Provost Coy., Scottish Detachment, C.A. (O/S)

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LIST OF WITNESSES

FOR PROSECUTION

Lieut. C.C. THOMSON, Adjutant
No. 15 Company, Cdn. Forestry Corps,
Canadian Army (Overseas)

No. 20, Sgt. William CRUICKSHANK
Central Division, Glasgow Police
Law Street Police Office
GLASGOW.

No. 290, Constable, James MAXWELL,
Central Division, Glasgow Police
Law Street Police Office,
GLASGOW

Lieut. L.W. PAIGE,
No. 6 Provost, Company,
Scottish Detachments,
Canadian Army (Overseas)

F.85617 CSM McKINNON, R.H.
No. 15 Company,
Cdn. Forestry Corps,
Cdn. Army (Overseas)

A.99345 Arm/Sgt. MITCHELL, C.A. (ROOC)
Att. as in W/E to No. 15 Coy.,
Canadian Forestry Corps.
Canadian Army (Overseas)

Statement of accused, as to whether he desires an Officer to defend him.

Exhibit "A"

Lt.-Col. C. A. WILLIAMS, E. D., Officer Commanding
No. 2 District Headquarters,
Canadian Forestry Corps, C.A. (Overseas)

Number 50 — 21 Oct. 43

253. ORDERLY OFFICER for week ending 31 Oct 43.....as detailed
Next for Duty for week ending 7 Nov 43.....Lieut. R.H. Murray

ORDERLY N.C.O. for week endgin 31 Oct 43.....S/Sgt. McGlade, A.F.
Next for Duty for week ending 7 Nov 43.....S/Sgt. Cogswell, F.W.

254. COURT OF INQUIRY

A Court of Inquiry, composed as under, will assemble at the call of the President for the purpose of inquiring into and reporting upon an accident which occurred on 11 Oct 43 involving W.D. Vehicle No. M.4301216, on charge to No. 2 D.H.Q., C.F.C., and driven by K.71388 Pte. HART, H.H., No. 2 D.H.Q., C.F.C.:

PRESIDENT: Captain N.B. LAMBALLE - No. 16 Coy. C.F.C.

MEMBERS: Lieut. L. A. SCHOFIELD - Reinf. Sec. C.F.C.
Lieut. G. F. O'HARA - No. 22 Coy. C.F.C.

255. FIELD GENERAL COURT MARTIAL

A Field General Court Martial, composed as under, will assemble at No. 4 Coy, Canadian Forestry Corps Camp, Canadian Army, Scotland, at the call of the President, for the trial of E.39466 Pte. Vincent CHIASSON, No. 4 Coy. Canadian Forestry Corps.

PRESIDENT:	Major R.T. COLQUHOUN	- No. 22 Coy. C.F.C.
MEMBER:	Capt. E.E.M. PIERCE	- No. 25 Coy. C.F.C.
MEMBER:	Capt. J. BONNEAU	- No. 27 Coy. C.F.C.
WAITING MEMBER:	Major M.T. MacLAGGAN	- No. 16 Coy. C.F.C.
WAITING MEMBER:	Lieut. J.F.A. DALE	- No. 25 Coy. C.F.C.
PROSECUTOR:	Lieut. C.E. CURTIS, MM.	- No. 16 Coy. C.F.C.
OFFICER FOR DEFENCE:	Lieut. F.L. LORRAIN	- No. 24 Coy. C.F.C.

The accused will be warned and all witnesses duly required to attend.

O.C. No. 2 District, C.F.C., will detail all junior Officers who are available to attend for instruction in accordance with K.R. (Can) Para. 548.

O.C. No. 2 District, C.F.C., will be responsible for providing stationery, accommodation, orderlies, etc.

(C.F.C. Order No. 841, dated 16 Oct 43)

256. FIELD GENERAL COURT MARTIAL

A Field General Court Martial, composed as under, will assemble at No. 13 Company, Canadian Forestry Corps Camp, Canadian Army Scotland, at the call of the President, for the trial of D.110294 Pte. Joseph Phileas DESCAGNES, No. 13 Company, Canadian Forestry Corps:

PRESIDENT:	Major R.T. COLQUHOUN,	- No. 22 Coy. C.F.C.
MEMBER:	Capt. E.E.M. PIERCE	- No. 25 Coy. C.F.C.
MEMBER:	Capt. J. BONNEAU	- No. 27 Coy. C.F.C.
WAITING MEMBER:	Major M.T. MacLAGGAN	- No. 16 Coy. C.F.C.
WAITING MEMBER:	Lieut. J.F.A. DALE	- No. 25 Coy. C.F.C.
PROSECUTOR:	Capt. J.C. BERGERON	- No. 4 Coy. C.F.C.
OFFICER FOR DEFENCE:	Lieut. F.L. LORRAIN	- No. 24 Coy. C.F.C.

The accused will be warned and all witnesses duly required to attend.

O.C. No. 2 District, C.F.C., will detail all junior Officers who are available to attend for instruction in accordance with K.R. (Can) Para. 548.

O.C. No. 2 District, C.F.C., will be responsible for providing stationery, accommodation, orderlies, etc.

(C.F.C. Order No. 842, dated 16 Oct 43).

.....Page 2

No. 2 District Headquarters, Canadian Forestry Corps,
Canadian Army - Scotland

Number 50 — 21 Oct. 43

257. DRESS--WEARING OF BERETS

Berets are not an authorized headress for the Canadian Forestry Corps, and their wearing by C.F.C. personnel will cease forthwith.

To be repeated in unit Orders.

258. DAY PARADES - No. 2 District, C.F.C.

Wednesday 27 Oct 43	1000 hrs. No. 2 Coy. C.F.C. Rear Party 1030 hrs. No. 3 Coy. C.F.C. Rear Party 1830 hrs. No. 4 Coy. C.F.C.
Thursday 28 Oct 43	1200 hrs. No. 25 Coy. C.F.C. 1830 hrs. No. 22 Coy. C.F.C. 1900 hrs. No. 24 Coy. C.F.C.
Friday 29 Oct 43	1200 hrs. No. 16 Coy. C.F.C. 1830 hrs. No. 13 Coy. C.F.C.

259. BOARD OF SURVEY

A Board or Survey will assemble at No. 2 D.H.Q., C.F.C. at 1000 hours 29 Oct 43 for the purpose of examining and condemning certain articles of clothing and necessaries which are no longer serviceable. The Board Members are as follows:

PRESIDENT:	Lieut. G.E. CURTIS - No. 16 Coy. C.F.C.
MEMBERS:	Lieut. J.G. BLACKIE -No. 4 Coy. C.F.C.
	Lieut. W.E. LOCKHART - No. 22 Coy. C.F.C.

for (C. A. WILLIAMS) Lt.-Col.,
O. C. No. 2 District,
Canadian Forestry Corps,
Canadian Army, (Overseas).

FWC/

Lord Colyn
Major
President.

B

MEDICAL OFFICER'S CERTIFICATE

K.R.(Can) PARA 557

I certify that I have this morning examined

No. D 110294 Pte. Desgagnes, J.P.

of No. 13 Coy., C.F.C. and in my opinion he

is fit ~~unfit~~ to undergo trial by Court Martial.

Station Southesk Camp

Date 26/X/43

L. G. Cannon Capt. R.A.B.
Medical Officer

87236-83

Exhibit D

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

Rev. Colquhoun President

No. 10 COY. CANADIAN FORESTRY CORPS, Regiment

Army Form Regn. (In pads of 100)

PASS

No. D110394 (Rank) Bd (Name) Desgagnés, Ld

has permission to be absent from his †quarters/duty, from 7 ac hrs 3 July 43 to 7 ac hrs 12 July 43

for the purpose of proceeding to* Brechin

(Station) Field

(Date) 3/7/43.

C. C. Thomson, W

Commanding

(P.T.O.

† Delete whichever is not practicable.
* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced fare.

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APP. "E"

ATTENTION SGT.MCBURNEY.

NO. 2 Provost Detachment
NO.6 (Area) Provost Coy
Cdn. Provost Corps.

Rec'd Calgary major
Precision
Exhibit "E"

Officer Commanding
NO. 13 Coy, C.F.C.

RE: D 110294 PTE. DESGAGNE,J.P.

Sir,

1. In Reference to a phone call received at these H.Q's on the 7 Sept 43. stating that you required the expenses incurred on escorting the a/m soldier to BRECHIN on the 30 Aug 43.

2. The expenses are as follows,
One Single R. Ticket for the a/m soldier from Glasgow to Brechin 0-8-6 eight shilling and sixpence.
One Return R.Ticket for escort from Glasgow to Brechin 0-17-0 seventeen shillings. Expenses incurred for escort's meals 0-5-0 five shillings. Total amount of expenses .1.10.6.

Field
6 Sept 43.

L. W. Paige Lieut.
(L.W. Paige) Officer in Charge
NO. 1. & 2. Provost Detachments
NO.6 (Area) Provost Coy
Cdn. Provost Corps.

APPENDIX "G"

Exhibit "F"

Lab. Hoogstraten [illegible]

MILITIA BOOK M. I

PART III

40/P & S/279 (2007)

CANADIAN ARMY

Clothing and Equipment Statement

Regt. No. D 110294

Rank Pte

Name Desgagne, J.P.

[illegible]

INSTRUCTIONS TO SOLDIER

1. You will always carry this book on your person and are responsible for its safe custody. (Officers need not carry this book on their person, but will be responsible for its safe custody.)

2. You will initial at the bottom of each page to signify that you understand its contents and have received the quantities entered.

3. Do not alter or make entries in this book. Disobedience of this order will be treated as a serious offence and disciplinary action will be taken.

4. You will at once report the loss of this book to your Commanding Officer.

GENERAL INSTRUCTIONS

1. This statement will be used to record the quantities of clothing and equipment to which the soldier is entitled and has been issued. Entries will be made in ink.

2. A new column will be used when the list of kit changes with the soldier's status. Old columns will be ruled out.

3. On transfer of the individual, the certificate at end of statement will be completed and signed.

4. This statement replaces Form M.F.C. 600 and adaptations thereof.

1

ARTICLE	QUANTITY
Anklets, web, prs.	1
Blouses, Battle-dress	2
Bonnet, tam-o'shanter	
Boots, ankle, prs.	2
Boots, lumbermans, rubber, prs.	
Boots, rubber, high, prs.	
Bonnet, drab, Irish	
Cap, field service	1
Cap, mechanic	
Cap, tank battalion	
Drawers, Cellular short, prs.	2
Drawers, Woollen, prs.	2
Gloves, knitted, drab, prs.	1
Greatcoat, drab	1
Jackets, sweater	1
Initials of Soldier	J D

18

ARTICLE	QUANTITY
Jerkin, leather	1
Jersey, pullover	
Overalls, combination	
Overalls, blouses, denim	1
Overalls, trousers, denim	1
Shirts, angola, drab	2
Shoes, canvas, prs.	1
Socks, prs.	5
Trousers, battle-dress, prs.	2
Vests, woollen	2
Badges, arm, drab, crowns	
Badges, arm, drab, crown in wreath	
Shirts, undercotton	2
Badge, cap	1
Initials of Soldier	J.J.D

ARTICLE	QUANTITY
Badge, shoulder, "CANADA" prs.	2
Badges, arm Tank Bn.	
Bag, kit, universal	1
Braces	1
Brass, cleaning	1
Brush, button, brass	1
Brush, clothes	1
Brush, hair	1
Brush, shaving	1
Brush, shoe, blacking	1
Brush, shoe, polishing	1
Brush, tooth	1
Cap, comforter	1
Chevrons	
Comb, hair	1
Initials of Soldier	J.D

4

ARTICLE	QUANTITY
Dixes, identity, sets with cord	1
Dressing, field	1
Fork, N.S. Table	1
Holdall	1
Housewife, complete	1
Knife, clasp	1
Knife, table	1
Lanyard	1
Razor, safety, with blade	1
Patches, identifying, prs.	3
Shirts, gymnasium	2
Sponge	
Spoon, N.S. Dessert	1
Vests, cotton, gym.	
Initials of Soldier	J.O

5

ARTICLE	QUANTITY
Towels, hand	2
Unit-tillis, prs.	
Attachments, brace	
Bag, ration	1
Belt, waist	1
Bottle, water	1
Braces, W.E.	2
Carriers, cartridges	2
Carrier, waterbottle	1
Case, pistol	
Cover, breech, rifle	
Cover, Mess tin, mtd.	1
Frog, bayonet	1
Haversack	1
Initials of Soldier	J.O.D

U.S

ARTICLE	QUANTITY					
Helmet, steel	1					
Net, helmet camouflage [illegible]	1					
Pack	1					
Pouches, Ammunition, pistol						
Pouches, Basic						
Pouches, utility						
Sling, rifle	1					
Straps, shoulder, haversack	2					
Straps, supporting, web	2					
Tins, mess rect.	1					
Yoke						
Respirator, Anti-gas complete w/haversack	1					
Outfit, anti-dimming	1					
Initials of Soldier	JD					

ARTICLE	QUANTITY					
Ointment, Anti-gas, tins	2					
Eyeshields, Anti-gas (Pk. of 8)	1					
Detectors, individual prs.	1					
Capes, Anti-gas	1					
Wallet, Anti-gas	1					
Cloth, Disinfecting	2					
Disc, [illegible]	1					
Bayonet	[illegible]					
Bottle, oil	[illegible]					
Pistol, revolver (No.)						
Full-through, single	[illegible]					
Rods, cleaning, pistol						
Initials of Soldier	JD					

LS

8

ARTICLE	QUANTITY
Rifle No. P14 No. 165956	1
Scabbard, bayonet	1
Shovel, ground	
Mug, drinking	
Blanket	
Initials of Soldier	J.S
Initials of Inspecting Officer	
Date:	

CERTIFICATE TO BE SIGNED BY INSPECTING OFFICER AND SOLDIER ON TRANSFER OR ATTACHMENT OF SOLDIER

Certified that the record detailed in this statement has been checked with the articles in possession of the soldier and found correct.

SIGNATURE

Inspecting Officer	Soldier	Date
J P Moseley Capt	Ft Dauphin	24-5-43

CLOTHING SIZES RECORD

ARTICLE	SIZES
Anklets	3
Baltic Dress, blouse	
Baltic Dress, trousers	
Cap or bonnet	6 3/8
Boots, ankle	7 1/2
Socks	9 1/2
Gloves	10
Facepiece, respirator	large
Greatcoat	
Overalls, combination	
Jersey, pullover	medium
Shirts, Angola, drab	5
Vest, woollen	5
Drawers, cellular	3
Drawers, woollen	4

572 36-83-4 of 4

Exhibit "C"

Rec'd Edgerton Major President

By Order of the O.C., No. 2 District, C.F.C. the following will be taken, under oath by Capt. A.A. CONSTABLE, Adjt., No. 2 D.H.Q., C.F.C.

SUMMARY OF EVIDENCE IN THE CASE OF D.110294 Pte. DESGAGNE, Joseph Philias, No. 13 Company, Canadian Forestry Corps, Canadian Army (Overseas)

FIRST WITNESS FOR PROSECUTION - LIEUT. C.C. THOMSON, No. 13 Company, C.F.C. is called and duly sorn states:-

I am Lieut. Clarence C. THOMSON, Adjutant, No. 13 Company, Canadian Forestry Corps. I identify the accused as D.110294 Pte. DESGAGNE, Joseph Philias.

Q.1. Have you any evidence to submit with regard to this case?

A.1. Yes, sir, I submit the following entry in A.B. 161, Record of Declarations of Courts of Inquiry on Illegal Absence of Solders, (entry was read to the accused and is quoted hereunder for information)

"The Court declare that D.110294 Pte. DESGAGNES, Joseph Philias, No. 13 Coy., C.F.C., illegally absented himself without leave from Southesk Camp, Angus., on the twelfth day of July, 1943, and declare that he is a deserter, in that he is still absent, and that on the second day of August he was deficient and that he is still deficient, of the following articles:

		Vocab.Price	¾ Vocab.Price
Greatcoats, drab	1	$17.22	$12.92
Helmets, Steel	1	1.73	1.30
Packs, web, Patt. 1937	1	1.90	1.43
Straps, shoulder, left	1	.43	.32
Straps, shoulder, right	1	.43	.32
Straps, web supporting	2	.60	.45
Capes, anti-gas	1	2.63	1.97
		TOTAL	18.71

No evidence of the value of the unexpired wear of the above listed articles being available, the Court find in lieu, the value for such articles to be three quarters of the vocabulary price.

He was deficient also the following:

		VOCAB.PRICE	½ VOCAB.PRICE
Battle dress; blouses, serge	1	$ 4.92	$2.46
Battle dress; trousers, serge	1	4. 45	2.23
Boots, ankle, leather, prs.	1	4.92	2.46
Drawers, cellular, short	1	.47	.24
Shirts, angola, drab	1	2.12	1.06
Socks, worsted, prs.	1	.43	.22
Vests, under, cotton	2	.68	.34
Vests, cotton, gym	2	. 78	.39
Badges, cap, C.F.C.	1	.10	.05
Badges, Canada, prs.	1	.10	.05
Braces, prs.	1	.32	.16
Discs, identity sets	1	.02	.01
Knives, clasp	1	1.16	[illegible]
Patches, distinguishing prs.	2	.06	[illegible]
Shorts, gym, prs.	1	.41	.21
Brushes, hair	1	.36	[illegible]
Brushes, tooth	1	.11	.06
Comb	1	.04	[illegible]
			[illegible]

The Court find the value of the unexpired wear of the above listed articles to be one half of the vocabulary price.

He was deficient also the following technical clothing:-

		VOCAB.PRICE
Suits, rubber, trousers, prs.	1	[illegible]

The Court find the value of the unexpired wear of the above listed technical clothing to be the full vocabulary price.

Total value of the unexpired wear of the articles which Pte. DESGAGNES, J.P. was deficient on 2 August 1943, and still is deficient, is $31.[illegible] (Thirty-one dollars and ninety-three cents)

"SIGNED AT SOUTHESK CAMP, ANGUS THIS 10th DAY OF AUGUST, 1943.

(SGD) "J.P. MACKAY" Capt. & President
Capt. J.P. MACKAY, No. 13 Coy., C.F.C.

(SGD) "R.O. SMITH" Member
Lieut. R.O. SMITH, No. 13 Coy., C.F.C.

(SGD) "C.C. THOMSON" Member
Lieut. C.C. THOMSON, No. 13 Coy., C.F.C.

SIGNATURE OF COMMANDING OFFICER.....(SGD)"W. BARNES" Major
O.C. No. 13 Coy., C.F.C.

Q.2. Have you carried out a kit inspection of the accused since his apprehension?
A.2. Yes, sir, and the following is a list of clothing in his possession, together with the value of same:

Battle Dress, Blouse, serge	1	$2.46
Battle Dress, Trousers, serge	1	2.23
Socks, worsted, prs.	1	.22
Braces, prs.	1	.16
Patches, distinguishing prs.	1	.03
Shirts, Angola, dreb	1	1.04
Vests, undercotton,	1	.17
Comb,	1	.02
	TOTAL	$6.33

The total amount of the deficiencies of the accused are now $25.56.

Q.3. Have you any further evidence to give?
A.3. Yes, I submit the following documents,

Original Charge Sheet (A.F.B.252) as laid by No. 6 Provost, Coy. and signed by Lieut. L.W. PAIGE.
(ATTACHED AS APPENDIX "A"

Certificate in accordance with Section 163(1) (a) of the Army Act issued by LANSDOR STREET POLICE OFFICE GLASGOW, dated 30 Aug 43 with written statement by Police Sgt. William CRUICKSHANK, No. 20 and supported Police Constable James MAXWELL, No. 290. (ATTACHED AS APPENDIX "B")Certificate was read to accused and is shown hereunder:

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1) (a) of the Army Act

I certify that the person whose description is given below was arrested at (place) GLASGOW, on(hour) 8.45 P.M. on the 30th day of August 1943.

Regimental particulars of Officer or Soldier referred to above.

Description.

No. D/110294
Rank. Private
Name:Joseph Phillias Desgagne
Unit:13th Coy Canadian Forestry Corps
Age: 37 Years
Height: 5 ft. 6 ins.
Complexion: Fresh
Hair: Brown
Eyes: Blue
Marks: —

"STAMP OF LANSDOR STREET POLICE OFFICE, GLASGOW 30 Aug 43"

Signature of Office of Police in Charge of Police Station where the above-named person was taken or placed in custody on arrest

(SGD) "JOHN FERGUSON" SERGT. In charge of LANSDOR STREET POLICE STATION GLASGOW.

WILLIAM CRUICKSHANK, No. 20 Sergeant, Central Division, Glasgow Police.
At 3 P.M. on Monday, 30th, August, 1943, I received a telephone message

from the next witness to the effect that a Canadian Soldier had been found in the premises of the Strathclyde Distillers Coy. at 455 Ballater Street, Glasgow. I immediately went there, where I found a Soldier wearing the uniform of a Sergeant in the Canadian Army, I questioned him as to his presence in the premises and he stated that he had been shown up to the Manager's Office as he was interested in this particular industry.

After enquiry his statement was found to be quite correct, as to how he came to be in the premises.

I asked him if he was on leave and he stated that he was, when asked for his Pass, he said that he had lost it together with his pay-book and money on Saturday, 28th inst. He gave the name Sergeant Coty, and stated that his No. was D/110294. As I was not satisfied with hisstatement, I took him to Lawmoor Street Police Office, where he immediately produced his Army Pay-book and a Pass bearing the above name of Pte. Joseph Philias Desgagne, and showing that he should have rejoined his Unit on 12th, July, 1943. I thereupon charged him with being absent from his Unit, to which he replied "That is quite right,(I am fed up with the Army anyway")

When asked why he came to be wearing a Sergeant's tunic, he said that he had lost his own, and this was all he could get. He was detained, and a message sent to the Canadian Military Police. He was quite sober at the time.

(SGD) "WILLIAM SCRUICKSHANK"
No. 20 Sergeant

JAMES MAXWELL, No. 290 Constable, Central Division, Glasgow Police states:-
I was along with the previous witness and can corroborate his statement in full.

(SGD) "JAMES MAXWELL"
No. 290 Constable.

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination"

A. A. Armstrong Capt
Signature of Officer taking the Summary

EXHIBIT "A"

ARMY FORM B252
(See Kings' Regulations)

C.W. CORPS REGIMENT

13 Coy. (BATTERY (SQUADRON (TROOP OR (COMPANY

CHARGE against No. D.110294 RANK Pte.

NAME DESGAGNE, J.P.

PLACE GLASGOW DATE OF OFFENCE 30 Aug 43

OFFENCE: N.O.A.S. (1) was A.W.L. from..?. until apprehended by the Civil Police, at 455 Ballater St. Glasgow, at about 1500 hrs. 30 Aug 43 (2) wearing Sgt's Chevrons to which he was not entitled to, which he attached hereto, same time date and place.

NAME OF WITNESSES:/ P/S CRUICKSHANK, W. Civil Police, Central Division, Glasgow.

ARMY FORM B252 (continued)

SIGNATURE OF O.C. BATTERY SQUADRON TROOP OR COY. (SGD) L.W. PAIGE" LIEUT.

STAMP OF NO. 8 PROVOST COY SCOTTISH DETACHMENTS 31 Aug 43.

Written statement of this Witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured . The accused does not demand the attendance of this witness for cross-examination.

SIGNATURE OF OFFICER TAKING THE SUMMARY

Letter from D.A.P.M., London Area, under file No. 2/106/43 dated 30 Aug 43 was read to accused and is quoted below (Original letter attached as Appendix "C"

FILE NO.2/106/43

Officer Commanding,
13 Coy. Cdn. Forestry Corps,

RE:- D.110294 Pte. DESGAGNE J.P.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 29 Oct. 40.

(SGD) "L.W. PAIGE" LIEUT.
for W. FOHR, D.A.P.M.
London Area

GLASGOW
30 Aug 43

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

SIGNATURE OF OFFICER TAKING THE SUMMARY

Letter from D.A.P.M., London Area dated 30 Aug 43 was read to accused and is quoted below (Original letter attached as Appendix "D"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 40

I CERTIFY that No. D.110294 RANK Pte. NAME: DESGAGNE J.P. UNIT: 13 Coy C.F.C. WAS ARRESTED AT: Glasgow (Place) at 1500 hrs. (hour) on 30 Aug 43 (date) and that at the time of his arrest he was wearing (Military Uniform) or ([redacted]) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable)

Glasgow
30 Aug 43

(SGD) L.W. PAIGE" Lieut.
for W. FOHR, Capt. D.A.P.M.,
London Area

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination

(continued) for cross-examination.

[signature]
SIGNATURE OF OFFICER TAKING THE SUMMARY

Copy of leave pass issued to D.110294 Pte. DESGAGNE, J.P., and attached as appendix "E"

IF CALLING-OUT OF THE WHOLE ARMY RESERVE IS ORDERED EVERY SOLDIER ON PASS MUST RETURN IMMEDIATELY TO HIS UNIT WITHOUT WAITING FOR INSTRUCTIONS.

No. 13th Coy. REGIMENT Canadian Forestry Corps

Army Form B295
(in pads of 100)

PASS

No. D.110294 (RANK) Pte. (NAME) DESGAGNE, J.P.

HAS PERMISSION TO BE ABSENT FROM HIS QUARTERS /DUTY, FROM:

700 hrs. 3 July 43 TO 700 hrs. 12 July 43

FOR THE PURPOSE OF PROCEEDING TO BRECHIN

(STATION): FIELD

(SGD) "C.C. THOMSON" Lieut.
for COMMANDING

DATE 3/7/43

CROWN COPYRIGHT RESERVED

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this summary. Having regard to the exigencies of the service. Certified true copy of original document issued to accused when proceeding on pass.

[signature]
SIGNATURE OF OFFICER TAKING THE SUMMARY

I also submit one set of chevrons which were removed from the accused's tunic on apprehension by the Civilian Police, GLASGOW and handing over to the Canadian Provost Corps. Said chevrons were removed by the Canadian Provost Corps.
CHEVRONS attached as appendix "F".

I submit letter from the O/i.c No. 1 & 2 Provost Detachments, No. 6 (Area) Provost Coy., Canadian Provost Corps, setting out costs of apprehension and attached as appendix "G" hereto:

NO. 2 PROVOST DETACHMENT
NO. 6 (AREA) PROVOST COY.
CDN. PROVOST CORPS.

Officer Commanding,
No. 13 Coy., C.F.C.

RE: D 110294 Pte. DESGAGNE J.P.

Sir,

1. In reference to a phone call received at these H.Q's. on the 7 Sept 43. stating that you required the expenses incurred on escorting the a/m soldier [redacted] to Brechin on the 30 Aug 43.

2. The expenses are as follows:
One Single R. Ticket for the a/m soldier from Glasgow to Brechin 0-8-6 eight shillings and sixpence.
One Return R. Ticket for escort from Glasgow to Brechin 0-17-0 seventeen shillings.
Expenses incurred for escort's meals 0-5-0 five shillings. Total amount of expenses. [redacted] $1-10-6 [illegible]

(continued on next page)

Field
7 Sep 43

(SGD) "L.W.PAIGE" Lieut.
Officer in Charge
No. 1. & 2 Provost Detachments,
No. 6 (Area) Provost Coy.
Cdn. Provost Corps.

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

ACCUSED DECLINES TO QUESTION WITNESS.

C.A. Armstrong Capt
SIGNATURE OF OFFICER TAKING SUMMARY

SIGNATURE OF WITNESS: C.C. Thomson
(C.C. THOMSON) Lieut.& Adjt.
No. 13 Company, C.F.C.

SECOND WITNESS - F.85617 C.S.M. McKINNON, R.H., No. 13 Company, Cdn. Forestry Corps, is called and having been duly sworn, states:-

I am F.85617 C.S.M. McKINNON, R.H., No. 13 Company, Cdn. Forestry Corps, I identify the accused as D.110294 Pte. DESGAGNE, Joseph Philias, of No. 13 Company, C.F.C.. At SOUTHERN CAMP, No. 13 Company, C.F.C., on the 2 Jul 43 I handed Pte. DESGAGNE his railway warrant and leave pass which read from 0700 hours 3 Jul 43 to 0700 hrs. 12 Jul 43. He did not return by 0700 hours 12 Jul 43, so I searched the huts and canteen to see if Pte. DESGAGNE might be there, he was not. Pte. DESGAGNE was absent without leave, and continued to be A.W.L. until a report was received from the Canadian Provost Corps at GLASGOW to the effect that Pte. DESGAGNE had been apprehended and that they were escorting him to BRECHIN, where I met the train and escorted Pte. DESGAGNE back to No. 13 Company. He was placed under close arrest. He was paraded before Major F. BARNES, who, in my presence, remanded him to the Officer Commanding No. 2 District C.F.C., on 3 Sep 43. Pte. DESGAGNE was paraded before the Officer Commanding, No. 2 District, in my presence, on the 4 Sep 43 and was remanded for summary of evidence.

ACCUSED DECLINES TO QUESTION WITNESS

R H McKinnon
(R.H. McKINNON) C.S.M.
No. 13 Coy., C.F.C.

THIRD WITNESS - A.99434 Arm/Sgt. MITCHELL Carl Alexander, Attached as in War Establishment to No. 13 Company, C.F.C. from R.C.O.C., is called and having been duly sworn, states:-

I am A.99434 Arm/Sgt. MITCHELL Carl Alexander, Attached as in War Establishment to No. 13 Company, C.F.C., from R.C.O.C.. I identify the accused as D.110294 Pte. DESGAGNE, C.F.. On the 12 Jul 43 I was Orderly Sgt. at No. 13 Company, C.F.C.. It had been reported to me by C.S.M. McKINNON, that Pte. DESGAGNE was to report to me at or by 0700 hours 12 Jul 43. Pte. DESGAGNE failed to report by 0700 hours, 12 Jul 43. He was absent. I reported him as Absent without Leave.

C.A. Mitchell
(C.A. MITCHELL) Arm/Sgt.
R.C.O.C., Att. to No. 13 Coy., C.F.C.

TO THE ACCUSED
Q.4. Do you wish to question the witness on any of the points raised?
A.4. No, sir.

RULES OF PROCEDURE No. 4(d), (e), (f) and (g) COMPLIED WITH.
Accused declines to make any statement.
Q.5. Do you wish an Officer to defend you in the event of a Court Martial?
A.5. Yes, sir, a French speaking Officer if possible.

TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED AT SOUTHERN CAMP, BRECHIN ANGUS. ON THE 8TH DAY OF SEP 43 AND 2nd OCT 43

C.A. Armstrong Capt
(C.A. CONSTABLE) Captain & Adjt.
No. 2 District Headquarters,
Canadian Forestry Corps, C.A.(S/S)

Exhibit "H" — Royal Canadian major, President

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.110294	Private	DESGAGNE,J.F.	No. 13 Coy.Cdn. Forestry Corps.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.W.L. Sec. 15(1) A.A. 7 times.

For Sec. 24(1) A.A. 1 times.

For Sec. 40 A.A. 1 times.

For _____ times.

Date of first entry in Field Conduct Sheet 18 April 1941

Date of last entry in Field Conduct Sheet 29 December 1942

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	29 Dec 42 Ballogie Camp No.2 Aboyne, Aberdeen-shire.	1. A.A. 8(2) Offering violence to his superior officer. 2. A.A. 8(1) Striking his superior officer. 3. A.A. 8(2) Offering violence to his superior officer. 4. A.A. 40 Conduct to the prejudice of good order and military discipline, improper possession of rifle.	133 days detention	44 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this twenty-sixth day of October 1943.

L Barnes Major.
O.C. NO. 13 COMPANY,
Canadian Forestry Corps, C.A.(O.S.)

872 36-83-4

Robt Colquhoun Major President

D.110294 DESGAGNE J.P.

No. Name XXXXXXXX or Company No. 2 Corps Cdn. Forestry Date of enlistment 4 Nov 40 G.C. Badges nil Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drank | Period not reckoning towards freedom from extra line | Sheet No. | Signature O.C. Company, etc. | Character

Army Form B. 122

Place	Date of offence	Rank	Name of Unit or Vandenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ballogie	14-4-41	Pte.		A.A. 24(1)	Lt.Fleming	Loss of 12 days pay 7 days detention	18-4-41	Major SPITTAL	
"	2-6-41	Pte.		A.A. 15(1)	Sgt. Church	3 days pay 14 days CB	2-6-41	Capt. ARNOLD	
"	29-6-41	Pte.		A.A. 15(1)	Sgt. LEONARD	1 days pay 14 days CB	1-7-41	Capt. ARNOLD	
"	20-7-41	Pte.		A.A. 15(1)	Sgt. CHURCH	27 days det. 53 days pay	15-8-41	Major AMJ SPITTAL	

RELEASED FROM DETENTION BARRACK REDDRIE ON 10-9-41 SENTENCE HAVING EXPIRED, REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISIONS NIL DAYS COMMANDANTS INITIALS ?????????

Ballogie	2-11-41	Pte.		A.W.L. 39 hrs. 45 mins.	Sgt.CHURCH	14 days CB,2days pay	4-11-41	Major AMJ SPITTAL	
"	26-12-41	Pte.		A.W.L. 19 days 22 hrs. 30 mins	Sgt.LEONARD	18 days CB 37 days Det.	19-1-42	Lt.-Col. E.A. CALDWELL	
"	15-2-42	Pte.		A.A. 40 Conduct to the Prejudice of Good Order and Military Discipline. A.W.L. 144 hrs. 16 mins. A.A. 15(1)	Sgt.H.WELLS	27 days Det. loses 35 days pay	24-2-42	Lt.-Col. E.A. Caldwell	

RELEASED FROM THE DETENTION BARRACK DUNDEE 21 Mar 1942, SENTENCE HAVING EXPIRED REMISSION EARNED UNDER RULES FOR DETENTION BARRACKS AND MILITARY PRISONS NIL DAYS (SGD) ???????????????COMMANDANT.

[P.T.O.

W2080/882 1,000,000 7/18 M&CLd. E3446

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
BALLOGIE CAMP#2	3-5-42	Pte	Nil	W.O.A.S. A.WL. from 2359 hrs.3-5-42 2359 hrs. 4-3-42(Total Absence 24 hrs.) A.A. 15(1)	Sgt. R.A. McLeod	2 days' pay 4 days' detention	5-5-42	Major S.R. Arnold	
BALLOGIE CAMP#2	13 Nov 1942	Pte.	Nil	A.A.8(2)Offering violence to his superior officer A.A.8(1)Striking his superior officer. A.A. 8(2) Offering violence to his superior officer A.A. 40 conduct to prejudice of good order and military discipline, improper possession of rifle.	Major Arnold Capt.Morris H/Capt.Vincent C.S.M. Smith Sgt.Hillcoat Cpl. Brown,L. Cpl.Martin Pte.Povroll,P.	133 days' detention	29 Dec 42	F.C.C.M. Major Scott President	47 days awaiting trial

RELEASED FROM THE DETENTION BARRACK,H. DOWN ON MAR 26, 1943, SENTENCE HAVING EXPIRED. REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISONS" 44 DAYS COMMANDANTS INITIALS.

CERTIFIED TRUE COPY OF M.F.M. 6

C. C. Thomson

(C.C. THOMSON) Lieut. & Adjt.,
No. 13 Company Canadian Forestry Corps.

4-08-93 2 5

Exhibit "G"

Rec'd 4 Aug [illegible] Major President

SUMMARY OF EVIDENCE IN THE CASE OF D.110294 Pte. DESGAGNE, Joseph Philias, No. 13 Company, Canadian Forestry Corps, Canadian Army (Overseas)

FIRST WITNESS FOR PROSECUTION - LIEUT. C.C. THOMSON, No. 13 Company, C.F.C. is called and duly sworn states:-

I am Lieut. Clarence C. THOMSON, Adjutant, No. 13 Company, Canadian Forestry Corps. I identify the accused as D.110294 Pte. DESGAGNE, Joseph Philias.

Q.1. Have you any evidence to submit with regard to this case?

A.1. Yes, sir, I submit the following entry in A.B. 161, Record of Declarations of Courts of Inquiry on Illegal Absence of Soldiers,(entry was read to the accused and is quoted hereunder for information)

"The Court declare that D.110294 Pte. DESGAGNES, Joseph Philias, No. 13 Coy., C.F.C., illegally absented himself without leave from Southeak Camp, Angus., on the twelfth day of July, 1943, and declare that he is a deserter, in that he is still absent, and that on the second day of August he was deficient and that he is still deficient, of the following articles:

		Vocab.Price	% Vocab.Price
Greatcoats, drab	1	$17.22	$12.92
Helmets, Steel	1	1.75	1.30
Packs, web, Patt. 1937	1	1.90	1.43
Straps, shoulder, left	1	.43	.32
Straps, shoulder, right	1	.43	.32
Straps, web supporting	2	.60	.45
Capes, anti-gas	1	2.63	1.97
		TOTAL	18.71

No evidence of the value of the unexpired wear of the above listed articles being available, the Court find in lieu, the value for such articles to be three quarters of the vocabulary price.

He was deficient also the following:

		VOCAB.PRICE	% VOCAB.PRICE
Battle dress; blouses, serge	1	$ 4.92	$2.46
Battle dress; trousers, serge	1	4. 43	2.23
Boots, ankle, leather, prs.	1	4.92	2.46
Drawers, cellular, short	1	.47	.24
Shirts, angola, drab	1	2.12	1.06
Socks, worsted, prs.	1	.43	.22
Vests, under, cotton	2	.68	.34
Vests, cotton, gym	2	. 75	.38
Badges, cap, C.F.C.	1	.10	.05
Badges, Canada, prs.	1	.10	.05
Braces, prs.	1	.22	.11
Discs, identity sets	1	.06	.03
Knives, clasp	1	1.16	.58
Patches, distinguishing prs.	2	.06	.03
Shorts, gym, prs.	1	.41	.21
Brushes, hair	1	.36	.18
Brushes, teeth	1	.11	.06
Comb	1	.04	[illegible]

The Court find the value of the unexpired wear of the above listed articles to be one half of the vocabulary price.

He was deficient also the following technical clothing:-

		VOCAB.PRICE
Suits, rubber, trousers, prs.	1	[illegible]

The Court find the value of the unexpired wear of the above listed technical clothing to be the full vocabulary price.

Total value of the unexpired wear of the articles which Pte. DESGAGNES, J.P. was deficient on 2 August 1943, and still is deficient, is $31.93 (Thirty-one dollars and ninety-three cents)

"SIGNED AT SOUTHERN CAMP, ANGUS THIS 10th DAY OF AUGUST, 1945.

(SGD) "J.P. MACKAY" Capt. & President
Capt. J.P. MACKAY, No. 13 Coy., C.F.C.

(SGD) "R.O. SMITH" Member
Lieut. R.O. SMITH, No. 13 Coy., C.F.C.

(SGD) "C.C. THOMSON" Member
Lieut. C.C. THOMSON, No. 13 Coy., C.F.C.

SIGNATURE OF COMMANDING OFFICER.....(SGD)"F. BARNES" Major
O.C. No. 13 Coy., C.F.C.

Q.2. Have you carried out a kit inspection of the accused since his apprehension?
A.2. Yes, sir, and the following is a list of clothing in his possession, together with the value of same:

Battle Dress, Blouse, serge	1	$2.46
Battle Dress, Trousers, serge	1	2.23
Socks, worsted, prs.	1	.22
Braces, prs.	1	.16
Patches, distinguishing prs.	1	.03
Shirts, Angola, drab	1	1.06
Vests, undercotton,	1	.17
Gamb,	1	.02
	TOTAL	$6.33

The total amount of the deficiencies of the accused are now $25.22.

Q.3. Have you any further evidence to give?
A.3. Yes, I submit the following documents,

Original Charge Sheet (A.F.B.232) as laid by No. 6 Provost, Coy. and signed by Lieut. L.W. PAIGE.
(ATTACHED AS APPENDIX "A"

Certificate in accordance with Section 168(1) (m) of the Army Act issued by LAMMOOR STREET POLICE OFFICE GLASGOW, dated 30 Aug 43 with written statement by Police Sgt. William CRUICKSHANK, No. 20 and supported Police Constable James MAXWELL, No. 290.
(ATTACHED AS APPENDIX "B")Certificate was read to accused and is shown hereunder:

CERTIFICATE IN ACCORDANCE WITH SECTION
168 (1) (m) of the Army Act

I certify that the person whose description is given below was arrested at (place) GLASGOW, on(hour) 2-45 P.M. on the 30th day of August 1945.

Regimental particulars of Officer or Soldier referred to above.

Description.

No. D/118294
Rank. Private
Name:Joseph Philias Desgagne
Unit:13th Coy Canadian Forestry Corps
Age: 37 Years
Height: 5 ft. 6 ins.
Complexion: Fresh
Hair: Brown
Eyes: Blue
Marks: --

"STAMP OF LAMMOOR STREET POLICE OFFICE, GLASGOW 30 Aug 43"

Signature of Office of Police in Charge of Police Station where the above-named person was taken or placed in custody on arrest

(SGD) "JOHN PROUDFOOT" [illegible]
In charge of LAMMOOR STREET POLICE STATION GLASGOW.

WILLIAM CRUICKSHANK, No. 20 Sergeant, Central Division, Glasgow Police:-
At 3 P.M. on Monday, 30th, August, 1945, I received a telephone message

from the next witness to the effect that a Canadian Soldier had been found in the premises of the Strathclyde Distillers Coy. at 445 Hallister Street, Glasgow. I immediately went there, where I found a Soldier wearing the uniform of a Sergeant in the Canadian Army. I questioned him as to his presence in the premises and he stated that he had been shown up to the Manager's office as he was interested in this particular industry.

After enquiry his statement was found to be quite correct, as to how he came to be in the premises.

I asked him if he was on leave and he stated that he was, when asked for his Pass, he said that he had lost it together with his pay-book and money on Saturday, 29th inst. He gave the name Sergeant Coty, and stated that his No. was D/110294. As I was not satisfied with his statement, I took him to Lawmoor Street Police Office, where he immediately produced his Army Pay-book and a Pass bearing the above name of Pte. Joseph Philias Desagnes, and showing that he should have rejoined his Unit on 12th, July, 1943. I thereupon charged him with being absent from his Unit, to which he replied "That is quite right, I am fed up with the Army anyway"

When asked why he came to be wearing a Sergeant's tunic, he said that he had lost his own, and this was all he could get. He was detained, and a message sent to the Canadian Military Police. He was quite sober at the time.

(SGD) "WILLIAM CRUICKSHANK"
No. 20 Sergeant

JAMES MAXWELL, No. 290 Constable, Central Division, Glasgow Police states:-
I was along with the previous witness and can corroborate his statement in full.

(SGD) "JAMES MAXWELL"
No. 290 Constable.

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination"

Signature of officer taking the summary

ARMY FORM B252
(See Kings' Regulations)

ANNEXURE "A".

_____ DAY, 29/8/43 _____ RATE OF

_____ 1 10 Cwt. _____ (ENTERPRISE (GUARDIAN (TROOP OR (COMPANY

CHARGE against No. D/110294 RANK Pte.

NAME DESAGNES, J.P.

PLACE GLASGOW DATE OF OFFENCE 29 Aug 43

OFFENCE: W.C.A.No 21) was A.W.L. from..9. until apprehended by the Civil Police, at 445 Hallister St. Glasgow, at about 1600 hrs. 29 Aug 43 (S) wearing Sgt's Chevrons to which he was not entitled to, which is attempt of Murder, same time date and place.

NAME OF WITNESS/ P/S CRUICKSHANK, No. Civil Police, Central Division, Glasgow.

ARMY FORM B252 (continued)

SIGNATURE OF G.G. BATTERY (SGD) L.W. PAIGE" LIEUT.
SQUADRON TROOP OR COY.

STAMP OF NO. 6 PROVOST COY
SCOTTISH DETACHMENTS
31 Aug 43.

Written statement of this Witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

[signature]
SIGNATURE OF OFFICER TAKING THE SUMMARY

Letter from D.A.P.M., London Area, under file No. 2/106/43 dated 30 Aug 43 was read to accused and is quoted below (Original letter attached as Appendix "C"

FILE NO.2/106/43

Officer Commanding,
13 Coy. Cdn. Forestry Corps,

RE:- D.110294 Pte. DESGAGNE J.P.

1. Forwarded for your information and necessary action, please, and disposal under C.A.R.O. No. 388 dated 29 Oct. 40.

(SGD) "L.W. PAIGE" LIEUT.
for W. FORN, D.A.P.M.
London Area

GLASGOW
30 Aug 43

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

[signature]
SIGNATURE OF OFFICER TAKING THE SUMMARY

Letter from D.A.P.M., London Area dated 30 Aug 43 was read to accused and is quoted below (Original letter attached as Appendix "D"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY that No. D.110294 RANK Pte. NAME: DESGAGNE J.P.
UNIT: 13 Coy C.F.C. WAS ARRESTED AT: Glasgow (Place)
at 1500 hrs. (hour) on 30 Aug 43 (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~[illegible]~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable)

Glasgow
30 Aug 43

(SGD) L.W. PAIGE" Lieut.
for W. FORN, Capt. D.A.P.M.,
London Area

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

(continued) for cross-examination.

A. A. Cumstable Capt
SIGNATURE OF OFFICER TAKING THE SUMMARY

Copy of leave pass issued to D.110294 Pte. DESGAGNE, J.P., and attached as appendix "E"

IF CALLING-OUT OF THE WHOLE ARMY RESERVE IS ORDERED EVERY SOLDIER ON PASS MUST RETURN IMMEDIATELY TO HIS UNIT WITHOUT WAITING FOR INSTRUCTIONS.

No. 13th Coy. REGIMENT Canadian Forestry Corps

Army Form B295
(in pads of 100)

PASS

No. D.110294 (RANK) Pte. (NAME) DESGAGNE, J.P.

HAS PERMISSION TO BE ABSENT FROM HIS QUARTERS /DUTY, FROM:

700 hrs. 3 July 43 TO 700 hrs. 12 July 43

FOR THE PURPOSE OF PROCEEDING TO BRECHIN

(STATION): FIELD

(SGD) "C.C. THOMSON" Lieut.
for COMMANDING

DATE 3/7/43

CROWN COPYRIGHT RESERVED

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in this summary. Having regard to the exigencies of the service. Certified true copy of original document issued to accused when proceeding on pass.

A. A. Cumstable Capt
SIGNATURE OF OFFICER TAKING THE SUMMARY

I also submit one set of chevrons which were removed from the accused's tunic on apprehension by the Civilian Police, GLASGOW and handing over to the Canadian Provost Corps. Said chevrons were removed by the Canadian Provost Corps.
CHEVRONS attached as appendix "F".

I submit letter from the O/i.c No. 1 & 2 Provost Detachments, No. 6 (Area) Provost Coy., Canadian Provost Corps, setting out costs of apprehension and attached as appendix "G" hereto:

NO. 2 PROVOST DETACHMENT
NO. 6 (AREA) PROVOST COY.
CDN. PROVOST CORPS.

Officer Commanding,
No. 13 Coy., C.F.C.

RE: D 110294 Pte. DESGAGNE J.P.

Sir,

1. In reference to a phone call received at these H.Q's. on the 9 Sept 43. stating that you required the expenses incurred on escorting the a/m soldier [illegible] to Brechin on the 30 Aug 43.

2. The expenses are as follows:
One Single R. Ticket for the a/m soldier from Glasgow to Brechin 0-8-0 eight shillings and sixpence.
One Return R. Ticket for escort from Glasgow to Brechin 0-17-0 seventeen shillings.
Expenses incurred for escort's meals 0-5-0 five shillings. Total amount of expen[illegible] £1-10-6 [illegible]

Vienna
7 Sep 43

(SCD) "L.W.PAIGE" Lieut.
Officer in Charge
No. 1. & 2 Provost Detachments,
No. 6 (Area) Provost Coy.
Cdn. Provost Corps.

Written statement of this witness's evidence purporting to be signed by him, has been read to the accused and is included in the summary. Having regard to the exigencies of the service and the expense involved, the attendance of this witness cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

ACCUSED DECLINES TO QUESTION WITNESS.

A. A. Constable Capt
SIGNATURE OF OFFICER TAKING SUMMARY

SIGNATURE OF WITNESS: E. C. Thomson
(E.C. THOMSON) Lieut.& Adjt.
No. 13 Company, C.F.C.

RECORD WITNESS - F.85617 C.S.M. McKINNON, R.H., No. 13 Company, Cdn. Forestry Corps, is called and having been duly sworn, states:-

I am F.85617 C.S.M. McKINNON, R.H., No. 13 Company, Cdn. Forestry Corps, I identify the accused as D.110294 Pte. DESGAGNE, Joseph Philias, of No. 13 Company, C.F.C.. At SOUTHESK CAMP, No. 13 Company, C.F.C., on the 2 Jul 43 I handed Pte. DESGAGNE his (railway warrant) and leave pass which read from 0700 hours 3 Jul 43 to 0700 hrs. 12 Jul 43. He did not return by 0700 hours 12 Jul 43, so I searched the huts and canteen to see if Pte. DESGAGNE might be there, he was not. Pte. DESGAGNE was absent without leave, and continued to be A.W.L. until a report was received from the Canadian Provost Corps at GLASGOW to the effect that Pte. DESGAGNE had been apprehended and that they were escorting him to BRECHIN, where I met the train and escorted Pte. DESGAGNE back to No. 13 Company. He was placed under close arrest. He was paraded before Major F. BARNES, who, in my presence, remanded him to the Officer Commanding No. 2 District C.F.C., on 3 Sep 43. Pte. DESGAGNE was paraded before the Officer Commanding, No. 2 District, in my presence, on the 4 Sep 43 and was remanded for summary of evidence.

ACCUSED DECLINES TO QUESTION WITNESS

R H McKinnon
(R.H. McKINNON) C.S.M.
No. 13 Coy., C.F.C.

THIRD WITNESS - A.99434 Arm/Sgt. MITCHELL Carl Alexander, Attached as in War Establishment to No. 13 Company, C.F.C. from R.C.O.C., is called and having been duly sworn, states:-

I am A.99434 Arm/Sgt. MITCHELL Carl Alexander, Attached as in War Establishment to No. 13 Company, C.F.C., from R.C.O.C.. I identify the accused as D.110294 Pte. DESGAGNE, J.F.. On the 12 Jul 43 I was Orderly Sgt. at No. 13 Company, C.F.C.. It had been reported to me by C.S.M. McKINNON, that Pte. DESGAGNE was to report to me at or by 0700 hours 12 Jul 43. Pte. DESGAGNE failed to report by 0700 hours, 12 Jul 43. He was absent. I reported him as Absent without Leave.

C. A. Mitchell
(C.A. MITCHELL) Arm/Sgt.
R.C.O.C., Att. to No. 13 Coy., C.F.C.

THE ACCUSED
Q. Do you wish to question the witness on any of the points raised?
A. No, sir.

RULES OF PROCEDURE No. 4(d), (e), (f) and (g) COMPLIED WITH.
Accused declines to make any statement.
Q. Do you wish an Officer to defend you in the event of a Court Martial?
A. Yes, sir, a French speaking Officer if possible.

TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED AT SOUTHESK CAMP, BRECHIN ... ON THE 6TH DAY OF SEP 43 AND 2nd OCT 43

A. A. Constable Capt
(A.A. CONSTABLE) Captain & ...
No. 2 District Headquarters,
Canadian Forestry Corps, C...

W-121.

Pte. DESGAGNE. J.P.

Correspondence to be PINNED here.

121
W - 126

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of December, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Canadian Forestry Corps, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[illegible]

* Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.S. Scott,	No.4 Coy, C.F.C.

Members.

Rank.	Name.	Regiment.
Captain	D. Paquin,	No.3 Coy, C.F.C.
Captain	J.P.St.C. MacKay,	No.13 Coy, C.F.C.
Lieutenant	WAITING MEMBER. M. Grenon,	No.16 Coy, C.F.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (C.E.P. Jones) A/Colonel,

A/Officer- Commanding Canadian Forestry Corps.

Convening Officer.

SCHEDULE.

J. Stanley Scott major President

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-110294, Pte. Joseph Phileas DESGAGNE, No.2 Coy, C.F.C.	First Charge: Sec.8 (1) Army Act.	Not Guilty	Not Guilty	
	Second Charge: Sec.8 (2) Army Act.	Not Guilty	Guilty	
	Third Charge: Sec.8 (1) Army Act.	Not Guilty	Guilty.	
	Fourth Charge: Sec.8 (2) Army Act.	Not Guilty	Guilty	
	Fifth Charge: Sec.40 Army Act.	Not Guilty	Guilty. To undergo detention for 183 days. J. Stanley Scott major President	
	~~To undergo detention for one hundred and eighty days, the penalty awarded by Court of Inquiry held in compliance with the Order of Brig. Gen. Commanding Military District No. 2 dated 29th Dec. 42.~~ J. Stanley Scott major President			

29th Dec 42.
J. Stanley Scott major
President.

Sentence Confirmed
A. Bishop
Brig-Gen

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— no.

(Signed) C. E. F. Jones (C.E.F.Jones) A/Colonel, (Signed) J. Stanley Scott major
A/Officer Commanding Cdn Forestry Corps. President.
Confirming Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of December 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 29th day of December 1942.

J. Stanley Scott major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not sent to prison or detention barrack until further orders.~~

Signed this 23rd. day of January 1943.

A. Bishop Brig. Commander Can. Forestry Corps.

D 110294 Pte. Joseph Phileas DESGAGNE
No. 2 Coy. C.F.C.

Promulgated and extracts taken in the case of

(a) ✓ (Dated) 28TH JANUARY 1943 (Signed) Andrew L Fleming Lieut & Adjutant

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W. & Co. Ltd. Gp. 748/2

CHARGE SHEET

The accused, D-110294 Private Joseph Phileas DESGAGNE, No.2 Company, Canadian Forestry Corps, a soldier of the Canadian Army Overseas, is charged with, when on active service:-

First Charge, Sec. 8 (1) Army Act.

STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE

in that he

at Ballogie Camp No.2, at approximately 2335 hours on the 13th November 1942, struck with his fist, in the face, Major S.R. Arnold, O.C. No.2 Coy, C.F.C., who was at that time trying to disarm him.

Second Charge, Sec. 8 (2) Army Act.

OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

in that he

at Ballogie Camp No.2 at approximately 2335 hours on the 13th November 1942 entered the Officer's Quarters, pointed a loaded rifle at Major S.R.Arnold, O.C. No.2 Coy, C.F.C. and said "I am going to shoot you."

Third Charge, Sec. 8 (1) Army Act.

STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE

in that he

at Ballogie Camp No.2, at approximately 2345 hours, on the 13th November 1942, struck with his fist on the side of the face, Sergeant-Major H.C. Smith, No.2 Coy, C.F.C., who at the time was placing him in the guard house under close arrest.

Fourth Charge, Sec. 8 (2) Army Act.

OFFERING VIOLENCE TO HIS SUERIOR OFFICER

in that he

at Ballogie Camp No.2, at approximately 2325 hours on the 13th November 1942 entered the canteen, pointed a loaded rifle at D-110231, Corporal Brown, L. and said "I will kill you."

Fifth Charge, Sec. 40 Army Act.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at Ballogie Camp No.2, on 13th November 1942, was improperly in possession of rifle No.238474, the property of E-38196, Private Martin, L.F., No.2 Company, C.F.C.

-- -- -- -- -- -- --

In the Field,
14th day of November 1942.

(S.R.Arnold) Major,
Officer Commanding, No.2 Coy,C.F.C.

-- -- -- -- -- -- --

REMANDED FOR FIELD GENERAL COURT-MARTIAL.

In The Field,
18th November 1942.

(C.A.Williams) Lt-Col.,
Officer Commanding, Dis.No.2,H.C.
Canadian Forestry Corps,C.A.S.F.

-- -- -- -- -- -- --

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL.

.C., Can Forestry Corps,
otland,
th December, 1942.

(C.E.P. Jones) A/Colonel,
A/Officer Commanding,
Canadian Forestry Corps.

MEDICAL OFFICER'S REPORT

J. Stemberg Lt Major
President

I certify that No. D110294 Pte Desgagne J.
of #2 Coy. C.F.C. is in a Good state of health,
and fit to undergo Trial by Court-martial.

Brick Capt.
Medical Officer.

Station Ballogie II.

Date 29th December 1942.

M.F.W.246.
25m-3-18.(M)
H.Q.1772-39-480.

EVIDENCE TAKEN DOWN AT THE TRIAL BY F.G.C.M. OF D.110294 PTE. DESGAGNE, J.P. NO. 2 COMPANY, CANADIAN FORESTRY CORPS, CANADIAN ARMY (OVERSEAS) HELD AT NO. 2 COMPANY, BALLOGIE #2 CAMP, CANADIAN FORESTRY, ON 29 DECEMBER 42

The order convening the Court, the Charge Sheet and the Summary of evidence were laid before the Court. The Court complied with Rules of Procedure Nos.22 and 23 (Legal constitution of the Court, amenability of the accused and validity of the charges). The accused was then warned in French as per Overseas Routine Order No. 1424.

The Court opens at 1000 hours.

The accused and all persons (including witnesses) are brought in and

The following are the Officers attending for Instruction:-

Major F. DRAYTON, - No. 3 Company, C.F.C.
Capt. L.F.REEVES, - C.D.C.,Att. No. 2 Coy., C.F.C.
Lieut. H.A.HUDSON, - No. 26 Company, C.F.C.
Lieut. J.F.A. DALE, - No. 2 Company, C.F.C.
Lieut. R. GRETSON, - No. 16 Company, C.F.C.
Lieut. K. SMITH - No. 25 Company,C.F.C.

Prosecutor - Lieut. C.N. MILLICAN - No. 24 Company, C.F.C.
Defence - Capt. K.C. McINTYRE - No. 25 Company, C.F.C.

INTERPRETER - E.16250 Cpl. PREVOST, J.B. - No. 2 Coy., C.F.C.

Medical Certificate as to condition of the accused was laid before the Court by the Prosecutor.

The convening Order was then read by the President to the accused. The President and Members of the Court answer to their names.

By the President to the Accused:

Q.1. Do you object to being tried by me as President or by any of the Officers whose names you have heard read?
A.1. No sir.

Q.2. Do you object to K.41216 Sgt. McMURREY, R.J. acting as Shorthand Writer?
A.2. No sir.

The Members of the Court and the Shorthand Writer were duly sworn in by the President.

The President was duly sworn in.

The Interpreter was duly sworn in by the President.

The Officers under instruction were duly sworn.

The Charge Sheet was signed by the President and annexed to the proceedings as exhibit "G"

The accused was arraigned upon the charges in the above mentioned Charge Sheet

FIRST CHARGE: A.A. SEC. 6 (1)
When on Active Service at Ballogie Camp, No. 2 at approximately 2135 hours on the 13th November 1942, struck with his fist, in the face, Major S.B. ARNOLD, O.C. No. 2 Company, C.F.C. who was at that time trying to disarm him.

Q.3. Do you understand the Charge?
A.3. Yes sir.

Q.4. Are you guilty or not guilty of the first charge?
A.4. Not guilty sir.

SECOND CHARGE: A.A. SEC. 6 (2)
While on Active Service at Ballogie Camp, No. 2 at approximately 2135 hours

the 13th November 1942 entered the Officers' Quarters, pointed a loaded rifle at Major S.R. ARNOLD, O.C. No. 2 Company, C.F.C. and said "I am going to shoot you"

Q.5. Do you understand the Charge?
A.5. Yes sir.

Q.6. Are you guilty or not guilty of the second charge?
A.6. Not guilty sir.

THIRD CHARGE : A.A. SEC. 6(1)
STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE, in that he, at Ballogie Camp No. 2 at approximately 2345 hours, on the 13th November 1942, struck with his fist on the side of the face, Sergeant-Major H.C. SMITH, No. 2 Coy. C.F.C. who at the time was placing him in the guard house under close arrest.

Q.7. Do you understand the Charge?
A.7. Yes sir.

Q.8. Are you guilty or not guilty of the third charge?
A.8. Not guilty sir.

FOURTH CHARGE : A.A. SEC. 8 (2)
OFFERING VIOLENCE TO HIS SUPERIOR OFFICER, in that he at Ballogie Camp No. 2, at approximately 2325 hours on the 13th November 1942 entered the canteen, pointed a loaded rifle at D.110231, Corporal Brown, L. and said "I will kill you".

Q.9. Do you understand the charge?
A.9. Yes sir.

Q.10. Are you guilty or not guilty of the fourth charge?
A.10. Not guilty sir.

FIFTH CHARGE : A.A. SEC. 40
CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE, in that he at Ballogie Camp No 2, was on 13th November 1942 improperly in possession of rifle No. 238474, the property of H.36198 Private Martin, L.F., No. 2 Company C.F.C.

Q.11. Do you understand the Charge?
A.11. Yes sir.

Q.12. Are you guilty or not guilty of the fifth Charge?
A.12. Not guilty sir.

Q.13. Do you wish to apply for an adjournment on the ground that any of these rules relating to procedure before trial have not been complied with and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence?
A.13. No sir, I am ready to proceed.

THE PROSECUTOR PROCEEDS TO CALL HIS WITNESSES.

FIRST WITNESS FOR THE PROSECUTION - Major S.R. ARNOLD, O.C. No. 2 Company, C.F.C. is called and duly sworn - the Prosecutor proceeds to examine this witness:-

Q.14. Would you identify yourself to the Court please, sir?
A.14. Major S.R. ARNOLD, Officer Commanding No. 2 Company, Canadian Forestry Corps.

Q.15. Would you describe to the Court the events occuring on the night of Friday 13th November 1942?
A.15. On Friday evening, November 13th 1942 I was in bed but had not gone to sleep. I heard a knock on the door of our quarters, I answered "Who is there?" there was no answer and a second knock came at the door and I answered "Yes, come in" By this time I was up and as the door opened I could see a light from a flashlight the accused called out "Come here Major, Come here". I recognized the accused voice and asked him what was the trouble, He said "Major come out here I am going to shoot you". By this time I was out of the door of my room and as I approached to within four feet of the accused I could see the muzzle of the rifle pointed directly at me. I side-stepped and took a step forward and grabbed the

muzzle throwing it out of line with me. There was a short scuffle during which the accused hit me with his fist on the left side of my face. I then put my left arm around his neck swinging him around to the centre of the floor at the same time breaking the rifle away from him. By this time Capt. Morris and Capt. Vincent had their flashlights on and I told Capt. Morris to get the guard and while while waiting for the guard to arrive the accused took one round of live ammunition from his pocket and handed it to me. When the guard had taken him away I examined the rifle, the breech had been thrown open and one round of live ammunition was picked up off the floor just by where we were standing. I think that is all.

Q.16. Could you identify the Rifle you took from the accused?
A.16. Yes, a P.14, No. 238474

RIFLE NO. 238474 IS SHOWN TO WITNESS WHO IDENTIFIED SAME.

RIFLE p.14 No. 238474 IS TENDERED, EXAMINED BY THE COURT AND ENTERED AS EXHIBIT "A"

Q.17. Here are two rounds of ammunition, can you identify them as the rounds handed you by the accused and picked up from the floor?
A.17. Yes, they were Mark VII dated '41 and '42.

TWO ROUNDS OF AMMUNITION PRODUCED AND IDENTIFIED AS MK VII DATED '41 and '42 AND ENTERED AS EXHIBIT "B"

Q.18. Will you point out the accused to the Court please?
A.18. Yes, Witness points our accused as sitting next to Defending Officer.

EXAMINATION OF WITNESS BY DEFENCE

Q.19. Was the accused alone when he came to the hut?
A.19. Yes as far as I know.

Q.20. The accused is charged with striking you with his fist, his arm could not have struck you unintentionally could it?
A.20. He struck me that is all I know.

Q.21. At any time did you hear the bolt of the rifle shut or open.
A.21. When I took the rifle away from him it hit the floor hard and I heard the mechanism bang down.

Q.22. At the same time did you hear the round of ammunition drop to the floor?
A.22. No sir.

Q.23. He is charged with pointing a loaded rifle at you, could you swear that the rifle was pointed at you?
A.23. I could not see the breech of the rifle as there was not sufficient light.

Q.24. You are unable to swear that the rifle was pointed at you?
A.24. I cannot swear to anything I could not see.

Q.25. Was the accused sober?
A.25. I would not consider him drunk He was able to perform a Military duty had he been so ordered.

Q.26. Was he excited?
A.26. He was not showing any excitement.

Q.27. Would it seem to you sir, that, under the circumstances, he was abnormally so is?
A.27. No, I would say that he was himself.

DEFENCE :- NO MORE QUESTIONS

WITNESS EXCUSED

SECOND WITNESS FOR THE PROSECUTION - CAPT. L.W.J. MORRIS, No.2 Company, C.F.C. is called and duly sworn, is examined by the Prosecutor.

Q.28. Would you indentify yourself to the Court please?
A.28. Capt. L.W.J. Morris, 2 i/c No.2 Company, C.F.C.

Q.29. Will you describe to the Court the happenings on the evening of Friday 13th Nov. 42?
A.29. At about 2230 hrs. Pte. Desgagne came up to the Officers quarters and asked to see me and said that several of the fellows of the Company wanted to see me. He said he did not know what they wanted. I was getting ready for bed and told him that anyone who wanted to see me would have to come up to the quarters as I was not going out. He said "alright" that he would,tell them that the Officers had gone to bed and left. At about 2330 hrs. there was a knock at the door and Major Arnold said "come in", but the door did not open at that time, but another knock -

QUESTIONED BY THE COURT

Q.30. When he appeared the first time did he appear normal?
A.30. I would say yes.

A.29 cont'd.
came at the door and Major Arnold said "come in". The door opened and I recognized Desgagnes' voice when he spoke. He said "Major some here". Major Arnold got up and started across the hut towards him and I heard Desgagne say "I am going to shoot you" then there was a scuffle, the light dropped, and it was dark then. By that time I was up and had my flashlight. When I got over to where they were Major Arnold had the rifle in his right hand and Desgagnes' head in the crook of his left arm. Major Arnold told me to get the guard. I went down to the Guard Room and told the Corporal of the guard what had happened and told him to go up to the quarters and get Desgagne. On the way back I went into the Sergeants quarters and told C.S.M. SMITH what had happened. By the time I got up to the quarters the guard was there to take Desgagne away. Then I examined the rifle that Major Arnold had taken from Desgagne and found the bolt open. I looked around the floor and picked up one live round off the floor. I think that is all.

Q.31. Could you identify the rifle?
A.31. Yes, it is a P.14 No. 238474. (Exhibit "A" is shown to witness and identified)

Q.32. As Quartermaster of this Company, could you identify this form M/C.800?
A.32. Yes, that is a true copy of the M/C.800 of 2.36198 Pte. Martin, L.J.

Q.33. Can you tell us from that form what Rifle Pte. Martin is issued with?
A.33. Yes, P.14 No. 238474. (M/C.800 entered and marked Ex. "C")

Q.34. Will you identify the accused for the Court please?
A.34. Yes, there he is there (Pointing to accused sitting next to defending officer)

EXAMINED BY THE DEFENCE

Q.35. Would you say that the accused was sober?
A.35. I saw no reason why he should not be.

Q.36. Was he excited when he came up the first time?
A.36. He was not the first time, but he certainly was by the time the Major had his arm around his neck.

Q.37. Did you see him strike Major Arnold?
A.37. No, it was dark at the time.

Q.38. Did you hear the bolt of the rifle open at any time during the scuffle?
A.38. No sir.

Q.39. You found a round of ammunition on the floor, did you hear it fall at any time?
A.39. No sir.

Q.40. The accused is charged with pointing a loaded rifle at Major Arnold, could you swear that the rifle was loaded?
A.40. No, I could not swear that the rifle was loaded.

Q.41. Did he go quietly away with the guard?
A.41. As far as I know he did.

QUESTIONED BY THE COURT

Q.42. Could you have heard the round of ammunition fall to the floor?
A.42. There was so much noise I don't think you could have heard even a rifle fall.

WITNESS EXCUSED

THIRD WITNESS FOR THE PROSECUTION - Capt. A.C. Vincent, Padre, No.2 District, C.F.C., is called and duly sworn and examined.

Q.43. Capt. Vincent, will you identify yourself to the Court please?
A.43. Capt. A.C. Vincent, District Padre, No.2 District, Canadian Forestry Corps.

Q.44. You are here in connection with the trial of Pte. Desgagne, is he present in the Court Room?
A.44. Yes, (pointing out the accused)

Q.45. Will you tell the Court what happened on the night of Friday 13th Nov. 42.?
A.45. I was in bed at the time. Lights had gone out about 2300 hrs. A knock came at the door and Major Arnold called "Come in". Nobody came in but another knock sounded at the door and Major Arnold called "Come in". This time the door opened and someone came in, saying as he entered "Come here Major", he repeated that again. Major Arnold got up, I could not see, he was walking towards the door, suddenly I heard a scuffle and I knew something was wrong. The flashlight went out then. I got out of bed with my flashlight. Major Arnold had a rifle in his right hand and the prisoner's head in the crook of his left arm. Capt. Morris was at his door and Major Arnold told him to get the guard. While waiting for the guard Pte. Desgagne put his hand into his pocket and took out a round of ammunition saying "you had better take this too sir". After the guard was gone we looked for the other round, we found it near our washroom door on the floor.

Q.46. Did you take any particular notice of the rifle?
A.46. I only noticed that the bolt was pulled out.

Q.47. Did you notice the markings on the ammunition?
A.47. XXXX No.

Q.48. You picked one round off the floor?
A.48. Capt. Morris did.

EXAMINED BY THE DEFENCE

Q.49. Did you hear the bolt of the rifle open?
A.49. No, I heard the scuffle outside and by the time I got there Major Arnold had everything in hand.

Q.50. Did you hear the accused say to Major Arnold "I am going to shoot you"?
A.50. No, I did not hear that.

Q.51. How is your hut divided?
A.51. There is a partition running along to the right as you come in the door, to my own corner right beside me, in the other corner is Major Arnold's room. Next to Major Arnold on the same end is Capt. Morris. That is all I think, the rest of the room is open space.

Q.52. Is it separated into rooms or cubicles?
A.52. Just cubicles, the walls do not extend to the ceiling nor to the floor.

Q.53. Your room is next to the door?
A.53. Yes sir.

Q.54. You were full awake at the time when the door opened?
A.54. Yes I was at that time, I might have dozed off for a minute but I distinctly heard the knocks at the door.

Q.55. Where, in relation to your doorway, were Major Arnold and the accused?
A.55. They were right outside my door. They were facing towards me, the accused was between Major Arnold and I.

Q.56. In your opinion was the accused drunk?
A.56. In my opinion he was not drunk?

Q.57. He was quite normal?
A.57. He seemed quite normal.

Q.58. Did you hear the round of ammunition that you found on the floor drop to the floor?
A.58. No, there was too much noise.

Q.59. You would not say that the accused was excited in any way, he had not the appearance of being more than ordinarily excited?
A.59. I am not well enough acquainted with him to really say. I do not think he was any more excited than I would have been if I had my head in the crook of the Major's arm.

THAT IS ALL - WITNESS EXCUSED.

Court is adjourned at 1120 hrs. to 1135 hrs.
Court resumes its sitting at 1135 hrs.

FOURTH WITNESS FOR THE PROSECUTION - D.110831 Cpl. BROWN, L., is called and duly sworn and examined.

Q.60. Will you identify yourself for the Court Cpl. Brown?
A.60. D.110831, Cpl. Brown, L., Canteen Steward, No.2 Coy., C.F.C.

Q.61. Will you identify the accused?
A.61. Yes (pointing directly at accused saying "that is he")

Q.62. Will you tell the Court what happened in the Canteen on the evening of Friday 13th Nov.42?
A.62. Pte. Desgagne came to the canteen around 11.30 p.m. asking for a tin of sardines. I got up to give it to him and as I opened the door he pointed a rifle at me and said "I will kill you". I grabbed the rifle, we had a scuffle. I held the rifle and he took a cartridge out. I took the rifle away from him and went to lay it down and he ran out the door. That is all sir.

Q.63. Was there anybody else in the canteen with you?
A.63. Yes, the canteen steward held the flashlight on us while we scuffled.

Q.64. Could you tell the Court the name of the canteen steward?
A.64. Yes, D.110817, Pte. Perron, L.P.

Q.65. Following these incidents who retained the rifle?
A.65. I did.

Q.66. Could you identify the rifle?
A.66. Yes, P.14 No.188966 (Rifle is shown to Witness who checked the No. and identified it. (Rifle presented, examined and marked Exhibit "A")

Q.67. What was the condition of the accused?
A.67. He seemed quite/sober.
same and

EXAMINED BY THE DEFENCE

Q.68. Had you seen the accused before on this evening?
A.68. Yes, he had been in the canteen previously that evening.

Q.69. Was he drinking?
A.69. Yes, he had about four pints of beer.

Q.70. You held the rifle and he unloaded it, is that right?
A.70. Right sir.

Q.71. When you first got hold of the rifle was the bolt closed?
A.71. The Bolt was closed sir.

Q.72. How many rounds were in it?
A.72. There was one round in the breech and one round in his mouth.

Q.73. Did he argue the point when you told him to unload it.
A.73. Just a little scuffle sir.

Q.74. He made no attempt to fire the rifle,
A.74. He had his finger on the trigger and the safety catch was off.

Q.75. Do you know Desgagne very well?
A.75. Very well sir.

Q.76. That night did he appear to you to be his usual normal self?
A.76. Quite sir.

Q.77. You did not try to get the ammunition away from him?
A.77. No sir, he ran away when I turned to lay the rifle down.

Q.88. You did not try to follow him.
A.88. I got dressed and when I went out he was coming, under escort, from the Officers quarters.

Q.89. Did you follow them out to the Guard Room?
A.89. Yes sir.

Q.90. Did you go into the guard room after that?
A.90. Yes I did sir.

Q.91. Did you see the accused strike C.S.M. SMITH?
A.91. No sir, I just saw him fall.

Q.92. How near to the accused was the Sgt. Major standing when he fell?
A.92. About three feet sir.

Q.93. Did you see C.S.M. SMITH push the accused before he fell?
A.93. No sir.

Q.94. Did you hear C.S.M. SMITH say an thing to him at that time?
A.94. Just to go into his Cell quietly.

COURT QUESTIONS WITNESS

Q.95. Could you have seen the accused strike the Sgt. Major?
A.95. No sir I was behind them, I could not see the blow land.

PROSECUTION - No more questions

DEFENCE - No more questions.

WITNESS EXCUSED.

SECOND WITNESS FOR THE PROSECUTION RECALLED - Capt. L.W.J. MORRIS, being duly sworn and still under Oath is re-examined b y the Prosecutor

Q.96. Can you identify this form M.F.C. 800?
A.96. Yes that is the M.F.C. 800 of Pte. DESGAGNE.

Q.97. Could you tell the Court the number of the rifle issued to the accused from that form?
A.97. Yes, he is issued with a P.14 Rifle No. 165956.

Q.98. Will you give the Cour
M.F.C. 800 of Pte. DESGAGNE is tendered, examined and signed by the president and entered as exhibit "F"

FIFTH WITNESS FOR THE PROSECUTION ; D.110217 Pte. PERRON L.P. No. 2 Coy., C.F.C. IS CALLED AND DULY SWORN : PROSECUTOR PROCEEDS TO EXAMIN WITNESS

Q.98. Will you give the Court your name, rank and number please?
A.98. D.110217 Pte. PERRON L.P., No. 2 Coy., C.F.C.

Q.99. How are you employed in this Company?
A.99. At that time I was working in the Canteen.

Q.100. Will you tell the Court what you know of the incidents occuring on the evening of Friday 13th November 42?
A.100. The first thing, I was in bed at the time, I heard Pte. DESGAGNE come to the door and asked for a box of matches and a can of sardines. Cpl. BROWN got up to give him the matches and sardines and he opened the door. After that I heard some noise and Pte. DESGAGNE outside, when I heard that I got my flashlight and got up, I saw Cpl. BROWN and Pte. DESGAGNE, they were having an argument in the corner. I saw Pte. DESGAGNE with a rifle and a bullet was in his mouth. Cpl. BROWN tried to take the rifle away from him. Pte. Desgagne did not want to give it to him. Pte. DESGAGNE told Cpl. Brown "I will give you the rifle but give me the bullets back. I told Cpl. Brown it is no use to give him back the bullets and take his rifle because he will get another rifle. He told me he would be alright now, he will go to bed. I told Cpl. Brown don't let him go like that the best way is to call for the guards to keep him until morning. He said "He will be alright". He took the rifle away from him and let him go. After that I went to bed. Cpl. BROWN came back one or two minutes afterwards and we were both in bed. About 10 minutes later we heard L/Cpl. MARTIN outside, he had DESGAGNE. That is all .

Q.101. Is the accused in the room at present?
A.101. Yes, Witness points to accused.

Q.102. What was the condition of the accused?
A.102. He was not drunk sir.

EXAMINATION BY DEFENCE

Q.103. Do you know Desgagne very well?
A.103. Yes sir.

Q.104. He was not drunk that night?
A.104. No sir.

Q.105. He was quite normal?
A.105. He looked quite normal

Q.106. Who unloaded the rifle?
A.106. Cpl. Brown sir.

Q.107. Did you see it unloaded?
A.107. Yes sir.

Q.108. The cartridge came out of the breech ad it was unloaded?
A.108. Yes sir.

Q.109. Did Desgagne resist when Cpl. BROWN took the rifle away from him?
A.109. He did not take the rifle away from him.

Q.110. He did not take the rifle away from him?
A.110. No sir.

Q.111. Then Cpl. Brown held the rifle by the butt end"
(Interpreter demonstrates with witness how rifle was held)
Cpl. Brown held the rifle behind the safety catch and near the point of balance while Pte. Desgagne held it by the butt and barrel. After that Cpl. BROWN opened the Bolt and took out the cartridge and handed it back to Desgagne, Cpl. BROWN then kept the rifle and Desgagne left.

Q.112. Did you see Desgagne ~~xxkkx9plx~~ point the rifle at Cpl. Brown?
A.112. No sir.

Q.113. Did you hear Desgagne tell Cpl. Brown "I am going to kill you"?
A.113. No sir.

Q.114. How close were you to them.
A.114. I was in bed.
Q.115. When you were in bed how far away from them were you?
A.115. About 10 feet.

Q.116. Was Desgagne drinking during the evening?
A.116. Yes sir, he had about four or five glasses of beer.

Q.117. Does he drink very much?
A.117. Quite a bit sir.

Q.118. You have seen him drunk before this night?
A.118. Yes sir.

Q.119. As a rule how does he behave himself when he is drunk?
A.119. I have never gone out with him, I have seen him many times

Q.120. You have seen him drunk in the canteen several times?
A.120. Yes sir.

Q.121. Did he ever give any trouble?
A.121. No sir.

Q.122. You have never seen him troublesome when he was drunk?
A.122. No sir.

COURT ADJOURNED FOR LUNCH AT 1215 HOURS TO 1400 HOURS.

COURT RESUMES ITS SITTING AT 1400 HOURS.

~~CIVIL WITNESS FOR THE PROSECUTION IS CALLED~~ - R.38198 Pte. MARTIN L.P. No. 2 Coy., C.F.C. IS CALLED AND DULY SWORN ; PROSECUTOR PROCEEDS TO EXAMINE WITNESS

Q.123. Will you identify yourself to the Court?
A.123. R.38198 Pte. MARTIN L.P., No. 2 Company, Canadian Forestry Corps

Q.124. Did you have a rifle issued to you?
A.124. Yes sir.

Q.125. Do you remember the number of the rifle?
A.125. I do not remember the number of it sir.

Q.126. Would you recognize your rifle by identifying marks?
A.126. Yes sir.

Q.127. Will you examine these two rifles and see if one of them is yours.
Exhibits "A" and "B" are handed to witness who examines same
A.127. This is my rifle (holding Rifle No. 239474)

Q.128. How do you know that is your rifle?
A.128. By my markings on the sling.

Q.129. In what manner?
A.129. By a mark that is stamped on it.

THE COURT QUESTIONS WITNESS

Q.130. Could you recognise your rifle by any markings on the Rifle itself?
A.130. Yes by sand paper marks on the breach where it had been rusted.

PROSECUTOR RESUMES EXAMINATION

Q.131. When did you see your rifle last on the evening of the 13th November 1942?
A.131. I saw it about 1900 hrs when I was cleaning it for parade.

Q.132. When did you see it next?
A.132. When I went to go on parade on Saturday morning next, I could not find my rifle.

Q.133. Do you recognise the accused?
A.133. Yes sir, (Pointing to the accused)

Q.134. Did you give the accused permission at any time to use your rifle?
A.134. No sir.

DEFENCE EXAMINES WITNESS - No questions

7th WITNESS FOR THE PROSECUTION - D.110105 Sgt. HILLCOAT, A.S., No. 2 Coy , C.P.C.
IS CALLED AND DULY SWORN - PROSECUTOR PROCEEDS TO EXAMINE WITNESS

Q.135. Will you identify yourself for the Court?
A.135. D.110105 Sgt. HILLCOAT, A.S., Orderly Sgt. No. 2 Coy., C.P.C.

Q.136. Do you recognise the accused?
A.136. Yes sir, (Pointing to the accused)

Q.137. On the evening of Friday November the 13th 1942 how were you employed in the Coy.?
A.137. As Orderly Sgt. Sir.

Q.138. Will you tell the Court what happened in the Guard Room that night?
A.138. As I entered the Guard Room I noticed C.S.M. SMITH leaning against one of the bunks with his hand he was holding his lower jaw. Approximately 3 feet From the Cell door I notice L/Cpl. MARTIN escorting Desagne to the cell. SMITH approached the Cell Door as Pte. DESGAGNE wished to speak to him. Immediately after this Pte. Desagne attempted to strike a blow at C.S.M. SMITH this caught him on the side of the jaw. I suggested to SMITH that he leave the guard room. Pte. Desagne attempted to strike the Sgt. Major again. At this point C.S.M. SMITH and I attempted to leave the guard room. Before we reached the door Capt. Morris came in but we did not wait we left immediately.

Q.139. Were there any others present in the Guard Room at that time?
A.139. Yes, Pte. PEDDOW, Pte. HUTCHMAN, and Pte. McKNIGHT.

DEFENCE EXAMINES WITNESS

Q.140. When you entered the Guard Room what was the position of C.S.M. SMITH with the accused, could you see that?
A.140. Plainly.

Q.141. You say that C.S.M. SMITH approached the accused because the accused wanted to speak to him?
A.141. Yes sir.

DEFENCE REQUIRES PROSECUTION PRODUCE THE BOOK TO WHICH HE MAY BE ABLE TO REFRESH HIS MEMORY THIS LOOKS TO BE GRANTED

Q.142. Sgt. Hillcoat you stated at the summary of evidence, under oath, that C.S.M. SMITH had occasion to have a few words with Pte. DESGAGNE why do you now say that Pte. Desgagne wished to speak to C.S.M. SMITH? Why the difference in your story?
A.142. Well, there was conversation between C.S.M. SMITH and Pte. DESGAGNE.

Q.143. Did the Sgt. Major push Desgagne?
A.143. No sir.

Q.144. Did he speak to him?
A.144. If he did I did not here what was said.

Q.145. You took the Sgt. Major out of the Guard Room then did you?
A.145. Yes sir.

Q.146. Did you hear the Sgt. Major speak to him?
A.146. No sir.

Q.147. In your summary of evidence you said that the Sgt. Major had gone to have a few words with him?
A.147. I did not hear what they said.

WITNESS EXCUSED

FIGHTH WITNESS FOR THE PROSECUTION - D.95663 L/Cpl. MARTIN W.A. - No. 2 Coy., C.F.C
IS CALLED AND DULY SWORN - PROSECUTOR PROCEEDS TO EXAMINE WITNESS

Q.148. Will you give the Court your Number, Rank, name and initials please?
A.148. D.95663 L/Cpl. MARTIN W.A., No. 2 Coy., C.F.C..

Q.149. Can you identify the accused?
A.149. Witness points to Accused.

Q.150. Did you have occasion to be in the Officers' Quarters on Friday evening 13th November 1942?
A.150. Yes sir.

Q.151. Why were you called to the Officers' Quarters?
A.151. I was on escort duty to take the accused into custody.

Q.152. Were you the N.C.O. of the Guard that night?
A.152. Yes sir.

Q.153. Will you tell the court what happened?
A.153. Capt. Morris came to the Guard Room and told me to take two men and go up to the Officers Quarters. When I got there I saw Major Arnold holding the accused. Major Arnold told me to take the accused to the Guard Room. The Sgt. Major came and we all proceeded to the guard room. When we got to the Guard Room the Sgt. Major told us to take some clothes and equipment that was in the cell and to fix up the bunk that was there. While we were doing this the Sgt. Major and the accused started speaking to each other. There talking got rather hot so I turned round to see what was going on just when I turned around the Sgt. Major gave the accused a push and told him to get into his Cell.

Q.154. Was the Sgt. Major complimenting the accused on his behaviour?
A.154. No sir.

WITNESS IS QUESTIONED BY THE COURT

Q.155. Did you hear what the words were ?
A.155. I heard some of them.

A.153. continued) The prisoner made no effort to move, the Sgt. Major pushed him again Then the accused struck him. I was afraid the accused was going to strike him against I jumped in front of him, the accused made two more efforts to hit him but hit my shoulder instead after that I was too busy getting the prisoner back into his cell.

Q.156. Was the accused drinking?
A.156. Yes he had been sir.

Q.157. Was he drunk?
A.157. No sir.

Q.158. If the Sgt. Major had not taken this means of getting him into his cell would he have gone in of his own will?
A.158. That is hard to say sir, we had no trouble coming from the Officers Quarters.

DEFENCE EXAMINES WITNESS

Q.159. Up until the time the Sgt. Major interfered with the accused did you have any trouble with him?
A.159. No trouble at all sir.

Q.160. You said that you heard words pass between the Sgt. Major and the accused?
A.160. The Sgt. Major asked Desgagne why he had acted the way he did.

Q.160. What did the Sgt. Major say to the accused immediately before he pushed the accused the first time?
A.161. I do not remember sir.

Q.162. Do you remember the Sgt. Major saying anything insulting to the accused?
A.162. No sir.

Q.163. The Sgt. Major just pushed him?
A.163. Yes sir.

Q.164. Up to the time that CSM SMITH pushed him towards the cell you had had no trouble with him?
A.164. No sir.

Q.165. When you took the accused to the guard room you had him under escort of two Private soldiers?
A.165. Yes sir.

Q.166. On the Sgt. Majors Orders you took these two men and yourself to clean the Cell out?
A.166. yes sir.

Q.167. The accused was by himself with the Sgt. Major?
A.167. No sir there were other guards in the guard room.

Q.168. Were there two other men told off to look after him while you were away?
A.168. No sir, [illegible]

Q.169. Was the Sgt. Major nearer to the accused than anyone else?
A.169. No sir I was nearer to him.

Q.170. Did you see the accused strike the Sgt. Major?
A.170. When he struck him I had my back to them and when the words got high I turned around, just then the accused struck him.

Q.171. With the exception of yourself was the Sgt. Major nearest the accused?
A.171. Yes sir.

Q.172. Who started the argument?
A.172 I do no know sir.

Q.173. You were there?
A.173. Yes but there was just ordinary conversation between two men.

Q.174. Who started the conversation?
A.174. The Sgt. Major.

RE-EXAMINATION BY PROSECUTOR

Q.175. Was the Sgt. Major talking in a disciplinary way or otherwise?
A.175. There was no bullying just man to man conversation.

COURT QUESTIONS WITNESS

Q.176. You said that their conversation was high or not, can you tell us what was said?
A.176. It was just the tone of voice I meant sir.

WITNESS RETIRED.

STATUS WITNESS FOR PROSECUTION - K.41028 Pte. MacKENZIE, C.E., No. 22 Coy., C.P.C.
IS CALLED AND DULY SWORN - PROSECUTION PROCEEDS TO EXAMINE WITNESS:-

Q.177. Will you identify yourself to the Court please?
A.177. K.41028 Pte. MacKENZIE, C.E., No. 22 Coy., C.P.C. attached to No. 2 Coy. C.P.C.

Q.178. You don't belong to No. 2 Company?
A.178. No sir, to No. 22 Coy. and attached to No. 2 Coy.,

Q.179. What duty were you posted to on the night of Friday 13th November 1942?
A.179. I was on guard duty.

Q.180. That evening were you called to the Officers' Quarters?
A.180. No, sir.

Q.181. Do you recognize the accused?
A.181. Yes, sir. (Witness points to accused)

Q.182. Where did you see him on the night of November 13th 1942?
A.182. In the guard room of No. 2 Company.

Q.183. Will you tell the court what happened?
A.183. He was brought into the guard room, under escort, between the hours of 1130 and 12 o'clock at night. He stopped while they cleaned out one of the cells. The Sgt. Major told Desgagne that he had had enough trouble. He gave him a shove toward the cell and told him to "get in there". Desgagne then told him to get away from him that he did not want anything to do with him. C.S.M. Smith said that was enough from him and pushed him again. Desgagne turned and hit him on the side of the jaw. The guards then got between them and put him into the cell. The door was closed. That is about all I know.

DEFENCE PROCEEDS TO EXAMINE WITNESS

Q.184. When the accused was brought into the cell, was he quiet?
A.184 He seemed to be fairly quiet.

Q.185. Did the escort have any trouble with him?
A.184. No, sir.

Q.186. You stated that the Sgt. Major pushed the accused twice?
A.186. Yes, sir.

Q.187. In between the first and second times that the Sgt. Major pushed him, did he warn the Sgt. Major to keep away, he did not want anything to do with him.
A.187. Yes. He told him to keep away from him that he did not want anything to do with him.

Q.188. Was the accused drunk or sober?
A.188. He had been drinking, sir, I would say that he was drunk.

Q.189. At the time the Sgt. Major was speaking to the accused where were the 2 men who escorted him into the guard room?
A.189 They were there, but I could not say exactly where.

Q.190. They were not each one either side of the accused as escort?
A.190. No, sir, one of them was helping to clear out the cell.

Q.191. After the accused was put into the cell, was he quiet then?
A.191. No, sir. He was quite noisy in the cell then after a while he went to sleep.

Q.192. He was behaving like a drunken man?
A.192. Yes, sir.

COURT QUESTIONS WITNESS

Q.193. Do you wish to modify your statement as to whether or not the man was drunk as there are several degrees of drunkenness?
A.193 I was asked the same question at the summary of evidence, sir. In my opinion, a drunken man is one who cannot perform a duty.

Q.194. You will not correct or modify your statement?
A.194. No, sir.

WITNESS EXCUSED

TENTH WITNESS FOR THE PROSECUTION - D.110258 C.S.M. SMITH, No. 2 Coy., C.F.C. IS CALLED AND DULY SWORN - THE PROSECUTION PROCEEDS TO EXAMINE WITNESS.

Q.195. Will you identify yourself for the court please?
A.195. D-110258 C.S.M. SMITH, No. 2 Company, C.F.C.

Q.196. On Friday 13th November you were Company Sgt. Major of No. 2 Company?
A.196. Yes, sir.

Q.197. Can you identify t he accused?
A.195. Yes, sir. (Witness points out accused)

Q.198. Will you describe the events occurring on the evening of Friday 13th Nov. 1942.
A.198. On Friday the 13th in the evening I was in the Sergeants' Mess at approximately 2030 hrs. Pte. Desgagne came over and asked me for some beer which I refused to give him. About 20 minutes later he came back to ask me for beer again which I could not do. He then left. About 2335 hrs. Capt. MORRIS came into the mess and told me what had happened in Major Arnolds quarters. I proceeded up to the Officers quarters but met the escort and prisoner just outside the quarters. I then proceeded down to the guard room with the escort and prisoner. Pte. Desgagne stopped at the cell door and I asked him to go in which he did. I stepped inside to close the door, Pte. Desgagne swung just as I reached to close the door and struck me on the left side of the face knocking me off balance then he struck me a second time. That is all, Sir.

Q.199. Was he drunk?
A.199. He did not seem to be.

DEFENCE EXAMINES WITNESS

Q.200. When the accused went into the guard room he went into the cell?
A.200. Yes sir.

Q.201. Immediately ?
A.201. He just stopped at the cell door and when I asked him to go in he did so.

Q.202. Did you send L/Cpl. Martin and the two escorts to clean out the cell?
A.202. No sir.

Q.203. When Desgagne was inside the cell and you were standing inside the door where were L/Cpl. Martin and the two escorts?
A.203. Just outside the door.

Q.204. You are an old soldier with quite a bit of experience?
A.204. Yes, the last war sir.

DEFENCE OFFICER TO COURT: Let me quote you para. 446 sec. "C" K.R.(Can.)

"When a warrant Officer or non-commissioned officer (other than a member of the Provost staff, who will act according to circumstances) has occasion to place a soldier under close arrest, he will obtain the assistance of one or more private soldiers to conduct the offender to the guard room and will avoid coming into personal contact with him unless it is essential to obviate the escape of an offender in a serious case."

Q.205. Do you consider Sgt. Major that you abided by what I have just read, that night?
A.205. No I did not sir.

Q.206. Did you push the accused around on two occasions that night?
A.206 Not to my knowledge sir until after he struck me.

Q.207. Before he struck you, did you push the accused?
A.207. No sir.

WITNESS EXCUSED

PROSECUTION - The prosecution rests, sir.

BY THE PRESIDENT TO THE ACCUSED

Q.208. Do you wish to give evidence on oath or do you wish to make a statement not on oath? You do not have to do either. If you elect to give evidence on Oath, you are liable to cross-examination as any other witness. If you make a statement you will not be sworn and you will not be cross-examined nor will you be obliged to answer any questions. Evidence on oath carries more weight than a statement. If you make a statement it will be taken down in writing and will be given due consideration.
A.208. I wish to make a statement not under oath sir.

Q.209. Do you wish to give evidence yourself as a witness?
A.209. No sir just a statement.

Q.210. Have you any other witnesses to call?
A.210. Yes sir

Q.211. Are they witnesses as to facts or as to character or both
A.211. As to facts sir.

STATEMENT OF D.110294 Pte. DESGAGNE, Joseph Philean

"In the case of the night of the 13th November I do not remember anything. When I joined the Army I promised to serve the King and his Allies. I was unfortunate in having been sent to detention. After having been released from detention I resolved to be a good soldier from then on. For six weeks previous to the night in question I had been drinking quite heavily, I was discouraged, not getting any mail or parcels from Canada . One of my best friends promised to send me some cigarettes did not do so. I consider I am able to be a good soldier in the future and expect justice. I always respecty my Officers and all the other ranks. Never get in fights with anybody who wears a service Uniform. I never hurt anybody. I am for Victory and in Jail is no place to fight for victory so that we can get back home as soon as possible. When I find out that Crime don't pay I says to myself I never will go boozing any more and I never had anything happen this last nine months since I came out of there.

FIRST WITNESS FOR THE DEFENCE - C.70068 Pte. GELINEAU W.M. No. 2 Company, C.F.C. IS CALLED AND DULY SWORN - The defending Officer proceeds to examine witness

Q.212. Will you give your name, rank, number and initials to the Court please?
A.212. C.70068 Pte. Gelineau, W.M., No.2 Company, C.F.C.

Q.213. Do you recognize the accused?
A.213. Yes, sir. (Witness points to accused)

Q.214. Were you in the guard room on the night of the 13th November, 1942, when Desgagne was brought into the guard room?
A.214. Yes, sir.

Q.215. Was he brought in quietly?
A.215. Yes, sir.

Q.216. Was he drunk?
A.216. Yes, sir.

Q.217. Did you see him strike the Sgt. Major?
A.217. Yes, sir.

Q.218. Was he in the cell or outside in the guard room when he struck the Sgt. Major?
A.218. He was in the guard room.

Q.219. Did the Sgt. Major say anything to him?
A.219. I do not know, sir, when he hit the Sgt. Major, I picked him up.

Q.220. Did you hear Desgagne say anything to the Sgt. Major.
A.220. No, sir.

Q.221. Do you know Desgagne very well?
A.221. No, sir.

Q.222. Have you ever seen him in trouble before while drunk?
A.222. No, sir.

Q.223. After Desgagne was put into the cell, was he quiet?
A.223. Yes, sir. He was singing and started making love to his girl friend and then he went to sleep.

COURT ADJOURNED 1520 hrs
COURT RESUMED THE SITTING 1535 hrs.

SECOND WITNESS FOR THE DEFENCE - D-110211 - Pte. Gorham, P. No. 2 Coy., C.F.C. is CALLED AND DULY SWORN - DEFENCE PROCEEDS TO EXAMINE WITNESS.

Q.224. Would you give your number, rank, name and initials, please?
A.224. D-110211 Pte. Gorham, P., No. 2 Company, C.F.C.

Q.225. Do you recognize Desgagne here?
A.225. Yes, sir. (Witness points out accused)

Q.226. Were you in the guard room when Desgagne was brought in?
A.226. Yes, sir.

Q.227. Was he drunk
A.227. No, I would not say he was drunk, he was more liquor crazy. He did not appear to be normally drunk.

Q.228. You said he was liquor crazy?
A.228. I have seen him act the same way when he was drunk.

Q.229. He was brought in by L/Cpl. Martin and two escorts?
A.229. Yes, sir.

Q.230. Did you see him strike the Sgt, Major?
A.230. No, I did not sir.

Q.231. Did you see him fall?
A.231. No, I was in the cell.

Q.232. Were you one of the escorts who brought him down?
A.232. Yes, I was, sir.

Q.233. You and the other escort and Cpl. Martin were ordered by the Sgt. Major to clean out the cell.
A.233. No, he did not order us to do that. It was L/Cpl. Martin who said the cell had to be cleaned.

Q.234. Where was the other man of the escort at that time?
A.234. I was in the lead, then the accused, then the other member of the escort and then the Sgt. Major.

Q.235. Had you any trouble with Desgagne?
A.235. None whatsoever, sir.

Q.236. Until he got into trouble with the Sgt. Major.
A.236. Yes, sir.

Q.237. How did he behave after he had trouble with the Sgt. Major?
A.237. He was quite hysterical, singing and laughing. I did not pay much attention to him.

WITNESS RECORDED

THE FOLLOWING IS THE CLOSING ADDRESS OF THE PROSECUTION

May it please the Court, the summary of the Prosecution is very brief. The accused is not being tried for drunkenness or apathy. The five charges against the prisoner, none of which border on these two subjects. The evidence has been clearly given by a number of reliable witnesses including the Company Commander, the 2 i/c and the District Padre, also the Company Sgt. Major, clearly outlining the various offences. Whether Sgt, Major Smith pushed the accused is an irrelevant fact as the accused is being tried on the matter of whether he struck the Sgt. Major. The fact that the Cartridge was not in the breech of the rifle at the time it was wrested from the Accused by Major Arnold, need not be taken into consideration, as the breech was opened during the scuffle, thus extracting the round of ammunition. In the case of his attempt against the Canteen Corporal the round of ammunition was actually found in the breech of the rifle. The remarks of the accused "I am going to shoot you" should also be taken into consideration. Whether or not the accused intended to pull the trigger is another point which does not enter into the charges. The fact that he had a loaded rifle, threatened his superior Officers and pointed the rifle at them to say nothing of invading the Officers Quarters are the points to be considered. I would ask the Court to consider these points and find a verdict of Guilty.

THE FOLLOWING IS THE CLOSING ADDRESS OF THE DEFENCE.

Sir, I will endeavor to take these charges as they occur on the Charge Sheet:

On the first charge Major Arnold in his evidence thought it possible that the blow may have been struck without intention during the scuffle with the rifle. There is No evidence to support the statement that the blow was struck.
In the 2nd Charge it states quite definitely in the charge that the accused pointed

a loaded rifle at Major G.R. Arnold, the prosecution has failed to prove that this rifle was loaded.
The 3rd charge I would call attention to the heading as striking his superior Officer being in the execution of his office. C.S.M. SMITH at that time was acting in direct contravention of K.R.(Can.) para. 446(C) as was shown plainly by the evidence. I therefore claim that C.S.M. SMITH at that time was not acting in the execution of his office.
On the 4th Charge the evidence of Cpl Brown and Pte. Perron contradict one another completely both as to actions ~~xxx~~ taken and what was said. Cpl. Brown in his evidence stated that the Rifle was unloaded by the accused while Pte. Perron in his evidence stated that the rifle was unloaded by Cpl. Brown who then handed the live cartridge back to the accused and kept his rifle against the protests of Pte. PERRON.
The divergences of the evidence although all are offered by the prosecution, I would ask the court to take both of these evidences as uncertain to say the least.
The 5th Charge, the rifle was undoubtedly found in the possession of the accused.
As regards the sobriety of the accused the witnesses first in contact with the accused are all in accordance that he was sober. It would seem as time went on that his condition became changed, especially after he was deliberately provoked by the Sgt. Major. What the man's mental condition was at that time I have no means to judge but I cannot consider, in my opinion, that the acts with which this man is charged are the acts of a sane or sober man. That is all sir.

The Court is closed to consider their findings

The Court re-opened

D.110294 Pte. D'OCAGNE, Joseph Phileas, we find you not guilty of the first charge.

The Prosecutor - Lieut. C.H. Millican of No. 24 Company, Canadian Forestry Corps C.A.(O/S) was duly sworn.

Q.238. Have you any evidence to produce as to the character and particulars of the accused?
A.238. I produce certified copy of A.F.B. 296 and certified copy of M.F.H. 6, sir. (A.F.B. 296 with M.F.H. 6 attached is marked exhibit "F" signed by the President and annexed to the proceedings).

Q.239. Is the accused the person named in the statement you have presented?
A.239. Yes sir.

Q.240. Have you compared the contents of the above statement with the Regimental Books?
A.240. Yes sir.

Q.241. Are they true extracts from the Regimental Books and is the statement of entries in the conduct sheet a fair and true summary of those entries?
A.241. Yes sir.

Number of days in Military custody - 47

BY THE PROSECUTOR TO THE COURT TO THE DEFENCE

Q.242. Do you wish to address the Court in mitigation of sentence?
A.242. In mitigation of sentence I would like to point out that this man has been under detention for 47 days, sir.

Q.243. You have no further witnesses?
A.243. No sir.

BY THE PRESIDENT

I declare the Court closed for consideration of the sentence

M.S.B. Form
100M—5-41 (6677)
H.Q. 1773-39-1643

Regtl. No. D-110294 Rank PTE Name DESGRONE Charles

Ex. F.

INDIVIDUAL'S CLOTHING AND EQUIPMENT STATEMENT

Date of Attestation 4TH NOVEMBER 1940

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Anklets, web, prs	1	5/11/40							
Badges, arm, worsted, Canada, prs	2	5/11/40							
Badges, cap	1	5/11/40							
" collar, prs	—	—	—						
" shoulder, prs	1	5/11/40							
Bags, Kit M.S. II	1	5/11/40		1					
Battle Dress	1	5/11/40		1	12/11/40				
Blouses, serge									
Trousers, serge, prs	1	5/11/40		1	12/11/40				
Belts, waist, leather, brown									
Blacking, tins	1	5/11/40							
Bonnets, Tam O'Shanter									
Bootdressing, tins	1	5/11/40		1	12/11/40				
Bootlaces, prs	1	5/11/40		1	12/11/40				
Boots, ankle, prs									
" " felt, prs									
Boots, lumberman's, rubber, prs									
Insoles, prs	1	5/11/40							
Braces, prs	1	5/11/40							
Brassets, button									
Breeches, D.C., or Trousers, S.D. prs									
Brushes, boot, blacking	1	5/11/40							
" boot, polishing	1	5/11/40							
" button	1	5/11/40							
" cloth	1	5/11/40							
" hair	1	5/11/40							
" shaving	1	5/11/40							
" tooth	1	5/11/40							
Cap, comforter	1	5/11/40							
" field service									
" forage, drab									
" winter, Melton cloth									
Cloak or Greatcoat, drab	1	5/11/40							
Comb, hair	1	5/11/40							

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Discs, identity, with cord	3	12/11/40							
Drawers, cotton, short, prs	2	5/11/40							
Drawers, woollen, prs				2	12/11/40				
Dressings, first field	1	5/11/40							
Forks	1	5/11/40							
Gloves, woollen, khaki, prs	1	5/11/40							
Helmets, steel									
Holdalls	1	5/11/40							
Housewives	1	5/11/40							
Jackets or Doublets, S.D.									
Jackets, khaki drill									
Jacket, sweater				1	12/11/40				
Knife, clasp, and lanyard	1	5/11/40							
" table	1	5/11/40							
Mitts Leather prs	1	5/11/40		1	5/11/40				
Overalls									
Blouses, denim	1	5/11/40							
Trousers, denim, prs	1	5/11/40							
Overshoes or Rubbers, prs									
Pantaloons or Trousers, service, prs									
Putties, prs									
Razors	1	5/11/40							
Shirts, flannel, khaki	2	5/11/40							
" khaki, cotton, with short sleeves									
" service									
" under, cotton	2	5/11/40							
" woollen	2	5/11/40							
Shoes, canvas, prs				1	12/11/40				
Socks, prs	2	5/11/40		1	5/11/40		1	12/11/40	
Sponges, pipeclay									
Spoon, table	1	5/11/40							
Towels, hand	2	5/11/40							
Trousers, khaki drill, prs									
" " short, prs									

Free issues only will be accounted for on this form. (Certified True Copy)

Signature of Soldier

Signature of Quartermaster

Unit ..... No. ..... Rank ..... Name .....

From ..... to ..... Date ..... | Transferred or Attached

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

EQUIPMENT (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue
Attachments, brace	—			
Bags, ration 1	11/40			
Bandoliers	—			
Belts, waist 1	5/11/40			
Bottles, water 1	5/11/40			
Braces 2	5/11/40			
Carriers, cartridge 2	5/11/40			
" waterbottle 1	5/11/40			
Cases, pistol	—			
Covers, mussetto 1	5/11/40			
Frogs, bayonet 1	5/11/40			
Haversacks 1	5/11/40			
Helmets, steel 1	12/40			
Lanyards, pistol	2/5/42			
Packs 1	5/5/42			
Pouches, ammunition	—			
Slings, rifle 1	5/11/40			
Spurs, jack, pr.	—			
Straps, shoulder 2	5/11/40			
" web, suspender 2	5/11/40			
Tins, mess 2	5/11/40			

ARMS AND MISCELLANEOUS (a)	Date of Issue	Date of Issue	Date of Issue	Date of Issue
Bayonets and Scabbards 1	15/5/42			
Bottles, oil				
Pistol Webley Mk VI	24/3/42			
Pullthroughs 1	15/5/42			
Rifles P14 165756 1	15/5/42			
Swords and Scabbards				
Cloths Impregnating	2/3/42			
Web cleaner 1	9/11/40			
Blankets				
Sheets, ground				
Vest Gym 2	9/4/42			
Shorts 2	9/4/42			
Mackinaw Coat		29/4/42		
HATS CAPE Overseas		29/4/42		
Armour Shoulder Plates 1 pair		29/4/42		
Respirator Complete	9/11/40			
Leggings				

(a) Arms and equipment will not be transferred with the soldier unless authorized by the D.O.C.

On return of any article the Q.M. will initial in the next column opposite the article returned and line through in red ink.

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

E. A. C.

M.F.C. 800
100M—5-40 (5067)
H.Q. 1772-39-1643

Regtl. No. E-38198 Rank Spr Name Martin, Louis P.

INDIVIDUAL'S CLOTHING AND EQUIPMENT STATEMENT

Attested from major President

Date of Attestation 27-8-40

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Anklets, web, prs.	1	29/5/40							
Badges, arm, worsted, Canada, prs.	—	—	—	2	3/5/40				
Badges, cap	1	29/5/40		1	3/5/40				
" collar, prs.	—	—	—						
" shoulder, prs.	1	9/12/40							
Bags, Kit	1	29/5/40		1	11/12/40				
Battle Dress—									
Blouses, serge	1	29/5/40		1	27/10/40				
Trousers, serge, prs.	1	29/5/40		1	27/10/40				
Leather jerkins	—	—	—	1	3/11/40				
Belts, waist, leather, brown									
Blacking, tins	1	29/5/41							
Bonnets, Tam O'Shanter	—	—	—						
Bootdressing, tins	—	—	—						
Bootlaces, prs.	1	22/5/40							
Boots, ankle, prs.	1	29/5/40		1	15/10/40				
" " felt, prs.	—	—	—						
Boots, lumberman's, rubber — prs.	1	27/5/40							
Insoles, prs.	—	—	—	1	3/11/40				
Braces, prs.	1	29/5/40							
Brassets, button	1	29/5/40							
Breeches, D.C., or Trousers, S.D. prs.	1	11/5/40							
Brushes, boot, blacking	1	29/5/40							
" boot, polishing	1	29/5/40							
" button	1	29/5/40							
" cloth	1	29/5/40							
" hair	1	29/5/40							
" shaving	1	29/5/40							
" tooth	1	29/5/40							
Cap, comforter	1	29/5/40							
" field service	1	29/5/40							
Hats, Workmans	1	4/6/40							
" Stetson, drab									
" winter, Melton cloth	1	26/10/40		1	3/11/40				
Cloak or Greatcoat, drab	1	29/5/40							
Comb, bone	1	29/5/40							

DESCRIPTION OF ARTICLES	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials	Number	Date of Issue	Soldier's Initials
Discs, identity, with cord		13/5/40		2	14/1/41		1	15/4/41	
Drawers, cotton, short, prs.	2	29/5/40							
Drawers, woollen, prs.	[redacted]	[redacted]		1	29/5/41		1	4/7/41	
Dressings, first field		29/5/40		1	14/1/41				
Forks	1	29/5/40							
Gloves, woollen, khaki, prs.	1	11/6/40							
Helmets, sun	—	—	—						
Holdalls	1	29/5/40							
Housewives	1	3/6/40							
Rubber suit Lumberman	—	—	—	1	11/2/42				
Jackets or Blousons, S.D.									
Jackets, khaki drill	[redacted]	[redacted]							
Jacket, sweater	[redacted]	[redacted]		1	28/1/41				
Knife, clasp, and lanyard	1	29/5/40							
" table	1	29/5/40							
Mitts prs.	1	11/6/40		1	29/5/41		1	12/7/41	
Overalls—									
Blouses, denim				1	29/5/41				
Trousers, denim, prs.	1	29/5/40		1	29/5/41				
Overshoes or Rubbers, prs.	1	29/5/40							
Pantaloons or Trousers, service prs.									
Puttees, prs.									
Razors	1	29/5/40							
Shirts, flannel, khaki	2	29/5/40							
" khaki, cotton, with short sleeves									
" service									
" under, cotton									
" woollen	2	29/5/40							
Shoes, canvas, prs.	1	29/5/40							
Socks, prs.	[redacted]	[redacted]		1	17/11/41		2	29/1/42	
Lumbermans Spiked Soles	1	2/6/41							
Spoon, table	1	29/5/40							
Towels, hand	2	29/5/40							
1st Combat Shoes	2	4/12/42							
Trousers, khaki S.D. prs.									
" " " short, prs.									

Free issues only will be accounted for on this form.

(Certified True Copy)

Signature of Soldier

Signature of Quartermaster L. Morris Capt

Unit ..... No. ..... Rank ..... Name .....

From ..... to ..... Date ..... | Transferred or Attached

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

From ..... to ..... Date .....

EQUIPMENT (a)		Date of Issue	Date of Issue	Date of Issue	Date of Issue	ARMS AND MISCELLANEOUS (a)		Date of Issue	Date of Issue	Date of Issue	Date of Issue
Attachments, brace		—				Bayonets and Scabbards	1	10/5/42			
Bags, ration	1	14/1/41				Bottles, oil Disinfecting cloth					
Bandoliers		—				Pistol Walkt A/G ointment					
Belts, waist	1	13/9/40				Pullthroughs	1	10/5/42			
Bottles, water	1	19/11/40				Rifles P14 238474	1	10/5/42			
Braces	2	23/9/40				Swords and Scabbards		—			
Carriers, cartridge	2	23/9/40				ANTI GAS CAPE			24/5/41		
" waterbottle	1	23/9/40				" " OINTMENT			24/5/41		
						ARM SLEEVE DETECTORS					
Cases, pistol		—									
Covers, mesatin	1	23/9/40				Blankets					
Frogs, bayonet	1	14/1/41				Sheets, ground					
Haversacks	1	23/9/40				COMPLETE RESPIRATOR					
Helmets, steel		—	2/2/41			Vest Gym	2	9/6/42			
" " Camouflage nets			2/2/42			Shorts "	2	9/6/42			
Lanyards, pistol											
Packs	1	23/9/40									
Pouches, ammunition											
Slings, rifle	1	3/12/41									
Spurs, jack, pra		—									
Straps, shoulder	2	23/9/40									
" web, supporting	2	23/9/40									
Tins, mess	1	23/9/40				LEGGINGS			5/41		

(a) Arms and equipment will not be transferred with the soldier unless authorized by the D.O.C.

On return of any article the Q.M. will initial in the date column opposite the article returned and line through in red ink.

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

Signature of Soldier .....

J Stanley Hoff
Major
President

LIST OF EXHIBITS

in the case of

D.110294 - Pte. Desgagne, J.P. - No.2 Company
Canadian Forestry Corps

"A" - P.14 Rifle No. R.238474.

"B" - Two Live Rounds Mark VII .303 ammunition.
One round dated 1941 and the other dated 1942.

"C" - MFC. 800 of Pte. Martin, L.P. - E.23198 of No.2 Company, Canadian Forestry Corps.

"D" - MFC. 800 of Pte. Desgagne, J.P. - D.110294 of No.2 Company, Canadian Forestry Corps.

"E" - P.14 Rifle No. 165956.

[signature] Capt. D.C.
Dist. No. 2 H.Q. Canadian Forestry Corps, A.F.

[signature]

J Stanley Scott Major
President.

SUMMARY OF EVIDENCE

In the case of D.110294 - Pte. Desgagne, J.P., - of No. 2 Company, Canadian Forestry Corps, Canadian Army (Overseas).

By Direction of the Officer Commanding No.2 District H.Q., Canadian Forestry Corps, C.A.(O), the evidence is taken on oath.

R.P. 4(e) having been complied with and the Accused warned in French as per Overseas C.A.R.O. No. 1424, taking of summary of evidence was proceeded with.

E.38250 - Cpl. Prevost, J.R. - of No. 2 Company, Canadian Forestry Corps, was duly sworn as court interpreter.

First Witness for the Prosecution.

Major S.R. Arnold - O.C. No.2 Company, Canadian Forestry Corps, C.A. (O), being duly sworn states:-

At approximately 2335 hours on Friday, November 13th, 1942, I was in bed but had not gone to sleep when a knock came on the door. I answered saying "Yes, who is it?" and there was no reply. A second knock was given and I called out again asking "Who is there" and "Come in". By this time I was up and as the door opened someone stepped inside holding a flashlight calling "Major, Major, come out here". I recognized the voice as that of the accused - Pte. Desgagne, J.P. - and as I came out of the door of my room he said "I am going to shoot you". As I approached two or three steps nearer I saw the end of a rifle pointed directly at me. I side-stepped and jumped forward grabbing the rifle by the muzzle swinging it out of line. A short scuffle took place during which Pte. Desgagne hit me on the side of my head with his fist. I had the rifle in one hand and my other arm around his neck and had him under control. By this time both Capt. Morris and Capt. Vincent had their flashlights turned on. I immediately sent for the guard and placed Pte. Desgagne under close arrest. During the time we were waiting for the guard to arrive Pte. Desgagne gave me one round of live ammunition, which he took out of his pocket. Another live round was picked up off the floor by Capt. Morris and this round had been extracted from the rifle during the scuffle. I can identify the rifle in question, it bears Serial No. R.238474. (Rifle identified and Marked Ex. "A") The two rounds of ammunition are both Mark VII, one dated 1941 and the other 1942. (Rounds identified and Marked Ex."B") I do not consider the accused was drunk [redacted].

Signed S R Arnold
(S.R. Arnold) Major,
O.C. No. 2 Company,
Canadian Forestry Corps.

The Accused declines to cross-examine this witness.

Second Witness for the Prosecution

Capt. L.W.J. Morris, 2 i/c No. 2 Company, Canadian Forestry Corps, C.A.(O) being duly sworn states:-

I recognize the accused as Pte. Desgagne, J.P. At about 1015 or 1050 I was going to bed when a knock came to the door and I said "Come in" and Pte. Desgagne entered, saying there were several fellows who wanted to see me at the canteen. I told him I was just going to bed and if anyone wanted to see me they could come up. Pte. Desgagne said he would tell them all the officers were in bed. He then left. I would say the accused was not under the influence of liquor. At about 2330 hours we were all in bed in the officers quarters when another knock came to the door and Major Arnold called out "Come in". Nobody entered at the first invitation. There was another knock at the door and Major Arnold again replied "Come in". The door then opened and someone came in. I could not see who it was because whoever it was had a flashlight on and I could not see beyond it. I then heard a voice - which I recognized as that of the accused, Pte. Desgagne - say "Major, come here". Major Arnold started over towards him and I then heard Desgagne say "I am going to shoot you". There was a scuffle and by the time I got over to them the Major had the rifle in his right hand and Desgagne's head under his left arm. I then went down for the guard and also informed the Sgt. Major of what had happened, and went back up to the Officer's quarters with the guard and Pte. Desgagne was placed under close arrest. When the guard took charge of Pte. Desgagne I examined the rifle, the bolt had been opened during the scuffle and we looked around the floor with flashlights to see if we could find any rounds of ammunition. I found one live round, which I picked up off the floor. The number of the rifle is 238474, and this is it. (Ex. "A" referred to and identified) This rifle does not belong to Pte. Desgagne but had been issued to Pte. Martin, L.P. - E.23198 - according to his MFC.800. (MFC.800 of Pte. Martin produced and Marked Ex."C") According to Pte. Desgagne's MFC.800 the rifle issued to him bears No. 165956. (MFC.800 of Pte. Desgagne produced and Marked Ex."D")

Signed L. W. J. Morris
(L.W.J. Morris) Capt.,
2 i/c No.2 Company,
Canadian Forestry Corps.

The Accused declines to cross-examine this witness.

Third Witness for the Prosecution.

R/Capt. A.C. Vincent, Padre, attached No. 2 Company, C.F.C., being duly sworn states:-

At approximately 2315 hrs, after lights out, a knock came to the door, when Major Arnold, Capt. Morris and I were in bed. The Major said "Come In", and then there was another knock. The Major called louder "Come In" and this time someone entered. I heard him say twice "Come here Major". I then could see flashlight rays. The Major then came out of his compartment and I heard a scuffle, then the flashlight went out. I jumped out of bed, grabbed my flashlight and when I got to the door of my compartment I saw the Major with a rifle in his right hand and Pte. Desgagne in the crook of his left arm. Major Arnold asked Capt. Morris to get the guard and I stood with my flashlight on until the guard arrived. While I was standing there waiting for the guard, Pte. Desgagne put his hand in his pocket and took out a live round of ammunition and handed it to Major Arnold. I noticed that the breech of the rifle was open and after he had been taken away, Major Arnold, Capt. Morris and myself found a live round on the floor. I noticed that Pte. Desgagne had been drinking, but, in my estimation, I would not consider that he was drunk.

The accused declines to cross examine the witness.

Signed A.C. Vincent
(A.C. Vincent) R/Capt.
Padre, No. 2 District
Att. No. 2 Company
Canadian Forestry Corps.

Fourth Witness for the Prosecution

D.110231 - Cpl. Brown, L. - of No. 2 Company, Canadian Forestry Corps, being duly sworn states:-

I recognise the accused as Pte. Desgagne. Pte. Desgagne called at the canteen at 2330 hours on Friday night, November 13th. I was in bed and got up to give him some sardines. He pointed a rifle at me and said "I will kill you". I jumped at him and held the rifle away and ordered him to unload the rifle. After some argument he took one cartridge from the breech, and by this time Pte. Perron was standing in the doorway holding a flashlight. I tried to hold Pte. Desgagne but he got away. By the time I got dressed to go after him I met him coming down under escort. I put the rifle in the canteen and this rifle bears No. 165956, which I believe is the rifle which is issued to Pte. Desgagne.

(Rifle No. 165956 produced, identified by Cpl. Brown and marked Ex. "E")

(Ex. "D" referred to and number of rifle issued to Pte. Desgagne confirmed)

The accused was alone when he came to the canteen about 2330 hrs. and although he had been drinking I would say he was not drunk.

This Witness was cross-examined by the Accused as follows:

Q.1. Did I have anything to drink on Friday night?
A.1. Yes, about four or five glasses of beer.

Q.2. While I was in the canteen do you remember who was with me?
A.2. There were a number of fellows at the same table and I do not remember any particular person.

Signed Lobi Brown
(Cpl. Brown, L.) D.110231
No.2 Company,
Canadian Forestry Corps.

Fifth Witness for the Prosecution.

D.110817 - Pte. Pearson, L.P. - of No.2 Company, Canadian Forestry Corps, C.A.(O) being duly sworn states:-

On Friday night, the 15th November, at approximately 2200 hours I was in bed and Pte. Desgagne came to the canteen door and demanded a can of sardines and a box of matches. Cpl. Brown got up and opened the door and gave him the sardines and matches. Cpl. Brown had no flashlight when he was giving Desgagne the sardines and matches but Pte. Desgagne had a flashlight. They had an argument at the door but I do not know for what reason. I got up, took my flashlight, and came outside to the canteen door. They were scuffling in the corner and Pte. Desgagne had a rifle. Pte. Desgagne had one round of ammunition in his mouth and there was another in the rifle. Cpl. Brown tried to take the rifle away from Pte. Desgagne. I said to Cpl. Brown there is no use quarrelling with him, I will go and get the guard and it will finish there, but Cpl. Brown said I will take the rifle from him and let him go. Cpl. Brown took the round out of the rifle and Pte. Desgagne still had one round in his mouth. Cpl. Brown gave him the other round. I said to Cpl. Brown, take away the rounds but he said no. I said he might go and get another rifle but Cpl. Brown answered, no he will go to bed now. Cpl. Brown and I then went back to bed and took the rifle with us into the canteen. The accused had been drinking but was not drunk, and was alone when he came to the canteen.

This Witness was Questioned by the Accused as follows:-

Q.1. Did I have any beer in the canteen that night?
A.1. Yes, four or five glasses of beer.

Q.2. Did anyone else give me any beer or spirits?
A.2. I do not know.

Q.3. Do you know who was with me that night?
A.3. Pte. Cardinal, Pte. Ouellette and Pte. Savard.

Signed [signature]
[Pte. Pearson, L.P.] D.110817
No. 2 Company,
Canadian Forestry Corps

Sixth Witness for the Prosecution.

B.38198 - Pte. Martin, L.P. - of No.2 Company, Canadian Forestry Corps, C.A.(O), being duly sworn states:-

On Saturday morning, November 14th, I noticed my rifle was missing from the rack and I now recognise the rifle - bearing No. 236474 - as the rifle that has been issued to me. This rifle was in its accustomed place as I had cleaned it around 1900 hours on Friday night, November 13th, and I did not know the rifle had been moved until I looked for it on Saturday morning, November 14th, to go on parade, and I immediately reported it to Sgt. Hillcoat, and I have not seen my rifle since I cleaned it until I recognized it here now.
I saw Pte. Desgagne that night between 1930 and 2100 hours in the canteen and he was not drunk then. I did not see him after that and had no conversation with him, and know nothing of what happened that night. I have never loaned my rifle at any time to Pte. Desgagne.

This Witness was cross-examined by the Accused as follows:

Q.1. Was I drinking in the canteen that night?
A.1. Yes, you were drinking.

Q.2. Was anyone else with me in the canteen and did they give me anything to drink?
A.2. There were several with you who gave you something to drink.

Signed [signature]
(Pte. Martin, L.P.) B.38198
No.2 Company,
Canadian Forestry Corps.

Seventh Witness for the Prosecution.

D.110105 - Sgt. Hillcoat, A.S. - No. 2 Company, Canadian Forestry Corps., C.A.(O), being duly sworn states:-

I recognize the accused as Pte. Desgagne. On the evening of Friday, November 13th, 1942, at 2345 hours, I heard a commotion in the guard room. Due to the fact that I was the Orderly Sergeant for this particular week I went to ascertain what the commotion was about. At this time I noticed Pte. Desgagne in the middle of the Guard Room being led to the cell by L/Cpl. Martin. I also noticed that CSM. Smith was in the Guard Room at the time. CSM. Smith had occasion to have a few words with Pte. Desgagne - who was in the cell by this time, but the cell door was open. When CSM. Smith was approximately two feet from Pte. Desgagne, Pte. Desgagne struck CSM. Smith on the side of the face. CSM. Smith then turned to me and asked me if I had seen what happened to which I replied "Yes Sir". At this point I suggested to CSM. Smith that he leave the Guard Room. I had no sooner said this when Pte. Desgagne made another lunge at the Sgt. Major. but this blow went astray. Pte. Desgagne repeatedly said to the Sgt. Major "I have nothing to do with you" and at this point Capt. Morris entered the guard room. CSM. Smith and I then retired. Pte. MacKenzie, Pte. Gorham, Pte. Gelineau, L/Cpl. Martin and Cpl. Brown were in the guard room at the time and that is all I know. I would say the accused had been drinking but was not drunk, in my estimation.

Signed A. J. Hillcoat.
(Sgt. Hillcoat, A.S.) D.110105
No. 2 Company,
Canadian Forestry Corps.

The Accused Declines to Cross-Examine this Witness

Charge or.

Case

Eighth Witness for the Prosecution.

D.98665 - L/Cpl. Martin, W.A. - No. 2 Company, Canadian Forestry Corps, being duly sworn states:-

I recognize the accused as Pte. Desgagne. Between 2230 and 2245 hours on Friday, November 13th, Capt. Morris told me to get two guards and report to the Officers Quarters. I got there and Major Arnold was holding Pte. Desgagne and Major Arnold told me to take Pte. Desgagne to the Guard Room. On the way down the Sgt. Major met us and when we got to the Guard House the Sgt. Major gave orders to clear some jackets and packs from one of the cells which the prisoner was to occupy. Pte. Desgagne did not offer any resistance on the way down but in the guard room while we were clearing the cell the Sgt. Major was trying to talk to Pte. Desgagne in a reasonable manner and told him he had caused enough trouble for one night and at the same time gestured him towards the cell and Desgagne did not move. The Sgt. Major then gave Pte. Desgagne a push and Pte. Desgagne struck him. Then I jumped in front of Desgagne as I thought he was going to strike the Sgt. Major again, which he tried to do twice, but he did not hit the S.M. more than once because I took the blows on my shoulder while I was holding on to Pte. Desgagne. I would not say Pte. Desgagne was drunk although he had been drinking. After he tried to Strike the Sgt. Major the third time I do not know exactly what happened as we were trying to get Desgagne into the cell. I was Corporal of the guard that night. The Sgt. Major later had two men search Pte. Desgagne and all his personal belongings are in safe-keeping at the guard house. CSM. Smith, Sgt. Hillcoat, Pte. Desgagne, Pte. Gorham, Pte. Gellineau, Pte. MacKenzie and Cpl. Brown were in the guard room at the time.

The Accused cross-examined the Witness as follows:

Q.1. When I struck the Sgt. Major was he inside or outside the cell?

A.1. The door of the cell was open and you were inside the cell when you struck him.

Signed (L/Cpl. Martin, W.A.) D.98665
No. 2 Company
Canadian Forestry Corps

(This witness is on leave at present (24 Nov. 42) and therefore cannot sign his statement. However the witness was duly sworn. Telephone conversation Major Wallace & Capt. Constable 25th Nov. 42.)

Ninth Witness for the Prosecution.

K.41028 - Pte. MacKenzie, G.H. - of No.22 Company, Canadian Forestry Corps, attached to No.2 Company, being duly sworn states:-

I was sent down here from No. 22 Company on escort duty and was in the guard room of No.2 Company between 2330 hours and 2400 hours the night of Friday, November 13th, when Pte. Desgagne was brought into the guard room, and I recognize the accused as the soldier brought into the guard room that night. He was halted in the centre of the room until one cell was cleared out of some clothing. CSM. Smith told Pte. Desgagne he had had enough trouble from him and as he told him to get into the cell he gave him a push. Pte. Desgagne turned to the Sgt. Major and told him to keep away from him as he did not want to have anything to do with him. Sgt. Major Smith told him that was alright and shoved him once more, then Desgagne struck him on the jaw and the guards took over from there and put him in the cell. Just then Capt. Morris came in and some words were exchanged but I cannot remember exactly what they were. Capt. Morris and the rest then went out. The cell door was closed and things went on as usual. In my estimation the accused had been drinking.

The Accused cross-examined this witness as follows:

Q.1. Did I have any argument or discussion, or how was I acting when I was put in the cell?
A.1. You were making a noise, singing and talking.

Signed Pte G H MacKenzie
(Pte. G.H. MacKenzie) K.41028
No.22 Company,
Canadian Forestry Corps

Tenth Witness
For the Prosecution

D.110858, C.S.M. Smith, H.C., of No. 2 Company, Canadian Forestry Corps, C.A.O/E. being duly sworn states:

I recognize the accused as Pte. Desgagne. On Friday night, November 13th, I was in the Sergeant's Mess and Pte. Desgagne came down wanting to get some beer at about 2200 hours, and I refused, telling him to go to bed and that I could not give him any in any case. He went away and about a half hour later returned and I again refused him. He did not seem to be at all drunk at that time and he went away and did not say anything. At about 2335 hours Capt. Morris came down to the Sergeant's mess and told me of what Pte. Desgagne had done to Major Arnold, and told me to put him under arrest. I proceeded to the officer's quarters but met the escort on their way to the guard room - as they had already been up for Pte. Desgagne - and I then returned to the Guard Room with the escort and prisoner. Pte. Desgagne went into the cell and I stepped in the doorway to see that everything was in order, and Pte. Desgagne turned and struck me on the left side of the face and before I could close the door he struck me the second time. I then closed the door and left him in the cell. Later on - about twenty minutes later - I had him searched by the guard. I had no argument with the accused and he went into the cell quite peaceably. I would say the accused was not drunk although he had been drinking.

Signed [signature]
(C.S.M. Smith, H.C.) D.110858
No.2 Company,
Canadian Forestry Corps.

The Accused declines to cross-examine this witness.

R.P. 4(e) complied with and accused warned in French as per Overseas C.A.R.O. 1434, THE ACCUSED DECLINES TO MAKE A STATEMENT.

Question to the Accused: Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything, or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence?

Answer of the Accused: I have nothing to say, I don't remember anything about that night.

Certified that R.P. 4 (c) (d) (e) and (f) of M.M.L. have been complied with.

Taken down by me in the presence and hearing of the accused at Ballogie No. 2 Camp, CANADIAN FORESTRY CORPS, No. 2 Company, by ABOYNE, Aberdeen-shire, on the 19th day of November, 1942. The evidence of C.S.M. Smith, H.C. was taken down by me in the presence and hearing of the accused at the Royal Infirmary Hospital, Aberdeen, on the 20th day of November, 1942.

Signed [signature] Capt.
(A.A. Constable) Capt. & Adj.,
No. 2 District H.Q.,
Canadian Forestry Corps,
Canadian Army (Overseas)

The Court to Accused: Do you wish an Officer to Defend you?

Answer of the Accused: Yes, sir, and would like to have Capt. McIntyre of No. 25 Company, Canadian Forestry Corps, to defend me if he is available.

Capt.
Dist. No. 2 H.Q. Canadian Forestry Corps, A.F.

20th November 1942

Ex. F

J. Stanley Hall Major
President

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-110294	Pte.	Desgagnes J.P.	No.2 Coy. Canadian Forestry Cor

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—As a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number or entries in the conduct sheets, paragraph being given to the most serious offence in each entry, and to any recognized award both of gallantry or distinguished conduct.

Insertion.—If the charge is for drunkenness see the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1)	Three times	Seven times.
For A.A. 24 (1)	NIL times	Once times.
For A.A. 40	Once times	Once times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ~~XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-110294 Rank Pte. Name Desgagnes J.P. of No.2 Coy CPC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating thus convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or states of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29th day of Dec. 1942

S.R. Arnold Major
Officer Commanding,
No.2 Coy. C.P.C.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years, ...

(Instruction—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

872 36-83-4

Attentyton Major President

No. D-110294 Name DESGAGNE Joseph Sqn., Battery, or Company No.2 Coy. Corps Canadian Forestry Corps Date of enlistment 4-11-40 G.C. Badges Service or Proficiency Pay

M.F.M. 6 (A.F.B. 122) 500M—11-40 (3023) H.Q. 1772-45-18

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ballogie	14-4-41	Pte.		A.A. 24(1)	Lieut Fleming	Loss of 12 days pay. 7 days detention	18-4-41	Major Spittal	
Ballogie	2-6-41	Pte.		A.A. 15(1)	Sgt.Church	Loss 3 days pay.14 daysC.B.	2-6-41	Capt. Arnold	
Ballogie	29-6-41	Pte.		A.A. 15(1)	Sgt.Leonard	Loss 1 days pay.14 daysC.B.	1-7-41	Capt. Arnold	
Ballogie	20-7-41	Pte.		A.A. 15(1)	Sgt.Church	27 days detention.53 days pay	15-8-41	Major A.M.T. Spittal	
Ballogie	2-11-41	"		A.W.L. 39.45 hours	Sgt.Church	14 days C.B. 2 days pay	4-11-41	Major A.M.T. Spittal	

(P.T.O.)

	Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Ballogie	26-12-41	Pte.		A.W.L. 19 days 22.30 hours	Sgt.Leonard	14 days detention. 37 days pay	19-1-42	Major A.M.T. Spittal	
B	Ballogie	15-2-42	Pte.		A.W.L. 144 hours 16 mins Sec A.A. 15(1). A.A. 40. Conduct to prejudice of Good Order and Military Discipline	Sgt.Wells	27 days det. loss 35 days pay	24-2-42	Lt.Col.M.A.Caldwell	
	Ballogie	3-5-42	Pte.		W.O.A.S. A.W.L. from 2359 hrs. 3-5-42 to 2359 hours 4-5-42. Total absence 24 hours.A.A.15(1)	Sgt.McLeod	2 dys pay 4 dys detention	5-5-42	Major S.R. Arnold	

(Certified True Copy)

S.R. Arnold .....Major
Officer Commanding.

572 36-8-42

236 E. Ile Desgagne R.

O. H. M. S.

236E

West N.S.R.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Twentieth day of January, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ } Hug

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable

*~~I am unable to appoint:—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

*~~(3. Three Officers having more than one year's service.)~~ } Hug

[for the following reasons, namely:—]

PROCEEDINGS REVIEWED

Gen Graham Capt
Reviewing Officer (Fed.) C.M.P.
5 Feb 42

President.

Rank.	Name.	Regiment.
Major	H.V. Weir	Halifax Rifles

Members.

Rank.	Name.	Regiment.
Capt	W.H. Worth	West N.S.R.
Lieut	J.A. Palmer	Carlt & York R
(Waiting) Lieut	L.B. Groom	Carlt & York R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled.

*Signed H.W. Jenning Brig.,

Commanding 3rd Cdn Inf Bde

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E-4129 Pte Desgagne, R. R 22e R	1st Charge:- Sec 15 (1) A.A.	Guilty	Guilty 18 months Detention Place of Detention Dorchester Penitentiary Date from which sentence to run 21-11-41 Effective date of commencement of sentence 24-1-42	Confirmed A.G. Jarvis Brig
	See Charge Sheet Attached			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (*a*)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) A.G. Jarvis Brig., Commanding 3rd Cdn Inf Bde (Signed) A Walsh Maj Confirming Officer (*e*) Provost

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 24th day of January 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) n/a
*(4. ~~The officers under instruction~~) n/a
were duly sworn.

* Omit if not applicable.

Signed this 24th day of January 1942

A Walsh Maj Deputy Judge Advocate
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 780 M.M.L. 1923.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the said~~ [illegible] named in the margin be not committed to prison until further orders.~~)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 24 day of Jan 1942

A.G. Jarvis Brig., Confirming Officer. Comd 3rd Cdn Inf Bde

Promulgated and extracts taken in the case of E4129 Pte Desgagne R

(*a*) (Dated) 27 Jan 42 (Signed) Robt Capo Adjutant, ROYAL 22e REGIMENT, C. A. S. F.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET.

The accused, No. E.4129 Pte. Desgagné R., Royal 22e.Regiment, a soldier of the Canadian Army, (Overseas), is charged with, when on Active Service:-

FIRST CHARGE
A.A. 15 (1)

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

At about 2115 hours, 11 Nov 41, while in close confinement, absented himself without leave from Cdn. Corps F.P. Camp, and remained absent until apprehended by Civil Police at BIRMINGHAM, at about 2120 hours 12 Jan 42, and in so doing, incurred expenses for his apprehension and return, in the amount of £ 1. 11. 10.

(J.P.E. BERNATCHEZ), Lt.-Col.,
Commanding Royal 22e.Regiment.

JPEB/PAT.

19 Jan 42.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(W.H. Ganong), Brig.
Comd 3rd Cdn Inf Bde.

FORM A

PROCEEDINGS OF A FIELD GENERAL
COURT MARTIAL held in the Field
on the 24th day of January 1942.

Trial of No. E 4129 Pte. Desgagné R.
Royal 22e Regiment

Prosecutor G. F. Chicoine (LIEUT)

Defending Officer L. Deniset (LIEUT)

Officer under Instruction

ml

1. The Order convening the Court is read in the prescence of the accused.

2. The accused is asked the following question:-

Do you object to being tried by the President or any Members of the Court, whose names you have heard read over?

Answer - No

3. The President, Members, ~~Judge Advocate, Officers under instruction, Shorthand Writer, and Interpreter~~ are duly sworn.

4. (a) The accused having pleaded guilty to the ~~_____~~ charge(~~s~~) P.P. 35(B) is complied with.

5. ~~The accused is asked the question at the foot of Page 2 of A.F.A. 3 and his answer is recorded beneath the question.~~ NW

6. The Prosecutor makes (no) (~~the following~~) opening NW

NW

FORM B. PAGE 2

DEFENCE

The accused is informed of his rights in accordance with R.P. 40 (A) and n ote 2 of page 044 of the Manual of Military Law, 1929 edition.

The accused is asked the following questions:-

Q.1 Do you wish to give evidence as a witness

A.1

Q.2 Do you intend to call any other witness on your behalf

A.2

Q3 Are they witnesses as to character only

A.3

FORM C

After finding

LT. G.F. CHICOINE R 22e R.

is sworn and states:-

I produce a certified true copy of A. F.B. 122 relating to the accused. (The said copy is marked B signed by the President, and attached to the Proceedings).

Question to the Accused

Do you wish to address the Court, or to call evidence as to character?

Answer. YES

The(accused) (Defending Officer) makes the following plea in mitigation of sentence:-

STATEMENT OF DEFENDING OFFICER

The accused admits the fact that he is guilty but wants to tell the court that he intends to do his duty from now on as a soldier. He admits that he has a bad record but if the court gives him a chance it will be easier for him to do his duty again.

SUMMARY OF EVIDENCE

in the case of

E.4129 Pte. Desgagnés R., Royal 22e.Regiment, a soldier of the Canadian Army, (Overseas).

Evidence taken on oath by Order of the Commanding Officer.

FIRST WITNESS FOR PROSECUTION. Lieut. L. Cannon, R.22e.R., having been duly sworn, states:-

" I am an Officer of the Royal 22e.Regiment. I hereby produce as exhibits the following, which concern the accused, whom I recognize.

(a) Declaration of a Court of Inquiry d/9 Dec 41.
(b) A.F.O. 1618 d/12 Jan 42.
(c) A.F.B. 252 d/14 Jan 42.
(d) Statement as to expenses incurred d/15 Jan 42.
(e) Statement as to expenses incurred d/15 Jan 42.

L. Cannon .....Lieut.

Accused declines to cross-examine this witness.

The accused was duly warned in compliance with R.P. 4 (e) but declines to make a statement and reserves his defence.

The evidence was taken down by me in the presence and within the hearing of the accused, this 19th day of January, 1942.

Compliance with R.P. 4 (c), (d), (e), (f) and (g) certified.

L Cannon Lieut

(L. CANNON), Lieutenant,
Officer detailed by O.C. R.22e.R.
to take Summary of Evidence.

In the Field 9th day of December 1941.

R. 4129 Pte. Degagne R., Royal 22e. Regiment.

The Court declares that R. 4129 Pte. Desgagné R., escaped from Cdn Corps Pd P. Camp at about 2115 hours 11 Nov 41, that he is still absent and that on 11 Nov 41 he was deficient and is still deficient of the following articles:-

1 Battle Dress	Blouse	£ 1. 2. 6
	Trousers	1. 0. 6
1 Boots, ankle, pr.		1. 2. 6
1 Brush [illegible] shaving		1. 2
1 [illegible] brush tooth		5½
1 Drawers Woollen		6. 3
1 Comb hair		2
1 Field Dressing		1. 2
1 Holdhall		11
1 Knife clasp		2.10
1 Razor		5½
2 Shirts, flannel		1. 0. 0
2 vests woolen		13. 0
1 socks pr.		1.11
1 spoon table		4
1 towel hand		1. 4
6 eyeshields		2. 0
1 respirator complete		16.10
1 Wallet A/C		8
1 Steel Helmet		7. 0
1 Oil Bottle		7
1 Pullthrough		3
1 Drawers gym.		2. 0½
1 Ground Sheet		10. 0
		£ 7. 15. 10½

Names of President and Members:

Major R.A.A. Doiron, Royal 22e Regiment.

Lieut. G. Gagnon, Royal 22e Regiment.

Lieut. V. Morin, Royal 22e Regiment.

Signature of Commanding Officer.....
(J.P.E. Bernatchez), Lt.-Col.,
Commanding Royal 22e Regiment.

Certified true copy.....
Signature of Officer having custody of original record
(P. Hart), Lieutenant,
A/Adjutant, Royal 22e Regiment,

Also to the exigencies of the service the evidence of this witness is not procurable in the presence of the accusation.

Army Form O.1618.

IMMEDIATE.

PART I. S. Cameron Lieut

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

---

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*18073) Wt.32176/1077 70,000 11/49 A.&E.W.Ltd. Gp.698 Forms O.1618/33

Roland de Gagne

HE. E. 41429

DESCRIPTIVE RETURN OF Roland Couillard alias who was apprehended at Birmingham (hour) 9 20 A.M. on the 12th day of January 1942 and was committed to confinement at Central Lock Up on the 12th day of January 42 as ~~a Deserter (or~~ Absentee without leave) from the 22nd Rd. Bn. of the No. 2 Canadian Holding Court Regiment of Royal Canadian Corps, Whitley, Surrey

Age 25 Height 5'4" feet inches

Complexion Dark Hair Black Eyes Brown

Marks Dagger, Love etc. Uniform E 2129 etc. Rt. Hand. In uniform or plain clothes Uniform

Probable date and place of attestation	14th Sept. 1939 Canada
Probable date of desertion or beginning of absence and from what place	9th December 1941. Whitley, Surrey
Name occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	D. S. R 36 James Affleck Birmingham City Police
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given	R 36 10 am this morning for prisoner and he admitted being an absented

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is an absentee with leave from the before-mentioned Corps.

Geo A Bryson Signature of Committing Magistrate.
Victoria Lawn Residence
Birmingham Post Town
13/1/43 Date of Signature

x R. Degagne Signature of Prisoner
James Affleck D.S.R.36 Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming.

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was [illegible] the ..... day of ..... for the purpose of obtaining [illegible]

[illegible] Signature of Magistrate.
D.A.P.M. Residence
CANADIAN MILITARY POLICE Post Town
LONDON AREA Date of Signature

Care should be taken to insert Army No. and Rank.
Insert "was apprehended" or "surrendered," as the case may be.
It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

CHARGE 4 copy Army Form B 252
(See King's Regulations)

Royal 22nd Regt. Regiment

"B" Coy. Battery / Squadron / Troop or Company

CHARGE against No. E-4129 Rank Pte

Name Degagne R.

Place Birmingham Date of Offence 14-Jan-42.

OFFENCE W.O.A.S. Was absent without leave from until apprehended by the Civil Police at Birmingham at about 2120 Hrs on the 12-Jan -42.

D.A.P.M.
CANADIAN MILITARY POLICE
LONDON AREA

Names of Witnesses :—

"R"36 D.S. Affleck J., Birmingham Civil Police.

L/Cpl Keenie, Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Statement of **EVIDENCE** in the case of
E-41929 Pte.DeGagne R.
"B" Coy.,Royal 22nd Regt.

Sir:
At London at about 1015 hrs.on the 14 Jan.42 I was on duty at No.6 Cdn.Prov.Coy.H.Q. when acting on instructions received I proceeded to Birmingham City,Central Lockup,Steel House Lane where the a/m soldier was given into my custody.He had been arrested by D.S."R" 36 J.Affleck at Birmingham at about 2120 hrs.on the 12 Jan.42.I escorted him to No.6 Cdn.Prov. Coy.H.Q. where I handed him over to the N.C.O. i/c cells to be detained.

London
14 Jan.42 P. Keenie L/Cpl.
H-16082 (P.Keenie)

Sir:
I was N.C.O. i/c cells when the a/m soldier was brought in to be detained.

London
14 Jan.42 S. G. Hayes Cpl.
B-73546 (S.G.Hayes)

REMARKS

The cdn has no complaints
[illegible]

Due to the exigencies of the service the evidence of these witnesses is not procurable in the presence of the accused. L. Cameron Lieut.

Ref: K.R.& O.(Can.)539

Regt. No. M-4129

Rank Private.

Name DeGagne P.

Regt. Royal 22nd. Regt. B.Coy.

Unit:

The following expenses were incurred in apprehending and returning the M/M soldier to his unit from London

DATE	PARTICULARS	AMOUNT		
	(Portion) 2 escorts)			
15 Jan.42.	Escort return fare from London to Worthing	0.	4.	8.
	Prisoners single fare to London from			
	Prisoners Single fare from London to Worthing	0.	4.	8.
	Escorts expense for bed, meals, bus fares and meals for the prisoner.	Nil		
	TOTAL ---------- £	0.	9.	4.

I certify that the above statement of expenses is correct and that the amounts are fair and just.

M. O'Byrne Lt.

O.C. No 5 Prov. Coy.
Canadian Provost Corps.

4

Ref: K.R.& O.(Can.)539

Regt. No. E-4129

Rank Private,

Name De.Gagne R.

Regt. Royal 22nd. Regt.

Unit:

The following expenses were incurred in apprehending and returning the H/N soldier to xxxxxxxx from Birmingham London

DATE	PARTICULARS	AMOUNT		
		£	s.	d.
15 Jan.42	Escort return fare from London to Birmingham ½(Portion)	0.	8.	6.
	Prisoners single fare to London from Birmingham	0.	8.	6.
	Prisoners Single fare from London to			
15 Jan.42	Escorts expense for bed, meals, bus fares and meals for the prisoner. ½(Portion)	0.	5.	6.
	TOTAL ---------- £	1.	2.	6.

I certify that the above statement of expenses is correct and that the amounts are fair and just.

M. O'Byrne Lt.
O.C. No 6 Prov. Coy.
Canadian Provost Corps.

B

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED.

E4139 Pte Desagne R.

(a) The accused has been in confinement awaiting trial on the present charges for nil days in Civil Custody and 12 days in military custody making a total of 12 days of which nil were spent in hospital.

(b) The present age of the accused according to his own statement is 25

(c) The date of his attestation specified in his attestation papers is 15.9.39

(d) The accused is in possession of, or entitled to no military decoration or military reward (or is in possession of or entitled to

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

for Adjutant,
ROYAL 22e REGIMENT, C.A.S.F.

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order depending with trial	By whom awarded	Remarks
Witley Camp	24-3-41	Pte		A.A. 15 (1). A.A. 40 A.A. 15 (1) A.A. 15 (1) A.A. 40.	Evidence	9 months Detention (3 months remitted)	25-3-41	F.G.C. Martial (Brigadier L.P. Page)	Stoppages of pay 16 shillings.
Released Aug 2. Remission earned 51 days.									
Witley Camp	16-8-41	Pte		A.A. 15 (1) A.W.L. from 2200 hrs 16-8-41 till 1800 hrs 22-8-41	Cpl Dube Evidence	14 days detention stoppages for 11/5 (escort)	9-8-41	Lt-Col Mathewson	
Witley	11-9-41	Pte		1) A.A. Sec 15 (1) A.W.L. from 1330 hrs 11-9-41 till 1215 hrs 12-9-41 2) A.A. Sec 40 stating a falsehood to an N.C.O.	Sgt Jatte Evidence	14 days detention	15-9-41	Lt-Col Mathewson	Forfeits 1 day's pay
In the Field	7-10-41	Pte		W.O.A.S.: A.W.L. from 0800 hrs 7-10-41 till 1300 hrs 7-10-41 Total 5 hrs	Cpl J.Gagne	3 days C.B.	8-10-41	Capt. G.Vellee.	
London	1-11-41	Pte	(1)	W.O.A.S.: A.W.L. from 0800 hrs 31-10-41 till 1035 1-11-41 (2) being in possession of a pass knowing the same to be false (3) stating a falsehood to an N.C.O. of the M.P.	L/C Russel L/C G. Taylor	21 days F.P.	5-11-41	Lt.Col Bernatchez	Forfeits 2 day's pay Forfeits 21 days pay

CERTIFIED TRUE COPY. L. Cameron Lieut

57236-8-5

S72 36-85-Ref

No. E.4129 Name Desgagne R. Sqn. Battery or Company "B" Corps R. 22e. R. Date of enlistment 15-9-39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 18-5-40 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Capt. G. Vallee. Character

M F M 6 (A F B 122)

Place	Date of offence	Rank	Cases of drunkenness	Offence	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 15-3-40 this soldier completed 6 months service and in accordance with R.O. 71 (Overseas) the above Regt'l entries were transferred from previous sheet which was then destroyed 20-10-40 Signature Comd. G. Vallee Capt.									
Odiliam	14-8-40	Pte		W.O.A.S., A.W.L. from 2230 hrs 14-8-40 till 0700 hrs 15-8-40	L/C Rivard	7 days C.B.	16-8-40	Lt. Scott	Forfeits 1 days pay
Odiliam	29-8-40	Pte		1) W.O.A.S.: A.WL. from 1100 hrs to 1215 hrs. 2) Failing to appear at the place of parade appointed by his C.O. 3) Breaking out of barracks.	Sgt Guay C.S.M. Rhoduizer	168 hrs detention	29-8-40	Major Mathewson	forfeits 1 days pay.
Louisberg	7-9-40	Pte		W.O.A.S.: A.WL. from 0815 hrs 7-9-40 till 1600 hrs 24-9-40 Total absence 17 days 7 hrs 45 mins	Sgt Miville Sgt Roy Sgt Begin	28 days	25-9-40	Maj Mathewson	forfeits 18 days pay

(P.T.O.)

LIST OF WITNESSES

in the case of

E.4129 Pte. Desgagnés R., Royal 22e.Regiment, a soldier of the Royal 22e.Regiment, Canadian Army, (Overseas).

PROSECUTION.

Lieutenant L. Cannon, Royal 22e.Regiment.

DEFENCE.

Nil.

LIST OF EXHIBITS.

in the case of

E.4129 Pte. Desgagnés R., Royal 22e.Regiment, a soldier of the Royal 22e.Regiment, Canadian Army, (Overseas).

(a) Declaration of a Court of Inquiry d/9 Dec 41.
(b) A.F.O. 1618 d/12 Jan 42.
(c) A.F.B. 252 d/14 Jan 42.
(d) Statement as to expenses incurred d/15 Jan 42.
(e) Statement as to expenses incurred d/15 Jan 42.

STATEMENT BY ACCUSED.

I, No. E.4129 Pte. Desgagnés R., desire to have an Officer assigned to represent me at my trial by F.G.C.M.

I desire the services of....Lieut. L. Cannon.....if he is available.

R Desgagné
.....Pte.

This is to certify that I have been given, free of charge, Copy of the Proceedings, documents etc., relative to my trial by F.G.C.M.

R Desgagné
..... Pte.

19 Jan 42.

A

MEDICAL CERTIFICATE.

This is to certify that Reg No. E 4129 ..... (Rank) PTE.

(Name) DECAGNE, R. of the ..... Royal 22e. Regiment, (C.A.S.F.)

(is-~~not~~) mentally and physically fit to undergo trial before

a Court-Martial and (~~is not~~) ..... is ..... fit to undergo Deten-

tion with or without hard labour.

Signed. [signature]

Unit. M.O. R 2 2 Regt.

In the field,

Date. 24-1-42.

[signature]

MEDICAL CERTIFICATE.

VNN°63

PTE DESGAGNES JG

Correspondence to be PINNED here.

RECORDED AT CMHQ IN AB 169 NNN 63

CERTIFIED TRUE COPY

R Cordeau Capt.

(R. CORDEAU) Captain.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-fifth day of April, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ "JPEB"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1.—Three Officers to form the Court.)~~ "JPEB"

~~*(2.—A Field Officer as President.)~~

~~(or the following reasons, namely:—]~~ "JPEB"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H McD Horsey	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	L A Duplisea	Carlt & York R
Lieut	G N Budreski	West NSR
Lieut	F S J Hogan	R 22e R

Waiting

*Must be signed personally by the Officer actually in convening at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "P E Bernatchez"

Commanding 3 Cdn Inf Bde

Convening Officer.

G32

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
G57819 Pte Jean Georges DESCAGNES R 22e R	First Charge Sec 12(1)(a) AA	Guilty	Guilty To undergo penal servitude for a period of 4 years. 27 April 44 "RMDH"	I reserve findings and Confirmation of sentence for higher authority 29 April 44 "J P E Bernatchez"Brig Comd 3 Cdn Inf Bde

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "J P E Bernatchez" Brigadier (Signed) "B McD Horsey" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27 day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) E-4690 Pte P Landriau
*(4. [redacted])

*Omit if not applicable.

were duly sworn.

Signed this 27 day of April 1944.

"B McD Horsey" Major
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (*b*) on page 782 M.M.I. 1929.

[redacted]

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*[redacted] "J P E"

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of G.57819 Pte Descagnes 22e R

(*a*) (Dated) 12 June 1944 (Signed) J. N. Gauthier (?) Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E-57819 and in my opinion Pte Name Desgagnes J G of Royal 22E Regt and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station In the field.

Date 27th April 1944

"J Brook" Capt.
Medical Officer.

"RMcDH"

Army Form A 9.

A

**Form of Proceedings for General and District Courts - Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at in the Field on the 27 day of April 1944 by order of Brigadier P. E. Bernatchez, D.S.O.

Commanding 3 Cdn Inf Bde

Dated the 25 day of April 1944

President.

Major	R. McD Horsey	C & Y

Members.

Capt	L. A. Duplisea	C & Y
Lieut	G. N. Budreski	W.N.S.R.

Trial of *G-57819 Pte Jean Georges Desgagnes ~~Judge Advocate~~.
R 22e R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N A is not available to serve owing to , waiting member takes his place as a member of Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court

Prosecutor, †Lieut P A Tremblay R 22e R

~~Counsel~~ § or defending officer †Lieut. L.A.R.DesRosier R22R

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No sir

(N.B. — If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.

* Here insert No., Rank, full Name, Regiment, and Appointment (if any)
† Here state Rank and Name, and Regiment (if any)
§ Qualification to be stated.

3467 - PMEI/5,000 - 3/43

B

The President, members and [redacted] are duly sworn.

[redacted]

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

~~Guilty~~

Are you guilty or not guilty of the (first) charge against you, which you have heard read? *Question to the accused.*

Guilty ~~Nil~~ *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

NA *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

NA *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

NA *Answer.*

The accused having pleaded Guilty to The charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of Not Guilty, the Court will not proceed upon the record of a plea of Guilty, until after the finding on that other charge. *Instruction.*

CHARGE SHEET

The Accused C.57819 Private Jean Georges DESCADRES a soldier of "A" Coy, Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service, is charged with:-

1st Charge: WHEN ON ACTIVE SERVICE
A.A. Sec 12(1)(a) DESERTING HIS MAJESTY'S SERVICE

In that he

In the field on 14 Mar 44 when under orders to participate in an attack on "King Bird" absented himself without leave from 1845 hrs on 14 Mar 44 until 0500 hrs 15 Mar 44, with intent to avoid taking part in such attack.

In the Field
1 Apr 44.

"J V Allard"
(J V Allard), Lt-Col.,
Commanding Royal 22e Regiment.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
25 Apr 44

"J P E Bernatchez"
(J P E Bernatchez) Brigadier,
Commanding 3 Cdn Inf Bde.

"BMcDH"

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*([redacted])

The accused G-57819 Pte Jean Georges Desgagnes
is found guilty of The charge

†The summary (~~or abstract~~) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says:—

NA

(*or* hands in a written statement which is read, marked , signed by the President, and attached to the proceedings.)

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on plea of «Not Guilty.»

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of «Guilty,» the Court shall alter the record, and enter a plea of «Not Guilty,» and proceed with the trial accordingly.

D

The prosecution is closed

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer.

Question. Do you intend to call any other witness in your defence?

Answer.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT.

(i) when the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and address which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page *(see overleaf.)*

(Where the accused does not give evidence upon oath)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says †

(hands in written address which is read, marked signed by the President and attached to the proceedings.)

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see instructions to the Court above.)

E

Findings.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty"

[redacted]

The Court find that the accused **Guilty of the charge.**

Proceedings on Conviction before Sentence

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

[redacted]

Lieut. P. A. Tremblay.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by Witness.* **Yes**

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked **D4E** signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* **Yes**

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* **Yes**

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* **Yes**

Instruction.—If by reason of the nature of the service of the accused in a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to this fact, and the Court must inquire into the nature and amount of that additional punishment.

Cross-examined by the accused.

No

Question to the accused.

Do you wish to address the Court? *Answer.* **No**

The Court is closed for the consideration of the sentence

F

Sentence.

Sentence.

The Court sentence the accused

See schedule.

SUMMARY OF EVIDENCE

In the case of G.57819 Pte Desgagnes J.Ch., a soldier of "A" Coy, Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness: For the prosecution

Lieut F. de St-Victor, Royal 22e Regiment.

A written statement purporting to be signed by the witness is read over to the accused.

A statement marked Exhibit "A" is attached to the Summary.

The accused does not require the presence of the witness for cross-examination.

"H. Tellier" Capt.
Officer taking Summary

2nd Witness: For the prosecution.

E.5898 Sgt. Asselin M., Royal 22e Regiment.

A written statement purporting to be signed by the witness is read over to the accused.

A statement marked Exhibit "B" is attached to the Summary.

The accused does not require the attendance of the witness for cross-examination.

"H. Tellier" Capt.
Officer taking Summary.

"BMeDH"

The accused having been duly cautioned in French in accordance with R.O.1424 reserves his defense.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (C), (d), (e), (f) and (G) were duly complied with.

"H. Tellier" Capt.
Officer taking Summary

In the Field
1 Apr 44.

"AMcDH"

EXHIBIT "A"

In the case of G-57819 Pte Desgagnes J.G. Royal 22e Regt.

Lieut de St-Victor F. Royal 22e Regiment.

I am Platoon Commander of no. 7 Pl., "A" Coy, Royal 22e Regiment. At about 1800 hrs on the 14 May 44 I saw G.57819 Pte Desgagnes JG in a billet used as the kitchen of "A" Coy. I warned him to get ready for an attack on "King Bird" (an enemy outpost) that evening. When the platoon was ready outside the billets, at about 1815 hrs, roll was called and Pte Desgagnes answered to his name. At about 1845 hrs, at the F.U.P., D.56051 Cpl. Thibeault R. told me G.57819 Pte Desgagnes J.G. is missing, is not with the section. I checked the section but Pte Desgagnes J.G. was not there. He did not participate in the action that followed. I did not see him until the following morning at about 0500 hrs.

"F. R. de Saint Victor" Lieut.

- -

EXHIBIT "B"

E.5898 Sgt. Asselin M., Royal 22e Regiment.

"I am platoon sergeant of no. 7 pl. At about 1846 hrs the 14th March 44 when the platoon was forming up for an attack G.57819 Pte. Desgagnes J.G. did not want to take his place in his section, saying: "It's not dark enough to attack", or words to that effect. I told him to obey his section commander and take his place in the section, which he did. After the attack, when we were occupying a defensive position, D.56051 Cpl. Thibeault R. came to me and said, G.57819 Pte. Desgagnes has left, some of the other men want to do the same. I did not see G.57819 Pte. Desgagnes J.G. until the next morning when I returned to the billets.

"M. Asselin" Sgt.

"[illegible]DM"

No. B-57819 Name Desagnes J G | Sqn, Battery, or Company | Corps INF. | Date of enlistment 9-4-42 | GC Badge | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/134 (3435)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of 1944	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28Jan	Pte		AA Sec 40. Absent from guard mounting.	Cpl Grondin Sgt.Boisseault	Forf 3 dys pay (FRAI 149(2) 29 Jan		Lt-Col. J V Allard	
In the Field	24Feb	Pte	(1)	A A Sec 15(1) AWL from 2200 hrs 15-2-44 till 1450 hrs 17-2-44	CSM Chapdelaine	5 days pay	27-2-44	Major J G Charlebois	Forf 7 dys p (FRAI 149(1)(A Tot Forf 12 days pay
		"LMcDH"		Certified true copy of original in my possession 11 Apr 44 "P. A. Tremblay" Lieut.					

(PTO)

Spare copy - HHH 63

CERTIFIED TRUE COPY

R Cordeau Capt.
(R. CORDEAU) Captain.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-fifth day of April, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ "XXXX" "JPEB"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint:—~~

~~*(1) Three Officers to form the Court~~ XXXXX "JPEB"

~~*(2) A Field Officer as President~~

~~for the following reasons, namely:—~~ XXXXX "JPEB"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H McD Horsey	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	L A Duplisea	Carlt & York R
Lieut	G N Budreski	West NSR
Lieut	F S J Hogan	R 22e R

(waiting)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "P. E. Bernatchez" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G57819 Pte Jean Georges DESGAGNES R 22e R	First Charge Sec 12(1)(a) AA	Guilty	Guilty	
			To undergo penal servitude for a period of 4 years.	I reserve findings and Confirmation of sentence for higher authority
			27 April 44	29 April 44
			"RMDH"	"J P E Bernatchez" Brig Comd 3 Cdn Inf Bde
				"I confirm the Findings and sentence and direct that a part of the sentence not exceeding two years shall be served in a Military Prison."
		LONDON 8 Jun 44.	(Signed)	"P.J. MONTAGUE" Maj-Gen Major General i/c Administration Canadian Military Headquarters.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "J P E Bernatchez" Brigadier (*Signed*) "B McD Horsey" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27 day of April, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) E-4690 Pte P Landriau
*(4. ~~The officers under instruction~~)

were duly sworn.

*Omit if not applicable.

Signed this 27 day of April 1944.

"B McD Horsey" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of "A.C.I. 670 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment, or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~ "JPEB"

Signed this 8th day of June 1944.

(signed) P. J. Montague Maj. Gen

Confirming Officer.

Major General i/c Administration
Canadian Military Headquarters

Promulgated and extracts taken in the case of G57819 Pte DESGAGNES, JG R. 22e R.

(a) (Dated) 12 June 1944 (Signed) [illegible] Capt.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

PRIOR V [illegible] SEL 51

FROM: CANCELLERY 091140B

TO: CDR [illegible] AAI

AS014 BT

RESTRICTED (.) PARA (1) ONE (.) FGCM PROCEEDINGS E57619

PTE [illegible] JG E5575 PTE GAUDET I E5465 PTE FROULX S

ALL SERIAL 41/1 RECEIVED 5 JUN 44 ENDORSED BY MGA 8 JUN (.)

QUOTE (.) I CONFIRM THE FINDINGS AND SENTENCE AND DIRECT THAT

A PART OF THE SENTENCE NOT EXCEEDINGS TWO YEARS SHALL BE SERVED

IN A MILITARY PRISON (.) UNQUOTE (.) PARA (2) TWO (.) FGCM

PROCEEDINGS E5120 PTE CHAMBERLAND J E15045 PTE PARADIS R BOTH

SERIAL 41/1 RECEIVED 5 JUN ENDORSED BY MGA 8 JUN (.) QUOTE (.)

I CONFIRM THE FINDING(S) AND SENTENCE (.) UNQUOTE (.) CONCUR OPINIONS

EXPRESSED IN 1 CDR 1-4-1(ADJA) D 21 MAY 44 (1CDR/5-4-1(ADJA)D 21

MAY 44

BT 092 45 HJN B

RD SEL 51 092046 WW K

CHARGE SHEET

The Accused G.57819 Private Jean Georges DESGAGNES a soldier of "A" Coy, Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service, is charged with:-

1st Charge: WHEN ON ACTIVE SERVICE
A.A. Sec 12(1)(a) DESERTING HIS MAJESTY'S SERVICE

In that he

In the field on 14 Mar 44 when under orders to participate in an attack on "King Bird" absented himself without leave from 1845 hrs on 14 Mar 44 until 0500 hrs 15 Mar 44, with intent to avoid taking part in such attack.

In the Field
1 Apr 44.

"J V Allard"
(J V Allard), Lt-Col.,
Commanding Royal 22e Regiment.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
25 Apr 44

"J P E Bernatchez"
(J P E Bernatchez) Brigadier,
Commanding 3 Cdn Inf Bde.

"BMcDH"

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E-57819
and in my opinion Pte Name Desgagnes J G of Royal 22E Regt
and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.
Station In the field.
Date 27th April 1944

"J Brook" Capt.
Medical Officer.

"RMcDH"

Army Form A 9.

A

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts - Martial.

Proceedings of a Field Court-Martial held at in the Field on the 27 day of ~~April~~ General April 1944 by order of Brigadier P. E. Bernatchez, D.S.O.

Commanding 3 Cdn Inf Bde

Dated the 25 day of April 1944

President.

Major R. McD Horsey C & Y

Members.

Capt L. A. Duplisea C & Y

Lieut G. N. Budreski W.N.S.R.

Trial of *G-57819 Pte Jean Georges Desgagnes ~~Judge Advocate~~.
R 22e R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N A is not available to serve owing to , waiting member takes his place as a member of Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court

Prosecutor, †Lieut P A Tremblay R 22e R

~~[illegible]~~ § or defending officer †Lieut. L.A.R.DesRosier R22R

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No sir

(N.B. — If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.

* Here insert No., Rank, full Name, Regiment, and Appointment (if any)
† Here state Rank and Name, and Regiment (if any)
§ Qualification to be stated.

3687 / PMEJ / 5 000 - 8-43

B

The President, members and ~~Judge Advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

~~Military~~

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Question to the accused

~~Is~~ Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read?

Question.

NA

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read?

Question.

NA

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read?

Question.

NA

Answer.

The accused having pleaded Guilty to The charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which where is a plea of Not Guilty, the Court will not proceed upon the record of a plea of Guilty, until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*(~~The Court having been reopened, the accused is again brought before it, and the charge to which he has pleaded Guilty is read to him again.~~)

The accused G-57819 Pte Jean Georges Desgagnes is found guilty of The charge

†The summary (~~or abstract~~) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says:—

NA

(*or* hands in a written statement which is read, marked signed by the President, and attached to the proceedings.)

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a *separate* sheet in the same manner as on plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

D

The prosecution is closed

Defence

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer.

Question. Do you intend to call any other witness in your defence?

Answer.

Question. Is he a witness as to character only? *Answer.*

INSTRUCTIONS TO THE COURT.

(i) when the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and address which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page *(see overleaf.)*

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says †

(hands in written address which is read, marked signed by the President and attached to the proceedings.)

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

E

Findings.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty"

~~The Court is cleared for the consideration of the finding.~~

The Court find that the accused Guilty of the charge.

Proceedings on Conviction before Sentence

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*~~The Court being reopened, the accused is again brought before it~~

Lieut. P. A. Tremblay.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by Witness.*

Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked D&E signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

No

Instruction.—If in cases of the nature of the service of the accused in a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to this fact, and the Court must inquire into the nature and amount of this additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence

F

Sentence.

Sentence.

The Court sentence the accused

See schedule.

SUMMARY OF EVIDENCE

In the case of G.57819 Pte Desgagnes J.CG., a soldier of "A" Coy, Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness: For the prosecution

Lieut F. de St-Victor, Royal 22e Regiment.

A written statement purporting to be signed by the witness is read over to the accused.

A statement marked Exhibit "A" is attached to the Summary.

The accused does not require the presence of the witness for cross-examination.

"H. Tellier" Capt.
Officer taking Summary

2nd Witness: For the prosecution.

E.5898 Sgt. Asselin M., Royal 22e Regiment.

A written statement purporting to be signed by the witness is read over to the accused.

A statement marked Exhibit "B" is attached to the Summary.

The accused does not require the attendance of the witness for cross-examination.

"H. Tellier" Capt.
Officer taking Summary.

"[redacted]McDH"

The accused having been duly cautioned in French in accordance with R.O.1424 reserves his defense.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the prensence and hearing of the accused and that rules of procedure 4 (C), (d), (e), (f) and (G) were duly complied with.

"H. Tellier" Capt.
Officer takign Summary

In the Field
1 Apr 44.

"BMcDH"

EXHIBIT "A"

In the case of G-57819 Pte Desgagnes J.G. Royal 22e Regt.

Lieut de St-Victor F. Royal 22e Regiment.

I am Platoon Commander of no. 7 Pl, "A" Coy, Royal 22e Regiment. At about 1800 hrs on the 14 Mar 44 I saw G.57819 Pte Desgagnes JG in a billet used as the kithcen of "A" Coy. I warned him to get ready for an attack on "King Bird" (an enemy outpost) that evening. When the platoon was ready outside the billets, at about 1815 hrs, roll was called and Pte Desgagnes answered to his name. At about 1845 hrs, at the F.U.P., D.56051 Cpl. Thibeault R. told me G.57819 Pte Desgagnes J.G. is missing, is not with the section. I checked the section but Pte Desgagnes J.G. was not there. He did not participate in the action that followed. I did not see him until the following morning at about 0500 hrs.

"F. R. de Saint Victor" Lieut.

EXHIBIT "B"

E.5898 Sgt. Asselin M., Royal 22e Regiment.

"I am platoon sergeant of no. 7 pl. At about 1846 hrs the 14th March 44 when the platoon was forming up for an attack G.57819 Pte. Desgagnes J.G. did not want to take his place in his section, saying: "It's not dark enough to attack", or words to that effect. I told him to obey his section commander and take his place in the section, which he did. After the attack, when we were occupying a defensive position, D.56051 Cpl. Thibeault R. came to me and said, G.57819 Pte. Desgagnes has left, some of the other men want to do the same. I did not see G.57819 Pte. Desgagnes J.G. until the next morning when I returned to the billets.

"M. Asselin" Sgt.

"BMcDH"

No. K-57819 Name Desgagnes J G Sqn, Battery, or Company | Corps INF. | Date of enlistment 9-4-42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence 1944	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	28Jan	Pte		AA Sec 40. Absent from guard mounting.	Cpl Grondin Sgt.Boisseault	Forf 3 dys pay (FR&I 149(2)	29 Jan	Lt-Col. J V Allard	
In the Field	24Feb	Pte	(1)	A A Sec 15(1) AWL from 2200 hrs 15-2-44 till 1450 hrs 17-2-44	CSM Chapdelaine	5 days pay	27-2-44	Major J G Charlebois	Forf 7 dys pa FR&I 149(1)(A Tot Forf 12 days pay

"DMcDH" Certified true copy of original in my possession 11 Apr 44

"P. A. Tremblay" Lieut.

(PTO)

HG-143

Cte. Desgrosilliers, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-126351 Pte Hoogvorsthuis, 4 Can Armd Regt Pl. 2 Can Army Corps RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	GUILTY	except that the revolver was not loaded.
2nd	NOT GUILTY	GUILTY	except that he did not leave the vehicle unattended and that the convoy was proceeding from the business area to rest lines at Hasselaere
3rd	NOT GUILTY	GUILTY	except that he was not improperly in possession and that it was a Belgian Browning and not a P. 38
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2. RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~44~~, beginning on (date) ~~_____~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which 0 days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for six months.

(Sgd) Gordon A Jones Capt 23 Oct 44 (Sgd) E.W. Trombley Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 66(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attested before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) No

(1. AA 57A. Delete if not used.)

Date 26 Oct 44 (Sgd) E.W. Trombley Brig
Commanding 2 Can Armd Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-126351 Pte Hoogvorsthuis L 4 Can Armd Regt Pl RCASC	29 Oct 44	H Lauthier Lieut

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160.

FIELD GENERAL COURT-MARTIAL

(Crown Copyright Reserved)

Convened by Order of: Brig. E.R. Luther Comd 2 Can Armd Bde dated 18 Oct 44

ACCUSED.

(As to trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent substantive rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-126351	Pte	Lucien Hoogvorsthuis		4 Can Armd Div RCASC

PROCEEDINGS REVIEWED 15 Dec 44

J C Jones Capt

REVIEWING OFFICER.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 21, 22, 23 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for paths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~and~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) 54.

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to DELISLE RAMOND, S/Sgt FMN FRENCH to ~~be~~ FRENCH ~~sworn~~ as interpreter? Ans NO

B-41296 Pte GAUTHIER, L.R.I. FMN BROKEN TO ENGLISH NO

The Interpreter is sworn.(1) ~~Do you object to be~~ ~~as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No 2 (1) (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.W. Trombley	4 Can Armd Regt RCA
Member	Capt	H.H. Porter	3 Can Armd Regt RCA
Member	Lt	E.B. Forde	HQ 2 Can AGRA Coy RCE
Judge-Advocate	Capt	G.A. Jones	HQ 2 Can Corps
Prosecutor	Capt	J.S. Mellon	2 Can Army Coy RCASC
Defending Offr	Lt	J. Geoffrion	4 Can Armd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 119. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused ~~are~~ before arraignment make(s) (no) ~~all~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is about to be cleared~~ to consider the Instrs on Procedure after Arraignment at top of p 2. The findings are continued on Record Form P & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes [redacted] (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ 3d.
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I will give evidence under oath. Do you intend to call witnesses on your behalf? Ans Yes sir. Are they witnesses as to character only? Ans Yes sir.
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court [redacted] (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ 3d.
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted] as to Character and Particulars of Service(1), and certified true copy [redacted] of Conduct Sheet[redacted](1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier[redacted] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(2)
(1. *MFB 255 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement[redacted] and Conduct Sheet[redacted] and in mitigation of punishment?(1) Ans yes sir by my defending officer.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer with anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately, see RP 71(B). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), 96(6), p 130. When accused commits under sentence of imprisonment or detention see AA 64(3)(b), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

[illegible]

CHARGE SHEET

The accused D-126351 Pte Lucien Desgroseilliers, 4 Cdn Med Regt Pl MCASC, 82 Cdn Arty Coy MCASC, a soldier of the Cdn Army Overseas is charged with

FIRST CHARGE

Army Act
Sec 41

When on Active Service committing a civil offence, that is to say, Common Assault,

in that he

in the field at about 0730 hrs 2 Oct 44 pointed a cocked revolver at Maria Pattijn, Cafe de Nieuve Sneppe, Meulebeke, Belgium.

SECOND CHARGE

Army Act
Sec 40

When on Active Service, Conduct To The Prejudice of Good Order and Military Discipline,

in that he

in the field between about 0815 hrs 2 Oct 44 and about 1630 hrs 3 Oct 44, when he was driver of a 6-ton Mack Lorry No. CL 4252092 in convoy from a bivouac area near Inglemunster, Belgium to Queen Ammunition Dump near St. Nicolas, Belgium at about 1130 hrs 3 Oct 44 left the vehicle unattended in front of the Cafe Detroit near Inglemunster, Belgium and having been ordered to proceed to this destination and being given the route in writing was found at about 1630 hrs 3 Oct 44 with the vehicle parked on Winkel Street Ghent, Belgium.

THIRD CHARGE

Army Act
Sec 40

When on Active Service, Conduct to the Prejudice of Good Order and Military Discipline,

in that he

at about 1630 hrs 3 Oct 44 was improperly in possession of a P-38 revolver and so carelessly handled the same as to cause it to be discharged.

(C. C. Hollit) Major
Officer Commanding
82 Cdn Arty Coy MCASC

In the Field
16 Oct 44

To Be tried by F.G.C.M.

(E.W. Suttie) Brigadier
Comd 2 Cdn ACRA

18 Oct 44

2.

Eu 5

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 126351	Pte.		Lucien Desgroseilliers	82 Cdn Arty Coy RCASC	

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~xxxx~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 18 Oct 44 endorsed by me, ~~xxxxxxxxxxxxxxxxxxxxxx~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.W. Trembley	4 Cdn Med Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	H.H. Carter	3 Cdn Med Regt
Lieutenant	E.B. Forde	HQ 2 Cdn AGRA Sig Sec

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieutenant	R.C. Blatchford	3 Cdn Med Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Captain	G.H.Jermyn	HQ 2 Cdn Corps

On Active Service in the Fd

in Belgium (Country.) — [signature] (Signed personally. RP 105 fn 2.) — Brigadier (Rank.)

Date 18 Oct 44 — Commanding 2 Cdn AGRA Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 2) 40/P & S/1897 (6143) — (See overleaf for oaths and notes for use on trial.)

82 AC/2-8

MED OFFR'S CERTIFICATE

KR (Can) Para 557

I certify that I have this morning examined No D126351 Pte. Desgroseilliers, L.

of 4 Cdn Med Regt Pl., RCASC and in my opinion he is fit to ~~undergo~~ undergo trial by court-martial.

Sta Field

Date 21 Oct 44

(MO)

Ex C 4

This is to certiy that I have medically examined D126351 Pte. Desgroseilliers, L. and is fit/unfit to stand trial.

Medical Officer.....

Field

22 Oct 44

ARMY FORM C2136 (Small)
40/P&S/2433(5945)(Pads of 100)

MESSAGE FORM

Call | Srl No. | Priority | Transmission Instructions | Register No. 5.

ABOVE THIS LINE FOR SIGNALS USE ONLY

FROM (A) Originator | Date—Time of Origin | Office Date Stamp

For Action

TO

(W) For Information (INFO)

Originator's No. | Message Instructions | GR

This is to certify that I have medically examined D126351 Pte. Desgroseilliers, L. of the 4 Cdn Mad Regt Pl., RCASC and is fit/[redacted] to stand trial

Field
23 Oct 44

[signature]
Medical Officer

This Message may be sent as written by any means { except / wireless }

Signed

If liable to be intercepted or to fall into enemy hands, this message must be sent in cipher

Signed

Originator's Instructions Degree of Priority

Time | System | Op

TBI or TOR

Time cleared

Prosecution

Third Witness

D-121600 Sgt. Lemon, A. sworn, states.

I am Tpt Sgt of 4 Cdn Armd Regt Pl. RCASC. I was on a convoy with my platoon on 2 Oct 44. The accused was driver of a lorry in the convoy. On that day the convoy broke-halted about 3 miles N of Regt Commander on the road to Bracieux. The accused was present in the bivouac area on the night 1/2 of 1st Oct. The next morning I lined up my convoy. PO Sharp surveillance was in his lorry C.L 427-2092 in the convoy. I gave instructions to the section corporals to follow the Diamond "Crown" route back to the unit. I was at the rear of the convoy. About 1630 hrs the same day I found PO Sharp surveillance was moving with his vehicle. The convoy and the accused had been over this route before.

No cross-examination.

By the court.

Distance say the mileage between the two checks.

R.P. 73 (a) complied with.

Second Witness

Capt. N.H. Rigney, sworn, states.

I am O.C. 4 Cdn Armd Regt Pl. RCASC. On 2 Oct at about 1600 hrs Lt. E.E. Austin Tpt. officer of the pl. reported to me. The following day with Sgt Hutchison, S. I searched the area of Regt Commander for PO Sharp surveillance the accused, and PO Brisbois. At about 1130 hrs 3 Oct 44. I saw a 6 ton truck. C.L 427-2092 parked outside a café 3/4 miles N of Regt Commander There was no one in the vehicle. I saw the two men behind the café, outside the café. They were approximately 6 feet from the vehicle. The accused was there. PO Sharp surveillance was the driver of the vehicle. I questioned him and he told me he had lost the convoy the previous day and had decided to stay in the vicinity. I told him he had made this trip before and should know the route. He then said he had had trouble with his truck and couldn't follow the convoy. I gave him his route in writing and ordered him to proceed to Villers Canon dumps in the vicinity of St Nicolas as Lt Austin was expected that night and to know the new location of the Pl. PO Sharp surveillance got into his truck and drove along the highway towards the dump. I gave him specific orders to report to Lt. Austin. That was on 3 Oct. He gave two excuses. The first that he had lost the convoy. the second that he had trouble with his steering. I next saw PO Sharp surveillance at about 0900 hrs on 5 Oct. in Orleans where he was being held under close arrest. I brought him back to the unit. He was sober when I saw him outside the café Metrovit, North of Regt Commander.

The accused is authorized to carry a Sten Gun 9 m.m. as his weapon.

No cross-examination

By the Court

I always give my orders and explanations in English. They all understand English. The vehicle was parked on a side street. The steering would have to be in good condition to get it into this street.

R.P. § 3(a) complied with.

Third Witness

D-127009 Sgt Stutzkin, S. sworn states.

I am a member of 4 Cdn Med Regt Pl RCASC. I was with Capt Regan on 3 Oct outside the Café Detroit near Inglemunster. P.C. Hesgroveillers explained that there was a fault in his steering and he couldn't make a left turn. Capt Regan told him he was under arrest and gave him a route card to follow up to Queen Amm dump. where he was to meet Lt. Austin who was coming up with another convoy. Capt Regan asked him if he understood the route card and he said he did. I saw the vehicle pulling out in the proper direction. He was a motorcyclist previous to being a lorry driver. He has been a lorry driver for about a year.

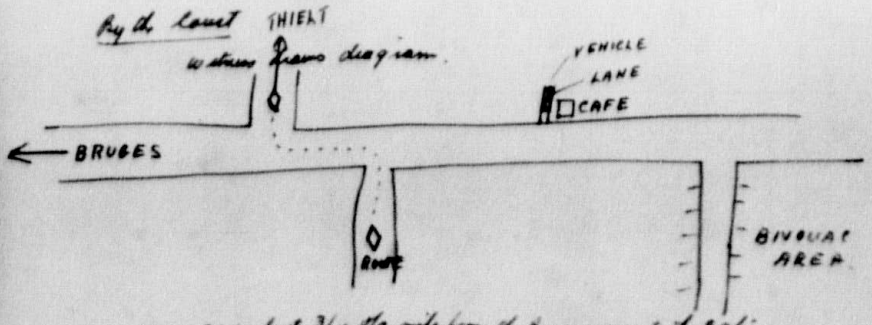
The café Detroit is about a mile off the Diamond Route which was the one taken by the convoy.

Cross-examination

It was on a branch off the Diamond Route. I know where the bivouac area was. A Mack truck leaving the bivouac area and going to the Diamond Route was pass the place where we found the truck on 3 Oct.

By the Court

Witness draws diagram.



It is about 3/4 of a mile from the bivouac area to the café.

RP § 3(b) complied with.

Fourth Witness

Lt. E.E. Austin, sworn states.

I am transport officer of 4 Cdn Med Regt Pl RCASC. I was in charge of the convoy to Ace dump on the Bruges-Gent road. The convoy bivouaced on a lane off the main Bruges-Inglemunster highway ~~[illegible]~~ in the vicinity of Maelembeke. The accused was a driver in the convoy. The café de Nieuwe Snippe is at the mouth of the laneway in which we bivouac had on the opposite side of the road. On the morning of 2 Oct XX we left the bivouac about 0730

hours for Hucqueliers. On arrival there were several lorries missing one of which was driven by Sleegrosselliers. at 1600 hrs all had arrived except Sleegrosselliers.

~~From that area~~ I had orders to arrive at Queen dump with a load from Sleippe the next day but due to difficulties I did not arrive until the morning of the 4th. of Oct. The accused did not report to me nor did I see him there.

I next saw the accused on 5 Oct. 44 at our Pl. area. He was under close arrest.

I do not recognise the name Winkel St. I do recognise Stetroit cafe. It would be on the route from Ace dump to bivouac area.

On 1 Oct at about 1800 hrs the convoy in which the accused was a driver left Ace dump, near Bruges. The convoy bivouaced on a lane off the main Bruges - Ing lemunster highway in the vicinity of Muelebeke at about 1900 hrs on 1 Oct. at 0830 hrs 2 Oct the convoy left the bivouac area to proceed to the unit area at Hucqueliers. On arrival at the unit area there were several lorries missing one of which was driven by the accused. By 1600 hrs all had arrived except Sleegrosselliers. The accused is familiar with the route from the bivouac area to Hucqueliers. He has bivouaced in that area and has made the same trip three or four times.

On arrival at Hucqueliers we received orders to go to Sleippe for a load of amn. and take it to Queen Amn dump. which is located near St. Nicolas. We arrived at Queen Amn dump at about 1000 hrs 4 Oct. I did not find the accused there.

That was our first trip to Queen dump.

No cross-examination

By the Court

A person instructed to go from the café de Nieuwe Snippe, or the Stetroit cafe, to the Queen Amn dump would proceed a mile on the way to Bruges then strike the main route to the dumps which is marked. I do not know whether or not the accused can read.

R.P. 83(b) complied with.

Fifth Witness

E-49417 Pte Bernard, G. sworn states

I am the Platoon fitter for 4 Cdn Med Regt Pl. On 5 Oct 44 I examined Lorry No. CL 4252092. I found the steering gear in good condition. I did not find anything wrong with it.

Cross-examined

I road tested the whole ~~It was not road tested when~~ Gt. It was not loaded when I road tested it.

R.P. 83(b) complied with.

Sixth Witness

Maria Pattijn, Meulebeke, Belgium sworn states.

On 2 Oct 44 I was in the cafe and he ~~was coming~~ came in. I was sitting in the bar. He asked me for a beer and paid for it. after he had paid. He took out his revolver. I was afraid but the other soldiers who were in the cafe said it was not loaded. The soldier was standing at the corner of the bar about two feet away from me. He took out the revolver and pointed it at me. I went out of the door because I was afraid. I do not know whether the revolver was loaded or cocked or not. I was standing behind the bar. The soldier said nothing. He just pointed the revolver at me. I don't know why he pointed the revolver at me. There was money behind the bar. I turned to go into the kitchen. Just at this moment the patron came in from the kitchen. It was a quarter to eight in the morning. I was afraid he would shoot. He had been in the cafe' before. He had his finger on the trigger.

No cross-examination

By the court

The soldier who pointed the revolver at me is sitting there (indicating accused by pointing)

RP 83 (b) complied with.

Seventh Witness

Hector Pattijn, Meulebeke, Belgium sworn states,

Maria Pattijn is my cousin. She works in the cafe de Nieuwe Snappe. I have seen this man before in my cafe. ~~He pointed a revolver at me~~ ~~with the magazine out, not cocked, between eight and nine in the morning.~~ Maria Pattijn was going to the kitchen from behind the bar. She appeared normal to me. The soldier had a revolver in his hand with the magazine out, not cocked. I told the soldier to put the revolver away. I did not see the ~~accused~~ him S.S. point a revolver at Maria Pattijn.

No cross-examination

RP 83 (b) complied with.

Eighth Witness

H-19039 Sgt Mark, W.S. sworn states.

I am a member of HQ 7 Cdn Pro Coy, Ghent detachment. This is Pte Hesgroseillier. The first time I saw him was in Winkel St in Ghent. He was behind the wheel of a large Mack truck. I questioned him. I stepped up onto the step of the truck. The first thing that caught my eye was a ~~[illegible]~~ pistol. It was similar to this. The pistol was lying on the glove compartment door ~~[illegible]~~ He put his hand on the pistol and it was discharged. ~~[illegible]~~ Pte ~~[illegible]~~ Brusbois was with the accused. The bullet went into the glove compartment and through this pay book. I think he knew what he was doing. ~~He had~~ Ss. Each of them had a bottle of beer in his hand and there was a case of beer in the cab at Brusbois' feet. I asked Pte Hesgroseillier for the pistol but he refused to give it to me. After some argument I persuaded him to drive to detachment headquarters where he was disarmed.

I examined the revolver and found 3 live rounds and 1 discharged case.

Cross-examination

I saw his hand grasp the butt of the pistol and at the same time it discharged. I didn't see him point the pistol at any one. Pte Brisebois was seated in the cab directly behind the glove compartment on the right hand side at the time the pistol was fired. I don't know anything about the strength of the beer. The accused was placed in Close arrest at 1700 hrs.

Re-examined

I don't know why he grabbed the pistol.

By the Court

The holster was on the belt on his waist. It was a Browning pistol. This pistol is identical in type with the one I took from the accused. The belt and holster are identical with the ones taken from the accused. The number on the pistol was NO. 534. This is the revolver.

Browning Pistol No 534 is produced and marked Exhibit 'A'.

Webb belt and black leather holster are produced and marked Exhibit 'B'.

Case of beer partly consumed produced. marked Exhibit 'C'

North Witness

G-45598 L/Cpl Folster, J.A. sworn states

I am a member of No 7 Can Pro Coy Ghent detachment.

I recognize the accused. I first saw him at the corner of Winkel St. Ghent.

G.S. at about 1600 hrs 3 Oct 44.

I was with Sgt Mark. Sgt Mark went to the right and I went to the left side of the truck. I was talking to the co-driver when I heard the shot.

Cross-examination

When I heard the shot the co-driver was out of the truck.

By the Court

I'm not sure whether he was in the truck or just along side the truck when I first saw the co-driver. I couldn't say whether he just stepped out or was just around the side. The motor was running. I have been stationed in Ghent about a month. ~~I [illegible]~~ Winkel St is not part of a regular route through Ghent. It is a short way away from Diamond Route about one block.

R.P. 83 (b) complied with.

The Court consider that due to the time and distance involved it is in the interest of the Service that the Court sit on Sunday 22 Oct 44.

At 1700 hrs the Court adjourn until 1000 hrs 22 Oct 44

At 1000 hrs 22 Oct 44 the Court reassemble. Present the same members as on 21 Oct 44.

The Court is opened.

The Prosecuting Officer produces a Medical Certificate that accused is fit to undergo trial by Court-martial.

Defence

First Witness

D-126351 Pte Hesq roseilliers sworn states,

I did not point a revolver at Maria Pattyn. I was in the café. There was no disturbance. There was music and there was dancing. I can't say exactly when I left the café but I left with the others on the convoy. I stayed ~~for~~ 5 with the convoy for some distance but when it came to the turn I couldn't make it and I went right through to a fork where I turned around and tried to reach the convoy again. I turned to the right, around. Then we met a lady and asked her if she had noticed a convoy go by. She directed ~~us~~ us to the left where a tank convoy had gone. When we realized we could not reach our convoy we came back to the location at the café. We didn't want to go any further as we understood that the unit had moved and we did not know its location. I can not read or write. I can barely write my own name. I had gone to the workshop to get oil seals for my two front wheels. The NSM and Sgt told me they didn't have any and returned me to the unit. They said to continue using the lorry as it was and they would notify me as soon as parts came in. There was no oil seal left which caused the oil to leak out and with heavy loads the wheel would not turn. This is the third time the ~~[illegible]~~ steering had jammed this way. ~~They~~ It jammed once on the convoy. ~~[illegible]~~ It ~~[illegible]~~ previous to the time I missed the turn. I tightened the two end nuts in the morning as they were loose. The steering worked well after that. I did not know where the unit would be so I could not find them. I couldn't get there as I only had five tins of petrol in my vehicle. There is no other reason. We didn't get any orders in the morning about where we were going.

The next morning Capt Regan and the Sgt came. I was along side my lorry about 5, 9 or 10 feet from it. The captain gave us a route card to go to the Amm. dump. We started on our way. The needle on the gas registered empty. All I had left then was 5 jerry cans of petrol but my orders were not to use it unless I had authority from an officer. I understood the written instructions but I could not read them. When I halted the vehicle in Ghent I thought I was on the right road to the ammunition dump but I was on a minor road and I had to make a turn to get on the

main road. I had to go around a couple of blocks to get back on the road. I did not get off the road on purpose. I wanted to get back on the right road and meet the lieutenant. We ran out of gas and that's when the Provost met us. I don't know why the provost interfered with us. We had not caused any disturbance we had just stopped. The motor was still running. The first thing I knew my spare driver was getting out of the vehicle. ~~The Officer~~ Then was a vehicle of the 3 or 4 ton drivers was getting out of the vehicle. There was one officer ~~and~~ two up front and one private with a revolver in his hand who were all drunk. They fired a shot while we stopped there. Then they got into their vehicle and left in a hurry. ~~A soldier stepped onto the side of~~ The Provost Sgt stepped on the side of my vehicle and reached for my revolver in the glove compartment of my vehicle. Seeing this I stretched my hand to the pistol and as I reached it it went off. Both of our hands reached the pistol at the same time. I can't say who pulled the trigger. I didn't know who he was. I had never seen him before. We were never told that we couldn't own a revolver. We were told to register them with CMP stores and have what for it. I was alone in the truck when the revolver went off.

We had no beer in our hands. We had come in a car. When the Sgt was speaking to me the Corporal was talking to my spare driver and they were ~~on the ground~~ out of the truck.

Cross-examination:

The other witnesses are telling the truth to some extent but not all the way through. I had this revolver by A when I was in the cafe restaurant and it is the one I had with me when I was parked on A what st. We went into the cafe to get a few cans of beer. There were several soldiers in there. I bought a few cans of beer from the girl. I never touched my pistol. I do not know why she claims I pointed it at her. I asked her for beer. I said good-bye as I came in. That is all. I bought one beer. I saw the civilian witness who I am visiting my saturday, in the cafe. I don't know why he says I pointed a revolver at him. I know I did not point a revolver at any body there. I do not remember what time I entered the cafe. There was a lot of soldiers in the cafe. I do not know how many. There were some civilians there. There was around twenty people in the cafe. There was dancing. I went out with all the boys to take the convoy. I left with the convoy I was in the fourth truck in the convoy. The cafe restaurant is the first turn to the left the convoy made the left turn. I couldn't turn left. I went through. It is the third turn that has happened. I failed at the next morning. I pulled up the convoy beside the cafe restaurant because we stayed near there. I didn't know which way the unit had moved.

I understood the instructions to proceed 5 @ mon stamp. Sept. Big on case was around 1130 hrs. I saw the provost in Island around 4 o'clock. That's the first time I had been 5 @ mon stamp. ~~I had been 5 Island 1945~~ before this. I drove very slowly.

I tightened the nuts just before Capt Big on came.

That was the first time I had been in Ghent. I stopped because gasoline was short. The needle showed empty. ~~we stopped to~~ I don't know what time it was. I grabbed for my pistol because I didn't know who he was. I didn't know he was a provost. Nobody gave me authority to carry a pistol. I got it from a civilian. It was loaded. He put his hand there. I put my hand there and the shot went off. I knew it was loaded.

By the Court

I had been once to that dump. Queen dump. I knew I could find the place by asking the provost. The shooting by the people in the car in front did not frighten me. I ~~wanted to take the pistol away from the~~ did not want him to take the pistol. ~~to the provost~~ We left at 1130. The motor was still going when the provost came up. The vehicle was not loaded when the steering jammed. I had had the pistol for about a month. I did not register it with the Q.M. The order was only given four days before this happened.

By the J.A.

I have the paper Capt Regan gave me. Produces slip. Marked by D

It was about 0715 when I went into the cafe. I did not take my pistol out of my holster. I did not see any one else with a pistol in his hand. The petrol tank holds 60 or 80 gals. I am not certain. ~~It takes 3 miles~~ It makes about 3 miles per gal. My tank was nearly empty when the convoy started. I figured it would make 10 to 11 miles and may be not that much. I travelled about a mile from the bivouac area to the place where I could not make the left turn. I went about 800 yards and turned and came back to the corner. I followed the road the convoy had taken but could not catch up with them. I did not know where to go as the unit was supposed to move. So I came back to the cafe where Capt Regan found me. I had travelled about 12 to 14 miles. I got to the cafe about 1100 o'clock. Capt Regan arrived about 1130 the next morning. The vehicle was parked in a lane beside the cafe. I fold the vehicle that morning. Sometime after 1100 o'clock I started for Queen Ann dump. It was about 1600 hrs when the provost came up to us. We stopped for dinner on the road for about two hours. We travelled for at least three hours. We covered at least 50 miles. I put 5 jerry cans of petrol in the tank when Capt Regan came. There are 4½ gals in a can. I turned off onto the street the provost found us on because I thought it was the right road. The pistol was inside the glove compartment which is on the right hand side of the truck. The door to the compartment was open. I was behind the wheel on the left hand side. The Provost sgt stood on the right step of the truck. I bought the beer about half an hour before the provost caught us from a man with a cart. We slept in the vehicle and took relays to have meals.

N.P. 83 (a) complied with.

At 1700 hrs 22 OCT 44 the court adjourned until 1000 hrs 23 OCT 44
At 1000 hrs 23 OCT 44 the court reassemble, pursuant to adjournment; present the same members as on 22 OCT 44.
The court is opened and the accused brought before the court
The Prosecutor produces a medical certificate that the accused is fit to undergo trial by Court-Martial.

The defence proceeds

Second witness

D-121714 Pte Biscornette, D. sworn states.

I am a driver in the 4 Med Aqy Pl. RCASC. I am my own driver on a vehicle with Pte Langlois. I have driven Pte Haig-rouillieu, I have known it until the last about 3 days. I drove it the day before Pte Haig-rouillieu lost the convoy. The vehicle was not working properly. As we nearly ran into a house. As we turned to the rt so we made a right turn the vehicle would not come back to the left. I left Pte Haig-rouillieu lost the convoy on the morning of 20 OCT. I entered a cafe between 7 and 8 o'clock on the morning with Pte Haig-rouillieu. I don't remember the name of the cafe. I entered it at the same time as Pte Haig-rouillieu. I left about 9 o'clock. I was in the cafe all that time. Pte Haig-rouillieu left the cafe at the same time as I did to go to the convoy. Nothing unusual happened in the cafe. I was sitting at a table by my self, and could see Pte Haig-rouillieu all the time.

Cross-examination

I kept my eye on Haig-rouillieu the whole time. There was music and dancing in the cafe. There were about 20 people in the cafe. When we entered the cafe Pte Haig-rouillieu went and sat with others and I sat by my self at a table. I was not very far from Haig-rouillieu, about 3 feet. Pte Haig-rouillieu got up, sat down and went to the toilet. I kept my eye on him at all times. I saw everything Pte Haig-rouillieu did in the cafe that morning. He got up to go and have and to go to the radio to change records. I saw Marie Pattijn behind the bar in the cafe that morning. He bought us beer from her. He bought us three rounds. He got up three times to buy it. His back was not towards me. When he bought us the beer at the counter his back was to me. He had a revolver in his holster. To my knowledge he did not point his revolver at Marie Pattijn. All I know is I didn't see him point a revolver. Hector Pattijn was always behind the bar. I don't know whether he spoke to Pte Haig-rouillieu or not. I am not a particular friend of the accused. We spoke to each other. I didn't pay any more attention to him than to any of the other soldiers.

I did not report the trouble with the steering. The only time I drove his vehicle was the day before Pte Haig-rouillieu lost the convoy.

Re-examination

There was no trouble when Pte Haig-rouillieu went to get his beer. I saw Marie Pattijn go and sat at a table. I don't remember when it was

By the Court

We left the cafe together. His pistol was in the holster all the time we were in the cafe. I did not keep my eye on him all the time he was in the radio

~~What was he looking at him~~ When I was not looking at him I cannot swear his pistol was in his holster. It was in his holster when he was at the bar. Maria Petty is lying when she says Sleag vorcilleiro pointed a pistol at her. The patron of the café is lying when he says he saw a pistol in Sleag vorcilleiro hand. Nobody did see me to say the pistol was always in the holster. I can it say myself.

RP. § 3 (b) complied with.

Third witness

C-70708 Pte Bracchasio, T.J. sworn states.

I was posted Pte Sleag vorcilleiro in Ebert. The truck stopped because instead of turning to the left we turned to the right. As we came back on the road there was a car in the way. Just as we stopped I heard two shots fired by the people in the car ahead. The prisoners came to us. As I got off the vehicle I was passing one of the prisoners. I am not sure how much gas there was at that time, about 16 or 9 gals.

Cross-examination

I did not know the correct route through Ebert. There was a road sign indicating the proper road at the junction but as the vehicle had passed it we had to go around the block to get back. The arrow indicated the "up" route.

By the court

I noticed a vehicle in front of us when we stopped. It was from 3 to 4 this. There was an officer, a sgt, and 4 privates. There were four men. It was an armoured car. It was about 50 feet away. I don't know whether the men beside the armoured car were armed or not. I did not have a very good look of them. When we stopped they jumped in the armoured car and drove off. I was in the café the morning the convoy left. I was there about ten minutes. I saw Pte Benommatte there. I did not see the accused there. When I went in I had a glass of beer. The soldiers were dancing. There were a few people there dancing. I didn't see Pte Benommatte leave. No one had a pistol in his hand while I was there. Sleag vorcilleiro bought the beer from a man with a waggon before we got to Ebert. I had two bottles of it. I was not drinking when the R convoy came up to the truck. The lorries coming came up on the left side of the truck. The side I was sitting on. The left ~~was coming~~ was on the left side of the truck. To reach the glass one partaking the left would have to reach past Sleag vorcilleiro.

RP. § 3 (b) complied with.

Fourth witness

E-49975 Pte Tamedo, L. sworn states.

I was in the café at 0700 hrs 7 Oct with Pte Sleag vorcilleiro. I left at 8 o'clock the same time as the others. I entered the café at the same time and left at the same time as Pte Sleag vorcilleiro. I sat down at the same table as Pte Sleag vorcilleiro. I drank beer with him and talked about various parts of the vehicle. Then the lady at the end of the counter came and sat beside me. Her friend came to me and spoke of various subjects. Then I had two glasses of champagne myself and she came back to sit along side me again. She sat down for about half an hour. Then more troops came into the café and she went to wait on them. Then Pte Sleag vorcilleiro and I drank together at the table. I ~~left~~ left. There I drank until 8 o'clock when we received a call to leave on the convoy. The convoy was lined up. We left around 8 to 8.10.

I did not notice any thing unusual while I was there. She came and served beer at our table. She served Hesgroseilliers at the bar once. I saw her serve beer to him at the bar. I did not see any thing unusual. There were about 20 people in the bar. I did not leave the cafe from the time I came in until the time I left.

Cross-examination

I wasn't watching them but our table was here the counter just in front of us and I could see them. I wasn't concentrating on them. He bought the beer at the bar about 35 minutes after we came in. There were about 20 people in the cafe. There were about four or five people there when we entered. The accused did not buy a beer from Maria when we entered. I paid for the first two. We both went out together. Pte Hesgroseilliers leading. There was music. I don't remember any dancing. I can swear that the accused did not take his revolver from his holster and point it at Maria. He was setting beside me all this time. He went up to the counter to buy his beer and came back and sat beside me again. If he had pulled out his revolver I would have seen him. I did not dance that morning. I didn't touch the gramaphone that morning the young lady was looking after it and some of the boys. I was questioned by Capt Regan and Sgt Sletskin regarding the revolver. I told him I had not seen the ~~lady~~ ~~[illegible]~~ soldier point his revolver at the lady. He did not ask me what went on in the cafe. I didn't count them but I drank about 7 or 8. I didn't leave the cafe until about 5 O'clock. Pte ~~Bell~~ Bruchois was at the next table not very far away. I don't know Hector Pattyn. There was a tall dark chap there. He came to us from the end of the counter and enquired if we had any cigarettes for sale. ~~[illegible]~~ We didn't have any and he returned to the end of the counter. That is all I know of. I did not see him hold conversation with Pte Hesgroseilliers. I can't give any reason for Maria or the man coming here and saying Pte Hesgroseilliers pointed a revolver at Maria because he did not do so. They are lying when they say he pointed a revolver at her. I did not see him with a revolver in his hand at any time while ~~[illegible]~~ was in the cafe. I saw Maria most of the time I was in the cafe. I did not see anyone point a pistol at her.

R.P. § 3(b) complied with.

Lt. C. C. Austin re-called by the Prosecutor with permission of the Court still on oath states.

I was first informed that the unit had moved on my arrival at Hucqueliers. 20 Oct at 1300 hrs. It is a laid down policy to replenish vehicles on arrival at a bivouac area. It is a standing order. He could have replenished his vehicle very easily before we pulled out from the bivouac area.

Cross-examination

I can see no reason why the accused's vehicle would not be replenished. I was not there to see whether or not he did so. I can't understand why his vehicle was not replenished if that was the case. I was there, the Sgt was there and his Pl Cpl was there. We arrived back with 15 ~~[illegible]~~ jerry cans of unused petrol.

By the Court

Jerry cans can be used on order of the person in charge of a convoy not necessarily an officer. An order had been issued that ~~[illegible]~~ an officer

or a Sgt had to be present to authorize the use of second line patrol.
R.P. 83(b) complied with.

The Court Permit the Prosecutor to call further evidence in rebuttal

Capt. R. J. Sweezey, sworn states

I am OC w/s Pl. 82 Cdn Ady Coy. I am well acquainted with the mechanism of Mach truck steering. On 19 Sept. '44 No. CL42S7092 was in the workshop with the following defect. Front differential oil seals leaking. I personally inspected the vehicle at the time. This oil seal has nothing to do with the steering. It would not prevent the vehicle from making a left turn. If all the oil leaked out the complete front end would cease to function it would have no bearing on a left or right turn. Steering can jam on one occasion and then operate properly after that. There are a number of different obstructions that could cause this e.g. damage to the steering box. It could jam left and not right. Such jamming would be noticeable it wouldn't just come and go. The only loose end nuts that could be tightened are drag link nuts. But this would not cause a stoppage at one particular point. It would cause shimmying. The glove compartment is on the spare driver side. You could reach the glove compartment from the left hand side outside by standing on the top step. The oil seal has not been received. The vehicle has not been in to workshops since 19 Sep. for any other repairs.

No cross-examination

R.P. 83(b) complied with

Closing Address - Defense

"I would first like to draw your attention to me detail. In the 2nd charge the words in convoy"

I will deal with the first charge. I have produced 3 witnesses for the defence. I am not going to go over their testimony. I claim that if the court accepts any part of testimony of Maria Pathigne they must also consider the account of the 3 witnesses for the defence that there is reasonable doubt as to the commission of the assault by the accused. It was not proven conclusively that the assault was committed nor that it was committed by the accused. The accused denies it, the two other witnesses that were present at the time of the alleged assault have no knowledge of any disturbance and express certainty that no assault was committed by Disgrisellien. There were twenty soldiers in the cafe. I submit that is an assault had of taken place at least one of them would have noticed it, and should have been produced by the prosecution. This was not done, leaving Maria Pathigne's evidence uncorroborated and leaving a reasonable doubt as to the guilt of the accused of which doubt he should benefit.

With reference to the Second Charge, there is no evidence that the vehicle was left unattended. There is evidence that the vehicle was parked in Winkle Street Street. This in itself does not constitute an offence. It must be proven by the prosecution that this was conduct to the prejudice of good order and military discipline. This is not the case. It has been proven fact that the vehicle was on Winkle Street due to mistake of the driver which he was attempting to correct. A mistake is not a crime. It has also been proven that the vehicle was halted for at least three reasons. An obstruction in the road and a disturbance; lack of petrol and hesitation in the drivers mind as to the proper route. If he had not have been interfered with by the provost it must be assumed that the driver

must have reached Queen ammunition (14)
dumps eventually.
— With reference to the third charge.
Improper possession of the weapon was
not proved. It would have been necessary
to have produced evidence of an order to
that effect. Failure to register the weapon
four days after Desgroseilhers had heard
that this should be done does not
constitute improper possession nor any
offense which might be qualified as
conduct to the prejudice. It is admitted
that the weapon was discharged. There
is some doubt as to who discharged it,
or how it was discharged. Doubt of which
the accused should have the benefit. If
the court feels that the weapon was in
fact discharged by the accused's hand
by finds no intent on the part of the
accused to cause a disturbance or otherwise
act to the prejudice and also finds that no
neglect has been proven on the part of the
accused serious enough to constitute an
offense the court must find that the
weapon was discharged by accident,
but was not ~~[illegible]~~ carelessly handled in
such a way as to constitute a crime.
In this ~~case~~ trial ~~several other facts~~ the
prosecution attempted to prove several
other facts such as possession of beer,
failure to keep gassed-up, excessive
length of time in getting from one point
to another, falling out of a convoy
on the false pretext of defective steering.
The defense has produced evidence to
counter or explain all these facts.
The court must remember that the
driver was in charge of his vehicle
once he had lost the convoy. He had
a right to make his own decisions
as to the best way to find his unit.
If he committed errors in judgment
these are not offences.

The fact that the driver got lost for a time, or pulled up along side the road for a few minutes when he was travelling alone is not an offense. In the event of the court finding that any of these facts are proven, they cannot even by a special finding hold the accused guilty of conduct to the prejudice of which the subject matter are these same facts, namely possession beer, failing to get gassed-up etc. There is an essential difference between these last mentioned facts and the subject matter as stated in the 2nd & 3rd charges, and not merely differences of circumstances, degree and time.

Prosecution - Closing address

The prosecution alleges in regard to the first charge that the accused did in fact point the revolver which he carried inside him into the cafe Detroit at Maria Pottigue and to support the allegation the prosecution has produced the evidence both of Maria Pottigue & Chester Pottigue. Now the court heard the evidence of these two witnesses that the accused was two feet away from Maria when he pointed the revolver at her. That this produced fear on her part as a result of which she went to the back of the cafe. I submit that Marias evidence is corroborated by her cousin who states that he entered from the rear first afterwards and the accused was holding the revolver in his hand. The defense has shown the court no reason why the evidence of these two witnesses should not be believed. I specifically asked not only the accused himself but each defense witness for a reason, but they could give none. There were several people in the cafe that morning along with the witnesses for the defense. There was music & there was dancing & there was drinking. I submit that the witnesses for the defense could not possibly have accounted for all the actions of the accused during the course of one hour in the cafe. The prosecution has not produced any soldiers to support its case. Soldiers are not prone to give evidence against fellow members of their platoon. In fact their tendency is the direct opposite. I wish to refer the court to page 13 of M.M.L. (para 34) having to do with the offense of assault

In the second charge the prosecution
points out that the accused is charged
with improper conduct and to support
that charge two instances are referred
to in the charge sheet, namely that the
accused was found with his vehicle
outside the Cafe Detroit & secondly
he was parked with his vehicle in
Winkle St. in Ghent, two places where
he should not have been having
regard to the circumstances. Turning to
the evidence of the accused as to why
he was at these places he can give no
satisfactory explanation. I submit with
regard to the Cafe Detroit he gives 3 reasons
all of which I submit are quite unsatisfactory. The first reason was that he was
lost. There is evidence before the court
that the accused was familiar with
routes at least to Huqueliers the
permanent location of his platoon. He
states that the platoon had moved, but
when questioned he was unable to tell
me from whom he found this out &
evidence has been produced that the
platoon had no knowledge of the move
until their actual return to their per-
manent location at Huqueliers. No
endeavor was made by the accused
to return to Huqueliers. Instead he
parked his vehicle for 24 hours upon
sidelane outside the Cafe Detroit. The
next reason he gives is the defect to the
steering. He gave in evidence that there
was no oil seal in the wheels & with
a heavy load they wheels jammed when
making a left turn. It so happened
on his own evidence

that his vehicle was empty when the alleged jamming took place. Furthermore he was able to drive his vehicle several miles making left & right turns without any further trouble. It was not until the next morning, 3rd Oct. that he made any attempt, on his own evidence, to adjust the defect. The court has heard the evidence both of the pl. fitter who examined the lorry on its return and also the evidence of the work shops officer. With regards as to being found in Sheet I emphasise in that connection the time element. He understood his orders from Capt. Begum. He was seen to leave the Cafe Detroit at approx. 1130 hrs. He states he took 2 hours for lunch. I submit this does not constitute the carrying out of Capt Begum's orders to proceed direct to Queen ammunition dumps. I do not have to point out the facts with regards to the petrol. The accused is an army Service corps driver & he knows his duties as regards to keeping his vehicle replenished with petrol. If it is not the steering that was wrong with his vehicle then it was the gas indicator. Apparently he had plenty of excuses. I submit that the evidence as put forward by the defense is not only contradictory but fails to give a satisfactory explanation for his conduct on the 2nd & 3rd of Oct. 1944, and if drivers when they find themselves alone in charge of a vehicle are permitted to make their own

decisions as to when they should go and when, the army will certainly fail to be maintained properly.

Passing to the 3rd charge I submit that the gist of this charge is the careless handling by the accused of this revolver. With regard to intent the accused knew the revolver to be loaded. I put the question to the court. 'Why was the accused so concerned with keeping this revolver from the provost.' The accused is supposed to be armed with a Stur gun which he should carry with him at all times. I submit that on the evidence it was the result of the act of the accused in grabbing for his gun upon sight of the provost that caused the revolver to be discharged.

Summing up by Judge Advocate

The court is the sole judge of what facts have been proved, of the credibility of witnesses and of the weight to be given to the evidence of any witness. Any matter I may make of the evidence of any witness must not be taken as an indication to the court either of its importance or its weight. It is then the court must judge for itself.

As to the burden of proof it is always on the prosecution every allegation whether it is positive or negative made by the defence must be proved in evidence just as much as the prosecution must prove in evidence the allegations made in the particulars of the charges.

I refer the court to RP 44(1) and particularly to Thanks (Reads). Applied to this case for instance the fact that the events of the first charge may have taken place at 0745 entitled of 0730 or that the window was not cocked if the court finds it so, or on the second charge that the convoy was from the Limerac area to Marguerites and not to Pauillac Armour Group or in the third charge that the pistol was a Browning and not a P 38 etc. of proved, facts differing materially from the facts alleged but in my opinion the differences are not so material as to have prejudiced the accused in his defence. But as pointed out by the defending officer the accused is not charged with deliberately leaving the convoy, nor with drinking while in charge of a vehicle nor are the particulars set out in the second charge capable of such arrangement to constitute the offence of conduct etc if the court should find evidence of such conduct and wish to base a finding of guilty to the charge on it. The accused in that case would have been prejudiced to meet such allegations and so he prejudiced in his defence. On the other hand, as I have said before, in my opinion the evidence of the various states under which the accused was found both at the cafe and on arrest is admissable to show that his presence there was, failing a satisfactory explanation conduct to the prejudice etc.

The accused is charged with a common assault on Maria Patty in at 0730 hrs on 20 Aug 44 by pointing a cocked revolver at her. In this connection I must read to the court the whole of the paragraph referred to by the Prosecutor (Reads para 34 P 113, MML 4). On this charge you have the evidence of Maria Patty in who says she was sitting at a table behind the bar of the cafe. That the accused asked for beer and paid for it. Then took out his revolver and pointed it at her. That she was afraid. That she didn't know until after whether or not the pistol was loaded or cocked. Marie Patty in says he saw Maria going towards the kitchen looking normal and saw the accused with a revolver in his hand with the mag. out and not cocked. He says he told the soldiers to put the revolver away.

The accused denies that he pointed the pistol or that he even had it out of the holster and the defence called Pte Biscornetti, Brissebois and Tancredo to support his denial. Biscornetti says he was in the cafe all the time and could see the accused all the time. Brissebois says he was there for about 15 minutes and did not see the accused with a pistol. Tancredo says he went into the cafe and left it with the accused and that he could see the accused the whole time. They all say the accused had a pistol in his holster but that he did not remove it nor point it at any one. Tancredo says that he did not see any one point a pistol at

he was there.

It is then a question of credibility of the witnesses. Civil cases may be decided on the preponderance of evidence but charges of a criminal nature must be proved beyond reasonable doubt. But the law admits as sufficient the uncorroborated testimony of one credible witness and the doctrine that the accused must be proved guilty beyond reasonable doubt does not mean that if one witness swears to a fact and then on oath deny it you must necessarily find the fact unproved. If you decide that the one witness was credible and the others not you could find the fact proved. But if the evidence of the two witnesses raised a reasonable doubt in your mind as to the fact then although you do not entirely agree that the fact set up by the first witness has been disproved you must on that fact find the accused not guilty because the prosecution has not discharged the burden on it to prove that fact beyond reasonable doubt.

I do not think I need review the evidence in connection with the second or third charges except to point out that the accused had another reason for staying 24 hrs at the safe in that he was low in gas until Capt Big an came and authorized the use of the 5 spare jerry cans. I might also point out that there is no evidence that he mentioned the gas shortage to Capt Big an although that might well be explained by the argument that after he had received permission to use the spare gas he wasn't then short. The evidence that the accused was in the places alleged and the circumstances of his being there, his reasons for being there must have been sufficiently classified on both examination and cross examination.

In connection with the second and third charges after the court finds the facts it must then consider whether or not the conduct proved was to the prejudice of both good order and military discipline having regard to its nature and to the circumstances in which it took place. In deciding this point the court should apply its military knowledge. It may be that the court thinks the conduct is not completely blameless but that the degree of blame is so slight as not to be deserving of punishment. In such case the court may find the accused not guilty.

As regards all the charges the accused must be considered innocent until he has been proved guilty beyond reasonable doubt. To warrant an acquittal the doubt must not be light or capricious. It must be such a doubt as upon a calm review of the whole evidence a rational understanding will suggest to an honest heart. If there is such a doubt that is a doubt that would remain in an unbiassed mind after an honest consideration of the whole facts which you find proved the accused must be given the benefit of the doubt and be found not guilty.

J.A. Mr. President, are there any further matters on which you wish me to advise the Court?

Pres. No

J.A. Mr. Prosecuting Officer, are there any further matters on which you wish me to advise the Court?

Pres. No

J.A. Mr. Defending Officer, are there any further matters on which you wish me to advise the Court?

Def. No

Defending Officers Plea in mitigation

I do not know exactly what facts the court found but in view of the evidence none of the offences were aggravated. They were done, if at all, thoughtlessly and without any criminal intent. Acts of carelessness without any intention of being harmful. I ask the court to take this into consideration.

G. Ferry [illegible] Capt
J.A.

EXHIBIT D

follow Heart Route to Ghent. – follow Queen & King Dump route to Queen Ann Dump. Wait there for Mr. Austin.

[illegible]

S72 36-83-[illegible]

EXHIBIT E 29

M.F.B. 355
223M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-126351	Pte	DESGROSEILLIERS, Lucien	4 Cdn Med Regt Pl RCASC, 82 Cdn Arty Coy RCASC

1. The following is a fair and true summary of the entries in the ~~Service Establishment Regimental and Equivalent History Casualty Sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		A.A. Since enlistment or appointment	
For	A.A. Sec 40	Three times	Sec 40	Three times
For		times	A.A. Sec 10 (3)	One times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct ~~or~~ Nil

~~The above entries is the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted ~~except~~

~~Previous convictions of the accused by Courts-Martial or by Orders of Summary Award under Air Force Act~~ ~~Army Act~~ ~~and dispensations of trial under Air Force Act~~ ~~Army Act~~ ~~are the whole number to his detriment.~~

3. The accused is not under sentence at the present time. ~~or~~

~~The accused is at present undergoing sentence for~~ ~~beginning on the~~ ~~days.~~

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in ~~his favour~~ civil custody, and 1617 days in military custody, making a total of 1617 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his ~~record in~~ attestation paper is 26 years of age

6. The date of his ~~enrolment~~ attestation specified in his ~~enrolment~~ attestation paper 26 Sep 41

7. The service which the accused is allowed to reckon towards discharge is 3 years, one month

8. The accused is entitled to reckon Full service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~service~~ military decoration, or ~~service~~ military reward (or is in possession of or entitled to). ~~Particulars of any decoration or reward~~ military

10. ~~If the accused is a warrant officer. The warrant by which he was promoted and the date on which the original rank of~~

11. [illegible]

12. [illegible]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D126361 Rank Pte Unit Name DESGROSEILLIERS, L. of 4 Can Med Regt Pl RCASC

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NIL				

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of October 1944 E.A. Baxter (E.A. Baxter) Lt., 82 Can Arty Coy RCASC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

EXHIBIT F

M.F.M. 6 (A.F.B. 122) 40/P & S/136 (2637)

No. D126351 Name DESGROSEILLIERS, Sqn., Battery, or Company | Corps RCASC | Date of enlistment 26-9-41 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet L. | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original Sheet destroyed on completion of six months service on 26-3-42 in accordance with overseas R.O. 319									
Last Entry Nil Cases of Drunkenness Nil Last Instance Nil									
Field	17-7-43	Pte		Resisting an escort whose duty it was to apprehend him (A.A. 10 (3)	Documentary	Forf 7 days py	30-7-43	Lt-Col P.H. Savard	Forf 7 days pay FR&I 140 (2
Awarded the Cdn Volunteer Service Medal and Clasp wef 15 Jan 44									
Field	12 Feb 44	Pte		A.A. Sec 40, involved in a road accident	Documentary	Forf 7 days py	6-3-44	Capt R.C. Laughton	forf under FR&I 149 (2)
Field	5 Apr 44	Pte		A.A. Sec 40, involved in a Road accident	Documentary	Awarded stoppage of pay in amt of £1-0-0 A.A. Sec 138 FR&I (158) (2)	17 Apr 44	C.C. Rollit Major	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24-8-44	Pte		A.A. Sec 40 did cause a disturbance after indulging in alcoholic stimulant	Capt Regan Sjt Slutsken	7 Dys FP and forf 14 days pay	25-8-44	Capt N.H. Regan	Forf 14 days FR&I 149 (2)

Certified a true copy from the regimental books in my custody

(E. A. Baxter) Lt and Adjt,
82 Cdn Arty Coy RCASC

SUMMARY OF EVIDENCE IN THE CASE OF D-126351 Pte DESGROSEILLIERS, L., 4th CDN MED REGT PL RCASC, 82 CDN ARTY COY RCASC, CDN ARMY OVERSEAS.

By direction of the Officer Commanding all evidence will be taken on oath.

FIRST WITNESS: The first witness, Capt N. H. Regan, Offr Comd 4 Cdn Med Regt Pl RCASC having been duly sworn states:-

I am Capt N. H. Regan, Officer Commanding 4 Cdn Med Regt Pl RCASC. At approximately 1600 hrs on 2 Oct 44 Lt E. E. Austin transport Officer in the above mentioned platoon, reported to me that two men and one vehicle were missing from the last ammunition convoy. The vehicle in question was a Mack 6-ton, WD Number CL 4252092. The men were D-126351 Pte Desgroseilliers, L. whom I now recognize and C-70708 Pte Brisebois, T. J. whom I also now recognize. Pte Desgroseilliers, L. was the driver i/c of the vehicle.

The following day 3rd Oct 44 while searching for this vehicle, in company with Sgt Slutsken, S. of this unit I saw WD vehicle number CL 4252092 at approximately 1130 hrs, parked outside the Cafe Detroit 3 to 4 miles north of Inglemunster. I went over to the vehicle and saw ptes Desgroseilliers and Brisebois in behind the cafe. I asked them what they were doing there and they replied that they had lost the convoy on the previous day and had decided to stay in this vicinity. Pte Desgroseilliers stated that the steering on his vehicle was damaged and that was the reason he gave for being parked outside the cafe.

I placed Pte Desgroseilliers under arrest and ordered him to proceed to QUEEN AMMUNITION DUMP near St Nicolas. I gave him the route in writing and ordered him to report to Lt E. E. Austin who was expected there that night. Pte Desgroseilliers got into his vehicle and started on his way. The next time I saw this man he was at 7 Cdn Provost Coy Ghent Detachment at approximately 0900 hrs 5 Oct 44. He was under close arrest having been picked up by the Provost and I escorted him back to my platoon location and held him under close arrest. One of my men drove the vehicle CL 4252092 back to the platoon area on 5 Oct 44 and on arrival the steering was checked by the platoon fitter, Pte Bernard. He reported to me that the steering on this vehicle was in good shape and a certificate to this effect is attached hereto as exhibit 'A'.

On 5 Oct 44 I heard rumors that there had been some disturbances in the area where I had seen both Ptes Desgroseilliers and Briseboia on 3 Oct 44. On 6 Oct 44 accompanied by Sgt Slutsken, S. of this unit I again proceeded to the Cafe Detroit at Meulebeke near Inglemunster. I made enquiries there and was informed that a disturbance had taken place on the morning of 2 Oct 44 at the Cafe DeNieuve Sneppe, nearby. We proceeded to the Cafe DeNieuve Sneppe and interviewed the propieter, Hector Pattijn and his wife Maria Pattijn. Statements were made and signed by them before witnesses. These statements are attached hereto as exhibits 'B' and 'C' respectively.

The accused declines to cross-examine this witness

N H Regan
Signature of witness

The documents referred to by the witness produced, read over and shown to the accused are marked exhibits 'A', 'B', and 'C', signed by me and attached hereto.

[signature]
Signature of offr taking Summary

SECOND WITNESS: D-127009 Sgt Slutsken, S. 4 Cdn Med Regt Pl RCASC having been duly sworn states:-

I am D-127009 Sgt Slutsken, S., of 4 Cdn Med Regt Pl RCASC. At approximately 1130 hrs 3 Oct 44 Capt N. H. Regan and I were out investigating the whereabouts of a 6-ton Mack Lorry CL 4252092 which was missing from an ammunition Convoy of the previous day. While passing the Cafe Detroit near Inglemunster I noticed the vehicle in question parked off the road. We stopped and Capt Regan approached Ptes Desgroseilliers, L., and Briseboise, T. J. whom I now recognize and who were with the above mentioned vehicle. Pte Desgroseilliers, L., explained to Capt Regan that the reason he had lost the convoy was because of a defect in the steering of his vehicle which prevented him from making a left turn. Capt Regan informed Pte Desgroseilliers, L. that he was under arrest and gave him a route to follow to QUEEN AMMUNITION DUMP. He wrote this route down on paper, handed it to Pte Desgroseilliers and as we left I saw the vehicle pull out in the proper direction.

On 6 Oct 44 I accompanied Capt Regan to Meulebeke near Inglemunster. There in my presence he interviewed Hector Pattijn and Maria Pattijn of the Cafe DeMieuve Sneppe. The made and signed statements before witnesses.

The accused declines to cross-examine this witness.

S. Slutsken
Signature of Witness

THIRD WITNESS: D-121600 Sgt Simon, A., 4 Cdn Med Regt Pl RCASC having been duly sworn states:-

I am D-121600 Sgt Simon, A., transport sjt of 4 Cdn Med Regt Pl RCASC. At 0815 hrs 2 Oct 44 I was on the rear of our platoon convoy checking the vehicles leaving our area. I saw D.126581 Pte Desgroseilliers, L., whom I now recognize, driving WD lorry number CL 4252092. On the route I did not notice a broken down vehicle. At approximately 1600 hrs the same day I noticed that one vehicle was missing from the convoy. On checking I found that the missing vehicle was CL 4252092 mentioned above and driven by Pte Desgroseilliers, L. I immediately reported the missing vehicle to Lt E. E. Austin of this platoon.

The accused declines to cross-examine this witness.

A. Simon
Signature of Witness

FOURTH WITNESS: H-19039 Sgt Mark, W. S. 7 Cdn Provost Company, Ghent Detachment, having been duly sworn states:

I am H-19039 Sgt Mark, W. S. of 7 Cdn Provost Company, Ghent Detachment. While on duty in the city of Ghent, Belgium, at approximately 1630 hours 3 Oct 44 in company with L/Cpl Folster of this detachment, I received a complaint from civilian sources that there were some soldiers with an Army Vehicle who were discharging firearms down a side-street. These civilians directed me to this side-street which is now known to me as Winkel Street, Ghent. Here I saw a large Mack truck parked with motor running and Pte Desgroseilliers, L. whom I now recognize was sitting behind the wheel. In the co-driver's seat was Pte Brisebois, T. J. whom I also now recognize. I asked Pte Desgroseilliers how long he had

FOURTH WITNESS -(Continued)

been there, and he told me that he had just pulled in. I mounted the running board of the vehicle and noticed a revolver with the hammer cocked on the door of the glove compartment. In the cab was a partly consumed case of beer. I asked Pte Desgroseilliers whose the weapon was. He then placed his hand on it and the weapon discharged. I told him that he would have to come along with me and he partly refused. He also refused to give me his firearm. I persuaded him to accompany me however with the vehicle to Detachment Headquarters. After bringing him to the Headquarters I disarmed him. In the magazine of the P-38 Revolver were three live rounds and one spent cartridge. Pte DesgroseilMers was placed under close arrest and his unit was notified the following day.

The accused declines to cross-examine this witness.

Signature of Witness

FIFTH WITNESS:- C-45598 L/Cpl Folster, J. A., 7 Cdn Provost Coy., Ghent Detachment, having been duly sworn states:-

I am C-45598 L/Cpl Folster, J. A., of 7 Cdn Provost Coy., Ghent Detachment. At about 1630 hrs 3 Oct 44 some civilians reported that there was shooting in the direction of Winkel Street, Ghent. So Sjt Mark and myself went over to investigate. As we came round the corner we saw a large truck with two soldiers in the cab. We saw other soldiers and an officer in the vicinity. They disappeared while we were investigating the soldiers in the Mack. The Sjt went over to the truck and got up on the left hand, or driver's side of the truck. The spare driver Pte Brisebois, T. J. whom I now recognize got out of the truck and I talked to him. At this point I heard a shot fired. It came from the truck, but I could not say how it was fired. The Sjt told me that everything was alright and that I could take the jeep back to Headquarters as the soldiers were coming with him in the truck. I went back to Headquarters and the soldiers arrived shortly after.

The accused declines to cross-examine this witness.

Signature of Witness

SIXTH WITNESS: Hector Pattijn, proprietor of the Cafe DeNieuve Sneppe, Meulebeke, Belgium.

Document Purporting to be the signed statement of the evidence of Hector Pattijn, Cafe DeNieuve Sneppe, Meulebeke, was read over to the accused, marked exhibit 'B' and is attached hereto.

I certify that in my opinion owing to the time and expense involved the attendance of this witness at the taking of the Summary of Evidence cannot readily be obtained.

Signature of Offr taking Summary

SEVENTH WITNESS: Maria Pattijn, Cafe DeNieuve Sneppe, Meulebeke, Belgium.

Document purporting to be signed statement of the evidence of Maria Pattijn, Cafe DeNieuve Sneppe, Meulebeke, was read over to the accused, marked Exhibit 'C' and is attached hereto.

I certify that in my opinion owing to the time and expense involved, the attendance of this witness at the Summary of Evidence cannot readily be procured.

Signature of Offr Taking Summary

The accused was warned as follows:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing, and will be used in evidence"

The accused:- "I have nothing to say at this time".

Signature of Accused

The accused declined to call witnesses in his own behalf.

Signature of Accused

I certify that the above Summary of Evidence consisting of four (4) pages was taken by me in the Field in the presence and hearing of the accused this 10th day of October 1944 and that rules of procedure 4 (c) (d) and (e) have been complied with.

Signature of Offr taking Summary

EXHIBIT "A"

5 Oct 44

This is to certify that WD Veh No. CL4252092 Mack 6-ton GS was road tested at 1300 hrs on 5 Oct 44 by Pl ritter (Pte Bernard G) while being driven by Pte Bold J. Conditions of veh were good.

Signed: G. Bernard Pl ritter
B49417 Pte Bernard, G.
4 Can Mec Regt Pl., RCASC.

Signed: J. Bold Driver
D12648 Pte Bold, J.

This is Exhibit A referred to in the Summary of Evidence in the case of D-126381 Pte Desgroseilliers, L. taken before me this 10th day of October 1944.

Signature of Offr taking Summary

C O P Y

EXHIBIT 'E'

Statement of evidence in the case of: Regt No. D-126351 Pte Desgroseilliers, L. 4 Cdn Med Regt Pl RCASC, 82 Cdn Arty Coy RCASC.

Statement by Hector Pattijn:

I am, Hector Pattijn of Meulebeke, and proprietor of the Cafe DeNieuve Sneppe.

On 2 Oct 44, at approx 0730 hrs, a Canadian soldier by the name of Lucien Desgroseilliers together with four other chaps entered the Cafe. Maria Pattijn served them with beer and immediately after that, Lucien Desgroseilliers took out his revolver and pointed it at Maria Pattijn. I noticed that the revolver was cocked so I told him to put it away.

Lucien Desgroseilliers said to me "Are you frightened and afraid of me?" And I answered him that I was not afraid but that I did not want him to start any trouble here. He put his revolver away after that.

Signed Hector Pattijn

M. Benoot
Witness Meulebeke, Cafe De Nieuve Sneppe

Witness Capt N. H. Regan

This is a certified true translation of exhibit 'B' referred to in the summary of evidence in the case of D-126351 Pte Desgroseilliers, L taken before me this 10th day of October 1944.

Signature of Offr taking Summary

This is exhibit 'B' referred to in Summary of Evidence in the case of D-126351 Pte Desgrosailliers, L. taken before me this 10th day of Oct 1944.

Signature of Offr taking Summary

EXHIBIT B 6 Oct 44

Je Suis Hector Pattyn de Meulebeke.
Propriétaire de la Cafe De Nieuwe Sneppe.
Le 2 Oct 44 à 0730 Hrs. un Soldat
Canadien avec quatre autres soldats ont
entrée dans la Cafe. Maria Pattyn à
servi la Bière à ses Soldats et Toute
Suite après Lucien Desgroseilles à sortie
son Revolver et l'a pointu à Maria
Pattyn. J'ai rémarquée que le revolver
était chargée et puis je lui ai dit de
le caché, le Soldat Desgroseilles m'avait
dit que j'avais peur de lui et je lui
répondu que j'avais pas peur mais il
devrait pas commencer de trouble ici.
Il l'avait caché après.

Signé: - - - - - -

Temoins M. Benoot Hector Pattyn

Temoins. [signature]

C O P Y

EXHIBIT 'C'

Statement of evidence in the case of Regt No: D-126351 Pte Desgroseilliers, L. 4 Cdn Med Regt Pl RCASC 82 Cdn Arty Coy RCASC.

Statement by Maria Pattijn:

I am, Maria Pattijn of Meulebeke. I am employed at the Cafe DeNieuve Sneppe.

On 2 Oct 44 at approx 0730 hrs, a Canadian Soldier by the name of Lucien Desgroseilliers along with four other chaps entered in the cafe where I am working and asked for beer. Immediately after, Lucien Desgroseilliers pulled out his revolver and pointed it at me and I noticed it was cocked.

I was very frightened and I went to the rear of the Cafe.

Signed M. Pattijn

Witness M. Benoot Meulebeke, Cafe DeNieuve Sneppe.

Witness N. H. Regan, Capt

This is a certified true translation of exhibit 'C' referred to in the summary of evidence in the case of D-126351 Pte Desgroseilliers, L. taken before me this 10th day of October 1944.

Signature of Offr taking Summary

EXHIBIT "C"

6 Oct 44

Je Suis Maria Pattyn de Meulebeke
St Nieuw Sneppe.

Le 2 Oct 44 à 0730 Hrs un
Soldat Canadien Nommée Lucien
Desgroseillers avec quatre autres on
entrée dans le Café où je travail et il à
Demandé la Bière. Lucien Desgroseillers
Toute Suite après à Sorti son Revolver
et l'à pointué à moi. et il était
chargée. J'ai eu beaucoup peur et j'ai
Partie en arrière de la Café.

Signé M. Pattyn

This is exhibit 'C' referred to in Summary of Evidence in the case of D-126351 Pte Desgroseilliers, L. taken before me this 10th day of October 1944.

Témoins.

M. Benoit
Meulebeke Café St Nieuw Sneppe.

Signature of Officiating Summary

Témoins

Capt.

ADDITIONAL SUMMARY OF EVIDENCE IN THE CASE OF D-126361 Pte DESGROSEILLIERS, L. 4 Cdn Med Regt Pl RCASC,82 Cdn Artillery Coy RCASC, Cdn Army Overseas.

By direction of the Officer Commanding all evidence will be taken on oath.

FIRST WITNESS: LT E. E. Austin, Transport Officer 4 Cdn Med Regt Pl RCASC having been duly sworn states:-

I am Lt E. E. Austin, Transport Officer of 4 Cdn Med Regt Pl RCASC. On 1st Oct 44, I was in charge of our platoon convoy, which delivered ammunition to ACE DUMP on the Bruges - Ghent road. After completion of delivery, since it was late in the day I decided to bivouac in an area which had been used by us before. This area is on the Bruges - Inglemunster road and is about one mile south of the main DIAMOND ROUTE down and three miles north of Inglemunster.

The whole platoon had been stationed in this vicinity for four days in September and were familiar with the neighboring roads.

On 2 Oct 44 at 0830 hrs I took the lead of our convoy which had been previously lined up by Sgt Simon, on the Inglemunster - Bruges highway. We then moved off to return to our platoon area which was then at Hucqueliers, France. It was about one mile to the main DIAMOND ROUTE down, where we turned left toward Roulers. Both Ptes Desgroseilliers and Brisebois had taken this same route on several occasions before and it is well marked. There was no reason for any of our vehicles to pass through either Meulebeke or Inglemunster after we had started on the road.

At approximately 1600 hrs 2 Oct 44 Sjt Simon reported to me that one vehicle CL 4252092 and two men, Ptes Desgroseilliers, L. and Brisebois, T. J. were definitely missing from our convoy. On arrival back at our unit location (Hucqueliers) I received instructions from Capt N. H. Hegan to proceed to Dieppe to pick up a load of ammunition. This was to be delivered on 3 Oct 44 if possible, to QUEEN DUMP, near St Nikolas, Belgium. Due to difficulties in loading at Dieppe, this ammunition was not delivered until 4 Oct 44. I did not see Pte Desgroseilliers or Pte Brisebois again until 5 Oct 44, when they were returned to this unit under close arrest.

The accused declines to cross-examine this witness.

E E Austin
Signature of Witness

SECOND WITNESS: D-121600 Sjt Simon, A. 4 Cdn Med Regt Pl RCASC having been duly sworn, states:-

I am D-121600 Sjt Simon, A. Transport Sjt of the 4 Cdn Med Regt Pl RCASC. On the night of 1 Oct 44 our platoon convoy was returning from ACE DUMP to Hucqueliers, France. We bivouaced on the main Bruges - Inglemunster highway, at a point about 3 miles north of Inglemunster. All our men knew this area well since we had been stationed there for four days in September. At about 0815 hrs 2 Oct 44 I lined the convoy up on the Inglemunster - Bruges road, facing towards Bruges. The main DIAMOND ROUTE down is about one mile north of this point. There is a large windmill on the corner. I issued orders to the section corporals to tell their drivers to turn left at this windmill and take the DIAMOND ROUTE down. We had been over this route before and both Pte Desgroseilliers and Pte Brisebois should have known it well. I checked the vehicles and found them all present before we pulled off. No vehicle dropped out before reaching the main DIAMOND ROUTE.

The accused declines to cross-examine this witness.

A. Simon
Signature of Witness

THIRD WITNESS: E-49417 Pte Bernard, C., 4 Cdn Med Regt Pl RCASC having been duly sworn, states:-

I am E-49417 Pte Bernard, C., platoon fitter for 4 Cdn Med Regt Pl RCASC. At 1500 hs on 5 Oct 44 I examined lorry No. CL 4252092 and could find nothing the matter with it. I particularly examined the steering and found it in good working order.

The accused declines to cross-examine this witness.

C. Bernard
Signature of Witness

The accused was warned as follows:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and used in evidence."

The accused:- " I have nothing to say at this time."

J Desgroseilliers
Signature of Accused

The accused declined to call witnesses in his own behalf.

J Desgroseilliers
Signature of accused

I certify that the foregoing ADDITIONAL SUMMARY OF EVIDENCE consisting of 2 (two) pages was taken by me in the field in the presence and hearing of the accused this 14th day of October 1944 and that RULES OF PROCEDURE 4 (c) (d) and (e) have been complied with.

14th Oct 44

M Wall Lt
Signature of Offr taking Summary

I desire the Convening Officer to detail an Offr to rep me at my forthcoming trial by Field General Court Martial.

I desire the services of Lt. Geoffrion , 50 Bty, 4 Med Regt RCA, if his services are available.

In the Field
16 Oct 44

J Buzzanelli
Signature of Accused.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 22980 Signr Desbarats, E. Lee Sigs 4 Cdn. Fd Regt: RCA.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	Noted WHC.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) ..... (1)

(1. Insert sentence being served, or delete. If not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ~~.....~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) Ewd K. McDonald 2855/44 (Sgd) Robt Hamilton Lt-Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding .....
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

HA-22

ADJA 2 Cdn Fd Bde Rear

RECEIVED 18 OCT 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA66 (To take the place of AFA2) 40/P & S/1898 (4910) 4/38B

Convened by Order of Lt. Col W.H. Colleng Comd RCAHQ 3 Cdn Div dated 7 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-22980	Signmn.	Lee	Desbarats	4 Fd Regt RCA

PROCEEDINGS REVIEWED 19 Oct 44

JCTC

D.C. Judge Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 28 Sept 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to ~~.....~~ as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No obn (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	R.J. Hamilton	3 A/Tk Regt RCA
Member	Capt.	S.F. Hoy	Tor Scots (M.G.)
Member	Lt.	H.F. McCulloch	3 A/Tk Regt RCA
Judge-Advocate	Capt	E.K. McDonald	HQ 1 Cdn Corps
Prosecutor	Capt	S.G.M. Garnons	4 Fd Regt RCA.
Defending Offr	Lt.	J.E. Richardson	4 Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~.....~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rec and name of the accused making the plea.)

A9. The accused is ~~was~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Red Vol I Fol 93

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L* p 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 37(*B*) *fn* 4 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence will be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing the paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Evidence on oath. Do you intend to call witnesses on your behalf ?
Ans Yes Sir. Are they witnesses as to character only ? Ans No Sir.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated in due course.
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.
(1. *MFR* 355 *or AFB* 296. 2. *MFM* 6. *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(2) Ans .....
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to forbear on such anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(3)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 91, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. Cf* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 110; 119(*A*), *KR Con* 308, 330, 563-566. *Overseas RD* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Elects Trial by F.G.C.M.

CHARGE SHEET

The accused, No. B22980 Sigmn Jean Deshaies, E Section RCCS Attached 4 Cdn Fd Regt R.C.A., a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1430 hrs 18th September 1944 until 2300 hrs 18th September 1944. (Absent 8 hrs and 30 mins.)

(G.C. Savage) Major
a/Comd 4 Cdn Fd Regt RCA

In the Field
22 Sep 44

To be tried by Field General Court Martial

(W. Colling) Lt Col
CRCASC 2 Cdn Inf Div

In the Field
27 Sep 44

I desire to have an officer assigned to defend me at my trial by Court-Martial.

I desire the services of ..... Lt. J.E. Richardson ..... if he is available.

..... Jesse Hoskins .....

In the Field
22 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
R 22980	Sigmn		Jean	DESHAIES	RCCS att 4 Fd Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 27 Sep 44 endorsed by me [redacted] (*name*), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ([redacted])

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	R.J. Hamilton		2 A Tk Regt RCA

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	G.F. Hoy		Tor Scots (MG)
Lieut	H.F. McCullough		2 A Tk Regt RCA

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J.M.A. Graham		2 Div Tps Coy RCASC

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	E.K. McDougall		Hq 2 Cdn Inf Div

On Active Service in the Fd

in Belgium (*Country.*)

Date 27 Sep 44

W.H. Colling (*Signed personally. RP 105 fn 2.*) Lt Col (*Rank.*)

(W.H. Colling)
Commanding RCASC 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (*See overleaf for oaths and notes for use on trial.*)

R.J. Hamilton Maj

MEDICAL CERTIFICATE(K.R.(Can) 557)

I certify that I have this morning examined No. B22980 Sigmn Deshaies, J. of the 4 Cdn Fd Regt, RCA and, that in my opinion he is fit to undergo trial by Court-Martial.

Station: In the Field

Date: 28 Sep 44

B. Dunham Capt

Medical Officer

First Prosecution Witness P40315 Sgt. Cameron, AB, RCCS att'd 4 Fd Regt.
duly sworn deposes:-

I identify Acc. I am senior Sgt. at E Sec Sigs att'd 4 Fd Regt. On 18 Sep 44 after dinner I noticed Acc beside his unclean vehicle shining his boots & looking as tho' he were preparing to go out. At 1400 I checked bldg. & surrounding area & could find no trace of him. I again checked at 1800 hrs & still could not find him.

Sigmn., to leave the bldg. & immediate area, need a pass from R.H.Q. Adjt. or 2 i/c signs the passes. The Acc did not have a pass nor did he have any permission to leave.

In searching I went throughout basement & all floors of the bldg & outside around the area & orb park. I called out for the Accused. I consider I made a thorough search especially by calling at the same time

Cross Ex I often see the men cleaning equipment. They dont only clean it for going out - its part of their ordinary discipline. I cant swear positively that Acc was outside the area. I just looked & couldnt find him. To get to his room you go thru Ord. Rm. You can get upstairs without going this way which is not.

No Re Ex

Court. Acc wasnt on duty. Its my business to check on my men.

RP85 b complied with

2nd Pros Wit. A 2177 L/Cpl Bisit E Sec. Sigs att'd 4 Fd Regt sworn deposes:-

I identify Acc. On 18 Sep at 1730 hrs I was warned to put our other wireless on (RCA link) In the event of it coming on Acc was to be on duty at 1800 hrs. At 1800 I looked through the area for Acc & could not find him so another

man had to go on in his place. When we arrived at this area we didnt know when the RCA link would go on so I informed the operators that we didnt know when it would go but it would be coming on soon. I told Deshaies and the other operators about this.

I next saw Acc at 2300 hrs 18 Sep 44.

At 1800 hrs I looked thru' ground floor of bldg, the cellar, Sigan Deshaie's room & the kitchen. Also his orb area.

I have no permission to leave the area, where I looked for Accused, whenever I like. I don't know about the rest of the bldg. Understood you should let someone know where you are going — at least the set operator who must find me.

Cross X There are 4 operators altogether for 2 sets. Chambrowsam & McKay were opening. I told them the link would come on while we were in that position. I said it would be coming on but I didnt tell them to stand by. I think that was understood. They were C B'd in the area so it was necessary to stand by. Deshaie at worked one shift. Had no duty roster. All done by past practice. This was first time link on in this position. Hadnt told operators where they must be at a given time. I cant swear Acc. was outside the area. I just couldnt find him when I searched.

Re Ex I am the SR. operator. Two are working & 2 are off when both links are on. Acc. wasnt warned but by practice he knew when RCA link come on he would be on duty

RP 83b complied with

3rd Pros Wit. B312449 Cpl. Buckindale, W.J. Elec Sign 4 Cdn Fd Park duly sworn deposes:-

On 18 Sep at 2300 hrs I put Acc. under arrest. I went to front door to ask guard if any of our absentees had returned. While there the Acc. came up the steps. I asked where he had been

& he said he had been sleeping in a truck. I ask if he didnt know he should have been on duty at 1800 hrs & he said no, ~~the~~ I said the RCA link had gone on air & he should have been on duty at 1800. He then stated he had made arrangements with Cpl Priest to change shifts. The time was 2300 hrs

Cross X - He said he had slept in a truck. Didnt say what shift he had changed with Priest.

Re X

~~A~~ 177 L/Cpl. Priest, E. Sig Sigs att'd 4th Regt sworn is examined (Recalled by the Court.)

The Acc approached one about 1300 hrs & asked me to take his shift on the Regtal. set — not on the RCA set. I agreed. The shift I was taking on his behalf was from 1800 - 2300. I didnt tell him he'd have to be back at 1800 ~~as~~ in case the RCA link came on.

Defence

Acc. duly sworn deposes:-

On 18 Sep I was on a small roof of the main bldg. I was there from about 1400 - 1040. I was sleeping in the evening. In the early afternoon I was in a small room just under the roof where there was a sort of an Art studio left by the Germans. Was browsing about.

On leaving roof I went to the lostrine, then to my room & then out to the entrance of the bldg. I went out the small side door & came in the main entrance. It was the most convenient way.

I received no orders, apart from the C.B., as to where I should stay or where my room would be. Got no orders as to my duties on 18 Sep. The RCA link was not on when we arrived. I first knew it was on about 2300 hrs when so told by Priest. I was never outside the Regtal area between the times charged. My turn on the Regtal set

came at 0330 hrs 19 Sepmy. I didnt tell Brickindale I had been sleeping in a truck. I said I'd been sleeping on top.

Cross X Went to sleep on roof ~~about~~ from approx 1630 – 1530. I slept for about 5 hrs except for one time about dusk when A plane worked one. I had my own blankets. Didnt go down for supper. I understand by QB that I'm not to leave the regtal area without permission or a pass. I imagine it could also be to have people available. Didnt tell anyone where I was going at 1400 hrs. I wasnt going on duty till 330 AM next day. In my service I've used to regular shifts. If the unit had moved I wouldnt have known about it I guess. If away I could have heard trucks starting. But I couldnt hear any yelling from inside the bldg.

I didnt understand that if RCA link had gone on I'd have to take it. Dont know who would have. I had switched with Priest. I was away more than 8 hours – that I admit was more than 1 complete shift.

No Re-Ex

Court – Didnt understand I was working as a team with Priest.

Sgmd Dsf Ust, P40328 Sgmn. Charbonneau, E sec Sig & Tel Regt. duly sworn deposes:

I work with Priest, Deshaines & McKaye on 2 regtal nets. From 16 Sep – 18 Sep I received no orders that the RCA link would be coming on. Not even a suggestion.

Cross Ex. 2 sets in the wch. There's always the possibility of the 2nd set coming on. I was aware I might be needed for duty at any time. It was understood among ourselves. I think Acc. would have known too.

No Re X

3rd Def Unit B32042 Sigmn McKaye, D E Sec Sigs u Td Rest.
duly sworn deposes.

I work with Priest, Acc. & Chambonneau. From 16 Sep - 18 Sep I received no orders that RCA link would be coming on. Nor did I receive any suggestion. We reached our last area on the 16

Cross Ex. Worked there 1½ months. I knew RCA link might come on at some time. Don't know about Deshaies. He only came a few days ahead of that. Don't think he knew the score

No Re Ex

4th Def Unit. B132411 Sigmn Bowman S.H. E Sec Sigs u Td Rest.
sworn deposes,

Know Acc. On Sep 18 about 1045 I saw Acc. in the latrine near the kitchen. Was fully dressed & had some blankets with him. I said they'd been searching for him & he said he'd been on the roof sleeping

Cross Ex. I saw him enter the latrine

Re Ex

SS Accomplished with

1. The accused is new to this sub-unit.

2. No orders were given to the sec. nor suggestions made that the RCM set would be coming on. No duty roster was kept.

3. The accused was not due to take over the Regt set until 0330 hrs.

4. A general C.B. was issued in the area but no restrictions were laid on as to where personnel might go in the bldg. No sleeping quarters were assigned

5. There is no evidence that the accused was outside the C.B. area.

Prosecutor's address

1. Acc'd could not be found by either Lyt Cameron or Cpl Priest who made a very reasonable search for him.

2. It was not their duty to comb the area for a man when he is required for duty. It is man's responsibility at all times to make him self available

3. All other operators understood there was a possibility of ~~[illegible]~~ RCA [illegible]

4. There was no duty poster because it was impossible to keep one

[illegible] Capt

J A Sums Up

Acc. has elected.
To prove AWL - must prove start, end & continuity.
Defence is that Acc was never absent.
Seems clear there were no restrictions as to where a man should be as long as in area. No duty roster. No definite orders. Opposed to this the Pros. argues the practice of this section [illegible]. To this the Acc says he had only recently arrived there. Out of all this evidence you must decide if this soldier has been guilty of no offence.
Innocent till contrary proved beyond reasonable doubt
Reasonable doubt defined.
Must now reach verdict

Questions from Pros. Def or Court?
No questions

Summary of Evidence in the case of B22980 Signn Deshaies, W. RCCS attached to 4 Cdn Fd Regt, R.C.A. charged with Absence without Leave (AA Sec 15(1))

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS: P40315 Sjt. Cameron, A.B. E Sec RCCS Attached 4 Cdn Fd Regt

sworn states:-

I am senior RCCS Signal NCO in E Sec Sigs. On the 18th Sep at approximately 1230 hrs I was in my room and looking out my window when I noticed Signn Deshaies whom I recognize shining his shoes as though he was getting ready to go somewhere. Around 1400 hrs I checked throughout the building and area surrounding the building and could not find Deshaies. I checked again at approx 1800 hrs and could not find him or any trace of him.

Cross-examined by the Officer taking the Summary:-

Q. Why did you look for the accused at 1800 hrs?
A. Simply to check on him and see what he was doing.
Q. Under what circumstances are your signallers permitted to leave the building or immediately surrounding area?
A. They are not to leave without a pass or without informing Lt McCarey or myself.
Q. Did the accused have a pass for that day?
A. No he did not nor did he inform me that he was leaving.
Q. When did you next see the accused after 1800 hrs 18 Sep 44?
A. I did not see him until the next morning.

Cross-examined by the accused:-

Q. Did you look on the roof at any time while you were looking for me?
A. No I did not.

Re-examined by the Officer taking the Summary:-

Q. How did you conduct search forthe accused?
A. I went all through the building.
Q. Did you call for him?
A. Yes.
Q. Did you ask anyone else if they had seen him?
A. Yes.

Sgt Cameron A/B
(A.B. Cameron) Sjt

SECOND WITNESS: A2177 Lcpl Priest, W. E Sec RCCS Attached 4 Cdn Fd Regt R.C.A. sworn states:-

At 1730 hrs 18 Sep 44 acting on orders I turned on the rear link wireless set. The regimental set was already established and I was to be on duty on that set from 1800 hrs on. At 1800 hrs I looked for Signn Deshaies and not being able to find him I got another Signaller to replace him on the RCA net.

Cross-examined by the Officer taking the Summary:-

Q. Why did you look for ~~xxxx~~ Signn Deshaies?
A. He was to be on duty from 1800 hrs or if the rear link set went on the air.
Q. Where did you look for the accused?
A. I looked all through the ground floor and cellar of the building and asked everybody I found if they had seen him. I also looked in the area of his vehicle.
Q. When did you next see the accused?
A. At 2300 hrs.
Q. Where was that?
A. At the door of his room at the completion of my tour of duty.

Cross-examined by the accused:-

Q. Barring the other RCA net opening what time was I supposed to go on duty?
A. 0330 hrs 19 Sep 44.
Q. Was I informed that the other net would be opening?
A. I informed all the operators beforehand that I did not know what time the RCA net would be opening and they had to remain on call.
Q. Was I in receipt of a definite instruction to stand by for the opening of the RCA net?
A. No I did not give a definite order but informed the operators of the possibility of the RCA net coming on.

(William Priest) Lcpl

THIRD WITNESS: B31249 Cpl Buckindale, W.J. E Sec RCCS attached 4 Cdn Fd Regt, R.C.A. sworn states:-

At 2300 hrs 18 Sep 44 I was on duty in the Signal Exchange. As a result of a previous conversation with Sjt Cameron I went out to where the RHQ guard was posted at the front of the building to inquire if any of our absent Signallers had returned. While I was there Signn Deshaies whom I recognize came in the front door. I asked him where he had been and he replied that he was sleeping in a truck. I asked him if he knew he was on duty at 1800 hrs. He replied:- "No." I told him that the RCA link had gone back on and he should have been on duty at 1800 hrs. He then changed his story and said that ~~xx~~ he had got Cpl Priest to take his shift and he would take Cpl Priest's. I said "You got a man to take your shift so you could sleep out for six hours" and he replied "Well that's beside the point. I could have got ~~xx~~ him to take my place for several reasons." I said "You're under arrest. You can explain it in the morning."

Cross-examined by the accused:-

Q. Corporal would you state definitely that I came from outside the RHQ area?
A. No.
Q. Could you state definitely that I did not come from inside the building?
A. I can only state that I saw you come up the steps.
Q. Did I ask you the time?
A. No you did not but I checked it and it was exactly 2300 hrs.

(W.J. Buckindale) Cpl

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I wish to consult an officer for my defence before making a statement.

(Jean Deshaies) Signn

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) and (G) (13) have been complied with.

(S.C.M. Grange) Capt
4 Cdn Fd Regt, R.C.A.

In the Field
21 Sep 44

5K-6.

Sgn. Deshaies, J.

RECORDED AT CMHQ IN AB 1068 5K-6

RECEIVED 3 MAY 1945 JAG Branch CMHQ

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3) 40/PAS/1098 (4970) 4/38B

Convened by Order of BRIG F. D. LACE, OBE Comd RCA 2 DIV dated 1 MAY 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B22980	SGMN		JEAN	DESHAIES	"E" SEC RCCS ATT 4 FD REGT

PROCEEDINGS REVIEWED 31 May 45. Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) GERMANY on (date(s)) 3 MAY 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 31/32.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the~~ Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~& attached thereto~~.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 10.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO/offr.~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter~~ ? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans

The shorthand writer is sworn.(1)

(1. RP 92. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	W. J. FARNSWORTH	2 A/TK REGT
Member	CAPT	E. J. BILLO	5 FD REGT
Member	LIEUT	J. B. SEATON	5 FD REGT
Judge-Advocate			
Prosecutor	CAPT	S. G. M. GRANGE	4 FD REGT
Defending Offr	LIEUT	W. CRAIG	4 FD REGT

Questions by President: Is the Prosecutor a lawyer ? Ans NO. Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Ltr p 3.)

A8. The accused B22980 SGMN DESHAIES, J before arraignment makes(s) (no) ~~no~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 1b, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B22980 SGMN DESHAIES J.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st CHARGE	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR 120 DAYS

(Sgd) Judge-Advocate, if any. 3 MAY 45 Date awarded. (Sgd) J. J. Farnsworth Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set furth in Part I is:

I confirm the findings and the sentence of the court but remit (60) sixty days detention

~~I direct that the accused be put in confinement or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) A. Ahall Brig CRA 2 Cdn Inf Div

Date 6 May 45 Commanding Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B22980 SGMN DESHAIES J	7 MAY 45	[signature] Capt

Casualty return sent no 50 Dated 7 may 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ND .(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on FIRST charge(s). ~~The accused is (are) informed, and he (they) changes(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~ N/S N/S
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of N/S Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued N/S by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 73 Notes 3 & 4 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D5.*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans..... Do you intend to call witnesses on your behalf ? Ans..... Are they witnesses as to character only ? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 43, 120(A).* 2. *AA 54(3), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans YES AND TO CALL A CHARACTER WITNESS
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 253 or MFB 294.* 2. *MFAA 6.* 3. *RP 46, KR Con 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES, THROUGH MY DEFENDING OFFICER.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 43. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 3591, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(i), 53(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. B22980 Sigmn Jean DESHAIES, "E" Sec RCCS attached to 4 Field Regiment RCA, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Army Act
Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE
in that he,
In the Field, in GERMANY, on the 25 Apr 45, at approx 0630 hrs, while on duty as exchange operator, was asleep.

(T. Wilson) Maj
A/Comd 4 Field Regt RCA

In the Field
27 Apr 45

To be tried by FGCM
In the Field
28 Apr 45

(F.D Lace) Brig
CRA 2 Cdn Inf Div

I desire to have an officer assigned to defend me at my trial by Court-Martial.

I desire the services of Lt. W. Craig
if he is available

J Deshaies

(J. Deshaies) Signm
In the Field H Sad RCCS, Att'd 4 Fd Regt RCA
28 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B22980	Sigmn		Jean	DESHAIES	E Sec Sigs att 4 Cdn Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused being subject to military law, has (~~been~~ committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~ attached and on (date) 1 May 45 endorsed by me, (~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; ~~[illegible]~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	W J Farnsworth	2 Cdn A tk Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO 5 Cdn Fd Regt	5 Cdn Fd Regt
Lt	to be detailed by CO 5 Cdn Fd Regt	5 Cdn Fd Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	to be detailed by CO 2 Cdn A tk Regt	2 Cdn A tk Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in GERMANY
(Country.)

(Signed personally. RP 105 fn 2.) (Rank.)

Date 1 May 45

Commanding [signature] Brig
CRA 2 Cdn Inf. Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1097 (6148)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

KR(Can) Para 557

I certify that I have this morning examined No. B22980 Signn DESHAIES, J. of E Sec RCCS Att'd 4 Fd Regt RCA, and in my opinion he is Fit to undergo trial by court-martial.

Station: In the Field

Date: 3 May 45

R C Wallace Capt

Medical Officer 4 Fd Regt R.C.A.

It is the opinion of this court that in view of the fact that there were four operators for this switchboard, the tour of duty from 2359 hrs. until 0600 hrs. was unnecessarily long. and this fact greatly increased the possibility of the accused failing in his duty.

H J Barnsworth major
President

HJB
maj

P 40315 Sgt. Cameron A.B., Sworn, States :-

Sgmn. Deshaies is of good character. Since he has been with us he has been an efficient worker and knows his job. When called upon to do anything he has done it willingly. There have been no complaints about his work until the recent instance.

Q. Have there been any additional duties to exchange operator for which Sgmn. ~~Deshaies~~ Deshaies has been called?

A. Yes. In addition each man helps with the loading or unloading when there is a move.

Q. How many operators were there on this exchange?

A. There are 3 others as well as the accused.

R.P. 83 (B) complied with

11/8
mj.

Statement of Defending Officer inthe case of B22980 Sgmn DESHAIES, J, "E" Section RCCS, attached 4 Field Regiment RCA.

The accused has been with the unit since a few days after it arrived overseas on the Western Front. The character witness, who is the NCO i/c of his Section, gives him a good recommendation as far as his work and ability is concerned. During the past few weeks, dme to the rapid and numerous moves of the unit, Sgmn DESHAIES, in addition to his duties as Exchange Operator, has, during his off-duty hours, other work to carry out. This occurred during the day preceding the incident in question. He has been carrying out his duties as an exchange operator on this shift (12-6) for approx 4 months, and at no time during them has there been any reason for complaints against his work. The accused, was not absent from the exchange at any time.

(W Craig) Lt
4 Field Regt R.C.A.

The accused stated on his own behalf with relation to the evidence of the 3rd. witness in the Summary, that while his tour of duty ended at 0600 hrs., he had always voluntarily remained on duty until 0800 hrs. ~~which~~ as during this period he would be up in any case in order to eat his breakfast and wash up.

NJB
mj.

EXHIBIT "A"

Summary of Evidence in the case of B22980 Sigmn Deshaies, J., "E" Section RCCS attached to 4 Fd Regt RCA., charged with sleeping when on duty as exchange operator (AA Sec 40).

By direction of the Commanding Officer, the evidence is taken on oath.

First Witness Lt D MacDonald, 4 Field Regt RCA, swqrn, states:-

"On the morning of 25 Apr 45, I was Duty Officer in the Regtl Command Post and at about 0630 hrs it was necessary for me to phone the 2nd Bty in connection with guiding in amn which was arriving on the Regtl position. I buzzed on the phone and there was no answer from the switchboard. I called the bty on the bombard line and about ten minutes tried again to get the switchboard as I thought the line to the exchange might be out. There was still no reply so I sent Sjt Martin, who was clerk on duty that night, to investigate at the switchboard. At approx 0648, the switchboard called and asked if I had been trying to get through. I asked the operator, whose voice I recognized as that of Sigmn Deshaies, the accused, if he had been away. He replied that he had not been away but had been asleep."

Cross-examined by the Offr taking the Summary.

Q Did you have occasion to call the exchange at any time after approx 0648 hrs?
A I know that I used the phone but I could not give a definite time between then and breakfast time.

Q Did you have any difficulty in raising the exchange?
A None.

The accused declines to cross-examine the witness.

(D MacDonald) Lt
4 Field Regt R.C.A.

Second Witness C18690 Sjt Martin, A.E., 4 Field Regt RCA, sworn, states:-

"I was on duty on the morning of 25 Apr 45 as Command post clerk. At approx 0645 hrs, as a result of an order by the Duty Offr, I went to the Signal Exchange. There I found Sigmn Deshaies, the accused, whom I recognize, asleep at the exchange. I awoke him and told him we were trying to get through and couldn't. I then placed him on charge."

The accused declines to cross-examine the witness.

(A.E. Martin) Sjt
4 Field Regt R.C.A.

Third Witness B31249 Cpl Buckindale, W.J., "E" Sec RCCS attached to 4 Fd Regt RCA, sworn, states:-

"Sigmn Deshaies, whom I recognize, took over from me as exchange operator at approx 2359 hrs the 24 Apr 45. He was sober and wide awake, and appeared to be quite capable of carrying out his duty as exchange operator".

Cross-examined by the Offr taking the Summary.

Q How long was the accused's tour of duty to be?
A Until o600 hrs in the morning.

Q Why was he still on duty at approx 0645 hrs?
A I do not know, Sir. His relief operator was sleeping in the next room to him and could have easily been awakened.

Q Is it the practice for the off-going exchange operator to awaken his relief at the hour set for the changeover?
A Yes, Sir.

Q Had you actually detailed the accused for duty from midnight to 0600 hrs 25 Apr 45?
A It has been a standing drill that Sigmn Deshaies will take a daily shift from midninght, for the past three weeks, to 0600 hrs. The arrangements before that time I am not aware of. At the time of the incident the accused was doing 6 hrs on and 18 hrs off. He had other duties to perform as well when the Regiment was moving.

The accused declines to cross-examine the witness.

W J Buckindale
(W.J. Buckindale) Cpl
"E" Sec RCCS att 4 Fd Regt RCA

The accused was cautioned as follows:-

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
A No, Sir.

J Deshaies
(J.Deshaies) Sigmn
"E" Sec RCCS att 4 Fd Regt RCA

I c[illegible] consistinify that the foregoing Summary of Evidence, presence of two pages, was taken down by me in the and (F) were [illegible]ccused and that RP 4 (C), (D), (E) [illegible]ed with.

[illegible]
[illegible] (S O M Orange) Capt
[illegible]d Regt R.C.A.
[illegible] detailed to take the [illegible]mary.

In the Field
27 Apr 45

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only) EXHIBIT "B"

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B22980	Sigmn	DESHAIES J	"E" Section RCCS attached 4 Field Regiment RCA

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For	AA Sec 15(1) AWL	Five times.
For	AA Sec 40	Four times.
For	AA Sec 15(2)	Two times.
For	AA Sec 11	Once
For	AA Sec 15(3)	One times.

Date of first entry in Field Conduct Sheet 16 Dec 41

Date of last entry in Field Conduct Sheet 14 Mar 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~ 8 ~ days in military custody, *i.e.*, ~ 8 ~ days in open arrest, Nil days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23

6. The date of his ~~taking up for military service~~ attestation is 21 Oct 41

7. The service which the accused is allowed to reckon is 3 yrs 5 mos

8. The accused is in possession of† CVSM and clasp

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W1 88060/3402 30,000 8/44 51-4751. Forms/B.296/War/7

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 3RD day of MAY 1945

Capt

No. B22980 Name DESHAIES J | Sqn, Battery, or Company | Corps RC Sigs | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/1156 (5472)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-3-44	Sigmn		Supplementary Started 16 Mar 44. AA 15(3) Out of Camp without a pass at 1020 hrs 14 Mar 44. (2) AA Sec 11 Neglecting, etc., was NOT in possession of his respirator on Tuesday morning.	Documentary	7 days FP 7 days pay	31-3-44	Lt-Col RJ Burgess "AG"	

CERTIFIED TRUE COPY OF ORIGINAL

(S CM Trange) Capt
Adjt 4 Field Regt RCA

(PTO)

EXHIBIT "C"

No. B22 980 Name DESHAIES J | Sqn, Battery, or Company | Corps RCCS | Date of enlistment 31-10-41 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/1156 (5415)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc | "??????????" Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS	16 Dec 41	Sigmn		AWL from 1800 hrs 16 Dec 41 to 200 hrs 16 Dec 41 (AA Sec 15(1))	Cpl Foord A E	3 days CB	17Dec41	"JW Turney Lt"	
Debert NS	1 Apr 42	Sigmn		AA Sec 40 Failing to get haircut as ordered.	Lsjt Thornton	7 days CB	1Apr42	"???????" Capt	
Debert NS	7 Apr 42	Sigmn		AA 15(1) Absent without leave from a training parade.	A/Sjt Lowry	5 days CB	8Apr42	"???????" Capt	
Debert NS	4 May 42	Sigmn		AA Sec 40, Failing to attend training class.	Sjt Cumming	7 Days CB	5-5-42	"???????" Capt	
Debert NS	17 May 42	"		AA 15(2) Failing to appear for Parigue	Sjt Cumming)	14 days CB	18-5-42	"PN Owens" Lt-Col	
	18 May 42	"		AA 15(2) Failing to appear for Sick Parade	SSM Watson)				
Debert NS	22 Jun 42	"		Sec 40 AA. Failing to rise at Rev	Capl McNeil Lsjt Osborne	Forf 2 days Ord Pay	22-6-42	"PN Owens" Lt-Col	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Debert NS	1-6-42	Sigmn		Issued special leave and transport warrant # A157414					
Debert NS	15Aug 42	Sigmn		AA Sec 40 - Neglect to perform duties properly.	Lsjt Cole J D	3 days CB	Aug18/42	"?????"Capt	
Field	28Nov 42	Sigmn		AWL 32 hrs 30 mins.	Cpl Fuller	14 days CB	30-11-42	"?????"Capt	
Field	22Sep 43	Sigmn		AA Sec 15(1) AWL from 2230 hrs 22 Sep 43 to 1030 hrs 4 Oct 43.	Documentary Lt Rintoul	21 days FP	6Oct43	"WP Shirreff" Lt-Col	12 days auto for of pay.
Field	16Nov 43	Sigmn		AA Sec 15(1) AWL from 1800 hrs 11 Nov 43 to 1400 hrs 12 Nov43	Sjt Bryden Lsjt Cameron D Cpl Ewing R Tpr Johnston E	28days FP	16Nov43	"WP Shirreff" Lt-Col	28 days pay 149(1)(b) 3 days pay 149(1)(c), 1 days pay 149(1)(a)

RRR 74

PTE DESJARDINS G

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D138269 Pte Gerard DESJARDIN - 6 CIRU-CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which No days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : Ninety days Detention.

(Sgd) ..... Judge-Advocate, if any. Date awarded 3 July 44 (Sgd) Lumard Kenny Maj President. (RP 45, 52)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

~~Confirmation reserved.~~

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be kept in custody of prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 5 Jul 44 (Sgd) (G S N Gostling) Brig Commanding "A" Gp Cdn Rft Units C A (O) Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-138269 Pte DESJARDIN, Gerard 6 C.I.R.U. - C.I.C.	7 Jul 44	[signature] Capt. ADJT., 6 CDN. INF. RFT. UNIT

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 17 JUL 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AD 160 RRR 74

FIELD GENERAL COURT-MARTIAL

CFA86 (To lieu of AFA81 40 P & S/1698 (40/10)) 4/38B

Convened by Order of Brig GSN Gostling, ED* Comd "A" GP CRU dated 30 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D138269	Pte	Gerard	DESJARDIN	6 CIRU CIC

PROCEEDINGS REVIEWED

17 Jul 44

J C F Cunningham Lt Col

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 3 July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the OC.~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to Lt R. Savary as interpreter ? Ans No.

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer ? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	L V PERRY	6 CIRU
Member	Capt	J Dunbaine.	6 CIRH.
Member	Lt	G Romney.	6 CIRH.
~~Waiting Member~~	Capt	D. IRELAND	6 CIRH
Prosecutor	Lt.	J.A. Hickey.	6 CIRH.
Defending Offr	Lt	R. Tate.	6 CIRH.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused D138269 Pte DESJARDIN, G before arraignment make(s) (no) plea

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13C, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references to fns to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*b*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 25(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ——— charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ——— charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'C', initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*B*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ! Ans .....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(7) (*b*), *RP* 45, 120(*A*). *2. AA* 54(2), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (extract) of Conduct Sheet(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(*1. MFB* 355 *or MFB* 294. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes.(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(2) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 661, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see inserts on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D-138269, Private Gerard DESJARDIN, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,
SECTION 15 (1)
ARMY ACT

in that he,

in the Field, whilst a defaulter, did absent himself without leave from 1700 hrs, 18 jun 44, until he was arrested by the Canadian Provost Corps at 2250 hrs, 23 jun 44)

(Total absence: 5 days, 5 hours, 50 minutes).

(W.E. MORGAN), Col
Commander
6 Cdn Inf Rft Unit

In the Field
28 Jun 44

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
C A (O)

Field
30 Jun 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/PAR/1697 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D136269	Pte		Gerard	DESJARDIN	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ~~(have)~~ committed the offence[X] set forth in the Charge Sheet[X] attached and on (date) 30 Jun 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr;)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR (Rank.)	L V PERRY (Must be named. RP 106.)	6 CIRU (Unit.)

MEMBERS.

Capt	to be detailed by OC 6 CIRU	
Lt (Rank.)	to be detailed by OC 6 CIRU (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt (Rank.)	to be detailed by OC 6 CIRU (Named or detailed, if any. RP 106.)	(Unit.)
~~[illegible]~~ (Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 30 Jun 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G S N Gostling)
Commanding "A" Gp Cdn Rft Units C A (O)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557 D138269

I certify that I have this morning examined No: Pte Desjardins G.
(Rank) (Name)
of 6 C.I.R.U. and in my opinion he is fit to undergo
[redacted]
trial by Court Martial.

Station

Date July - 3 - 1944

Sgd C.F. Bean Capt
(Medical Officer)

THE SALVATION ARMY

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

Page 1

3 Jul 1944
1110 hrs.

Pte. Desjardins G.
No statement.

Def. Offr: The accused has only 18 mos of service & he wants, besides the offences that he has made, to be put on a draft and go to France. His medical category is B1 and he promises that in the future he shall do better than in the past.

Ques. of court. ① Did you have any special reason for going AWL
Answer. No reason at all.
~~② Why are you B1~~
~~Answer. On account of my legs.~~

Ex. "6"

SUMMARY OF EVIDENCE

In the case of No D-138269, Private Gerard DESJARDIN, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on Oath.

First witness for the Prosecution

D-62925, Pte CLOUTIER H., Cdn Inf Corps, on the strength of No 6 CIRU., having been duly sworn, states as follows:

I am cook in charge of No 2 Kitchen, No 4 Camp, No 6 CIRU. On 18 jun 44, at approx 0730 hrs, the accused, whom I now recognise, was escorted to the kitchen and detailed to clean the place. The Regt Police escorting the prisoner asked me to sign for the accused and then went away. I told the accused what I wanted him to do and then carry on with my usual work. At approx 1700 hrs I noticed that the accused's work was not finished yet, so I looked for him. He was not in the kitchen. I search for him personally throughout the camp, but Desjardin was no where to be found. I reported this fact to the Regt Police when he came back to fetch the accused later on.

The accused declines to cross-examine this witness

H. Cloutier .....Pte

Second witness for the Prosecution

Lt M.P. MENARD, Cdn Inf Corps, on the strength of No 6 CIRU., having been duly sworn, states as follows:

I hereby produce the following documents relating to the accused Pte Desjardin:

(a/ Certified true extract copy of Daily Part II Orders (6CIRU) No 145 d/19 Jun 44 purporting to be signed by the adjutant of No 6 CIRU. This document is marked Exhibit "A" and is attached to the Summary of Evidence.

(b/ Certificate in accordance with PC 2797 of 10 Apr 42 purporting to be signed by the Sgt i/c of No 4 Detachment Pro, No 6 Cdn Pro Coy, Cdn Pro Corps. This document is marked Exhibit "B" and is attached to the Summary of Evidence.

The accused declines to cross examine this witness

M.P. Menard .....Lt.

The accused was cautioned as follows: "Do you wish to make a statement or to give evidence on Oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence".

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in presence and hearing of the accused and that Rules of Procedure 4 (C),(D),(E),(F) and (G) have been duly complied with.

C. Major Chapt. .....

officer detailed to take the summary of evidence.

In the field 28 jun 44

LAST ORDER
NO 144
18 Jun 44

6 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDERS PART II

THIS ORDER
NO 145
19 Jun 44
PAGE 6

Ex A

18. PUNISHMENTS

18-H On 16 Jun 44 awarded 14 days C.B. and a forf of 28 days pay under FR&I 149(2) for an offence under Sec 15(1) A.A.(A.W.L. from 2300 hrs 6 Jun 44 to 1545 hrs 15 Jun 44 - 8 days 16 hrs 45 mins). Forf 9 days pay under FR&I 149(1)(a) Total forf 37 days pay.

D-138269 Pte Desjardins, G. (C.I.C.)

Signed R. Laverdure
(R. Laverdure) A/Captain
for Adjutant
6 Cdn Inf Reinf Unit

JUN 29 1944

Certified true copy G.A. Barette Capt
(L.G.A. Barette) Capt
Adjutant- No 6 Cdn Inf Reinf Unit

off. hav. cust.
orig. doc

CERTIFICATE IN ACCORDANCE WITH P.C. 8797 of 10.A.r.42.

I Certify that No. 138269 Rnk. Pte ... Name. Desjardins Ce .....

Unit # 6. C.I.P.U. .....was arrested at. Northern Lands (Place)

at 2250 (hour) on 23-June-44 (date) and that at the time of his arrest he was wearing (Military Uniform) ##########.

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

J. Faucher S/Sgt.

(x x x

D-136269 Compiled from N.F.M.4. Original N.F.M.6 not available

No. Name DESJARDIN, G Sqn, Battery, or Company Corps C.I.C. Date of enlistment 11 Dec 42 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc D. Loranger Major Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Jun 44	Pte		AA Sec 15(3/2) AWL from duty		7 days C.B. 7 days Pay	5 Jun 44	DO 135/44	
Field	6 Jun 44	Pte		AA Sec 15(1) AWL 6 days 16 hrs 45 mins		28 days pay 14 days C.B.	16 Jun 44	DO 145/44	forf 9 days pay for AWL

Certified true copy consisting of one page, dated 3 Jun 44

(Officer having custody of original document)

(PTO)

Ex "D"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D-138269	Private	Gerard DESJARDIN	Canadian Infantry Corps.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15 (1) AWL	2 times	2 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, or

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

~~3. The accused is not under sentence at the present time,~~ or The accused at the present time is under sentence for 28 days pay + 14 days C.B. beginning on the 16th day of June 1944

4. The accused has been in confinement, awaiting trial on the present charges, for No days in civil custody, and ten days in military custody, making a total of ten days, of which No days were spent in hospital.

5. The present age of the accused according to his ~~[illegible]~~ attestation paper is 21 years old

6. The date of his ~~[illegible]~~ attestation specified in his ~~[illegible]~~ attestation paper is 11 Dec 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr 146 days

8. The accused is entitled to deferred pay or gratuity in respect of 1 yrs 146 days service.

9. The accused is entitled to reckon 1 yr 146 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of, or entitled to, state any military decoration or reward)~~

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the rank of~~

12. (In the case of an officer.) ~~The accused holds in the army the rank of~~ dated

~~in his regiment (or corps or department) the rank of~~ dated

[illegible]

Ex D.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-130869 Rank Private Name Gerard DESVARDIN of Cdn Inf Corps. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer dispensing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of July 44

officer having custody of original documents.

The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years .....

Date of Promotion.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be retained through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

LIST OF WITNESSES

In the case of No B-138269, Private Gerard DESJARDIN, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Prosecution

D-62825, Pte Cloutier H, Cdn Inf Corps,, on the strength of 6 CIRU.

Lt M.P. Menard, Cdn Inf Corps, on the strength of 6 CIRU.

Defence

Nil

In the Field
28 Jun 44

LIST OF EXHIBITS

In the case of No D-138269, Private Gerard DESJARDIN, Cdn Inf Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

Exhibit "A": Certified true copy of Daily Part II Orders (6CIRU)

Exhibit "B": Certificate in accordance with PC-2737 of 10 Apr 44.

In the Field
28 Jun 44

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

.....Lt Lavigne C.C.I.R.H.....

if he is available.

.....Desjardins G.....

In the Field
25 day of Jun 1944.

5J-143

Pt Desjardins J.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-4489 Pte Jean Paul DESJARDIN R 22 Regt att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AR Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~Not present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a ~~period~~ of 90 Days.

(Sgd) ..... Judge-Advocate, if any. 18/May/45 Date awarded. (Sgd) ~~[illegible]~~ President. CAS 65, 50 V

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) [illegible] Major, 2 Can Base Sft Gp

Date 19 May 45 Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E4489 PTE JEAN PAUL DESJARDIN	26 MAY 45	J Muirhead Lt-Col Comde, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 7 JUN 1945 AHQ ARMY NHQ

RECORDED AT CMHQ [illegible] 5J-143

CFA86 (1st Issue of AFA3) 40,P & S/1868 (4650) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened at Brig J G Sprague DSO DSK ED Comd 2 CBRG dated 14 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname	Unit.
E-4489	PTE	Jean Paul	DESJARDIN	R 22e Regt att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED J.A. Readyeapp, 12 June 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS CONFIRMED Oct 8 1945 21 Army

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 18 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 32(33).

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to as interpreter?~~ Ans ~~The Interpreter is sworn.(1) Do you object to as shorthand writer?~~ Ans ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D C MacKENZIE DSO	PGR 1-9 Lieut 3 Cdn Inf Bde	
Member	MAJOR	GBH COX	CAC	ICCMC
Member	CAPT	PJ COULIN	ACA	ICCMC
Judge-Advocate				
Prosecutor	LIEUT	K.A MACKENZIE	CIC	ICCMC
Defending Offr	LIEUT	AJ THOMPSON	CIC	ICCMC

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused E-4489 Pte Jean Paul DESJARDIN before arraignment makes(s) (no) ~~request~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (in closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG W.D. 7 Jun 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his~~ (their) plea(s) of Guilty to Not Guilty on ~~charge(s). The accused is (are) so informed, and he (they) (~~ charge(s) ~~his (their) plea(s) on~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 45, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Nil.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), ~~and certified true copy (copies) of Conduct Sheet(s)~~, purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (*g*) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex ..... respectively.(2)
(1. *MFB* 315 *or MFB* 296. 2. *MML* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Nil or See Sd.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*a*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 44. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C H A R G E S H E E T

The accused, E-4489 Pte Jean Paul DESJARDIN, Royal 22nd Regiment, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 1100 hrs 15 Apr 45 until apprehended at BRUSSELS, Belgium at 1415 hrs 25 Apr 45.

(Total absence: 10 days 3 hrs 15 minutes)

Remanded for Summary of Evidence

In the Field
7 May 45

J Medhurst
(J Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court Martial

In the Field
7 May 45

J Medhurst
(J Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

(J [illegible]) Brigadier,
Commander
2 Cdn Base Rft Gp

In the Field
14 May 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-4489	Pte		Jean Paul	DESJARDIN	R 22 Regt att 1 Cdn Disciplinary Centre

CONVENTING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 14 May 45 (date) endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ~~; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	G G MacKENZIE MBE (Must be named. RP 106.)	PCH 7-9 List 3 Cdn ReTD (Unit.)

MEMBERS.

Major	G B H COX	CAO att 1 Cdn Disciplinary Centre
Capt (Rank.)	P J POULIN (Named or detailed. RP 106.)	RCA Cdn Cl Centre (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 14 May 45

(Signature) (AF B 2122 (As to 2))

Commanding 2 Cdn Base Rft Gp

Brigadier (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/18A (FORM (In lieu of AFAA) AF P & R/1867 (1401))

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined E4488 (No.)

Pte (Rank) Desjardins, JP (Name) and in my opinion he is

fit to undergo trial by Court-Martial.

~~unfit~~

Station 1 Cdn Disciplinary Centre

Date 16 May 1945

(Sgd) (Medical Officer)

Unit 1 Cdn Disciplinary Centre

14 A
42

Summary of Evidence in the case of E 4489 Pte DESJARDIN J P, Royal 22nd Regiment, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 19 dated 30 Apr 45

Exhibit "B" - Certificate of apprehension dated 26 Apr 45

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

M Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
7 May 45

Exhibit 'A'
M Rousseau Capt

PART II ORDER EXTRACT FORM

TO: Officer Commanding,
1 Cdn Disciplinary Centre,
Cdn Army Overseas.

99/20/R22eR/1(A5c1)

30 Apr 45 19

EXTRACTS FROM: UNIT Royal 22e Regiment

Part II Order No. 19 dated 30 Apr 45

ABSENT WITHOUT LEAVE
AWL from 1100 hrs 15 Apr 45 Still absent 1100 hrs 23 Apr 45
(8 days) App 1415 hrs 25 Apr 45
E4489 Pte Desjardins, J.P.

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 [illegible]

Exhibit '
M. Rousseau Capt

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT NO: E-4489, Rank: Pte. Name: DESJARDINS, J.P.

Unit: "D" Coy, ROYAL 22 REGT. 1 Cdn Div. was arrested at Brussels (Place)

at 1415 hrs. (Hrs) on 25 Apr 45 (Date) and that at the time of his arrest he was wearing (Military uniform) or XXXXXXXXXXXXXXXXXX.

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

(C.J. Allendorf) Capt.
DAPM Cdn Sec.
Brussels Garrison.

Field
26 Apr 45

LIST OF WITNESSES

NIL

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 19 dated 30 Apr 45 "A"

Certificate of apprehension dated 26 Apr 45 "B"

I the undersigned hereby acknowledge receipt of one copy of Summary of Evidence and one copy of Charge Sheet free of charge on 7 May 45

~~E-4439 Pte DESJARDIN~~ J P

Army Form B 296 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martials only)

Number	Rank	Name	Regiment (or as the case may be)
B-4480	Pte	DESJARDIN J P	Royal 22nd Regt - 1 Cdn Disc Centre

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or a civil court:-

For No MFM-6 available. ~~Nil~~ _____ times

For _____ _____ times

For _____ _____ times

For _____ _____ times

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the Accused by a Cour-Martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for N/O

beginning on the _____ day of _____.

4. The accused has been awaiting trial on the present charges for No days in civil custody and for 22 days in military custody, i.e. No days in Open Arrest 22 days in Close Arrest, of which No days were spent in hospital.

5. The present age of the accused is 22 years 1 month 18.

6. The date of his Attestation is 2 Nov 1939.

7. The service which the accused is allowed to reckon _____.

8. The accused is in possession of G.V.S.M with Clasp.

9. (If the accused is a Warrant Officer or NCO). The accused has served continuously without reduction, to the present date:-

	Date of Promotion
In the substansive rank of _____	_____
In the War substansive rank of _____	_____
In the acting rank of _____	_____

I certify that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this //// 18 day of May 45

M Cockett
Admin. Offr.
1 Cdn Disciplinary Group

Case of E4459 Pte Desjardin J.P.

Mitigation Plea

The accused enlisted in Nov. 1939 at the age of 16, came overseas in 1940 and landed in Sicily with his unit in Sept 1943 in the same section with him in a rifle company he had a brother, who enlisted about the same time as he. Just before he went A.W.L. he saw his brother get wounded, but was unable to get to him to learn how serious it was. His brother was evacuated, and so the accused went absent to try to find him He enquired at various dressing stations and then went to Brussels to enquire at hospitals there, just before he could do so he was picked up. He was absent only ten days, and when he went absent his unit had taken its objective and had been relieved.

The accused has a long record of service in the field and his record shows no previous entries. And in addition to all the above, he has volunteered for service in the Far East.

I would therefore ask the court to be very lenient in this case.

A J Thompson Lieut
Defending Officer.

YYY-28

Pte Desjardins, E

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C.40025 Pte Edgar DESJARDINE, Perth R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

Adjudged under sentence for: beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which 7 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for one year.

(Sgd) WMW Shaw, Capt — Judge-Advocate, if any. 18 Aug 44 — Date awarded. (Sgd) HA Snelgrove — President. (RP 8, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court.

I direct that the accused be [illegible] (1)

(1. AA 57A. Delete if not used.)

(Sgd) Chris Johnston Brig

Date 18 Aug 44 — Commanding 11 Cdn Inf Bde — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C40025 Pte Edgar Desjardine	22 Aug 44	J Dennis Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160. YYY-28

RECEIVED 4 OCT 1944 JAG Branch C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CPA86 (In lieu of AFA3) 40/P A S/1608 (2864)

Convened by Order of Brig I S Johnston DSO, ED Comd 11 Cdn Inf Bde dated 16 Aug 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C.40025	Pte	Edgar	DESJARDINE	Perth R.

PROCEEDINGS REVIEWED 60 days

JAG Ottawa 22 Aug 44 Capt

VIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 18 Aug 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0920 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to as interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	HA Snelgrove	Perth R.
Member	Capt	SR Granger	HQ 11 Cdn Inf Bde
Member	Capt	T Allen	PL Fmn
Judge-Advocate	Capt	WMW Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	CH Schwartz	Perth R.
Defending Offr	Lt	NC Patterson	Perth R.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused before arraignment make(s) (no) (~~a~~) plea(s) [illegible]

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to A9 cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 61, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AP6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is advised and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Proceedings reviewed 2 Nov 44 Can Sec GHQ 2 Echelon

Can Sec GHQ 2 Echelon 2 Nov 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No, Sir .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "Yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A), (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (e), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No Sir .(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C 40025 Pte Edgar DESJARDINS, The Perth Regiment C A a soldier of the Canadian Army (CMF) is charged with:

First Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field did absent himself without leave while undergoing Field Punishment from his unit The Perth Regiment C A from 1330 hrs 19 JUN 44 until he surrendered to the Naples Provost at 1420 hrs 2 JUL 44.
Total Absence: 13 days, 50 minutes.

Second Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field while in confinement awaiting Court Martial did absent himself without leave from 2330 hrs 22 Jul 44 until surrendering himself to 4694216 L/Cpl R White at about 0845 hrs 8 Aug 44.
Total Absence: 16 days, 9 hrs, 15 mins.

In the Field

W. W. Reid
(W W Reid) Lt Col
Comd Perth R

15 AUG 44

Bde Comd's remarks:

To be tried by Field General Court-Martial.

Field
16 Aug 44

Ian S. Johnston
(Ian S. Johnston) Brig
Comd 11 Cdn Inf Bde.

H.A.S.
[illegible]

FIELD GENERAL COURT-MARTIAL

CFA 90 (In lieu of AFAB 40/PAM/1697 (2nd))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.40025	Pte		Edgar	DESJARDINE	PERTH

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX]) committed the offence[s] set forth in the Charge Sheet[X] attached and on (*date*) 16 Aug 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[X], and to consist of the Offrs appointed or detailed hereunder.

[illegible] (AA 49, RP 106(B), 107(A). *Delete the whole or part, if not applicable.*)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. *(RP 106(E). Delete, if none appointed.)*

PRESIDENT.

Major (*Rank.*)	H A Snelgrove (*Must be named. RP 106.*)	PERTH (*Unit.*)

MEMBERS.

Capt	S R Granger	HQ 11 Cdn Inf Bde
Capt (*Rank.*)	T Allen (*Named or detailed. RP 106.*)	P L F (*Unit.*)

WAITING MEMBER.

Lieut (*Rank.*)	G K Drynan (*Named or detailed, if any. RP 106.*)	I R C (*Unit.*)

JUDGE-ADVOCATE.

Capt (*Rank.*)	W M W Shew (*Must be named, if any. RP 106.*)	HQ 5 Cdn Armd Div (*Unit.*)

On Active Service in the Fd

in Italy (*Country.*)

Date 16 Aug 44

I S Johnston

(I S Johnston) (*Signed personally. RP 105 fn 2.*)

Brig (*Rank.*)

Commanding 11 Canadian Infantry Brigade

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for instns and notes for use on trial.)

J.H.S. WMWS

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. C40025

Pte DESJARDINS, E. of Perth Regt and in my opinion he is

fit

~~unfit~~ to undergo trial by court-martial.

Station In the Field

Date 18 Aug 44

(Medical Officer)
The Perth Regt C A

SUMMARY OF EVIDENCE

R P 4

Perth Regt C A

15 Aug 1944

Summary of Evidence in the case of C 40025 Pte Edgar DESJARDINS, The Perth Regiment, charged with:

1. When on Active Service, Absenting himself without leave while undergoing Field Punishment. AA Sec 15(1)

2. When on Active Service, Absenting himself without leave while in confinement awaiting Court-Martial.

R P 4 F — The Commanding Officer directs that all evidence be taken on oath.

First Witness — A 11633 Sgt Halliday J S M, "D" Coy., The Perth Regt C A having been duly sworn states:

"I am A 11633 Sgt Halliday J S M, No 18 Pl, "D" Coy The Perth Regt C A (CMF) of which Pte Desjardins, whom I recognize here as the accused, is a member."

"At approx 1330 hrs on the 19 Jun 44 I was instructed to locate Pte Desjardins and could not do so. I searched the entire Coy area and could not find him. I then reported him absent. I did not see him again until Coy office 7 Jul 44. At the time of his going Absent he was undergoing 28 days Field Punishment awarded 19 Jun 44.

The accused declines to cross examine this witness.

J J Halliday
(A11633 Sgt Halliday S.M.)

Second Witness — Sgt Taylor, J A., 510 Ind Mob Pro Coy.

Document purporting to be a signed statement of the evidence of 7686270, Sgt Taylor J A, 510 Ind Mob Pro Coy, was read over to the accused, marked exhibit "A" and attached hereto.

I certify that in my opinion owing to the exigencies of the service, including the time and expense involved the attendance of this witness at the taking of the summary of evidence cannot readily be procured.

A
Comms

Maurice Capel
(Signature of Officer Taking Summary)

THIRD WITNESS

A 106707 L/Cpl Martin R H, HQ Coy, The Perth Regt C A having been duly sworn states:

"I am A 106707 L/Cpl Martin R H of Regt'l Police of the Perth Regt C A (CMF).

On 22 July 44 Pte Desjardins was in confinement in the F.P. compound awaiting court-martial. At approx., 2300 hrs I was in the vicinity of the F P Compound. I saw Pte Desjardins within the compound and heard him say that he was going to bed. I then went to bed. I have been continually on duty in the Regt since that time and I did not see Pte Desjardins again until 13 Aug when he was brought in under escort.

The accused declines to cross examine this witness.

R H Martin

(A 106707 L/Cpl Martin R H)

FOURTH WITNESS

A 11588 Sgt Minzen, C W, HQ Coy, The Perth Regt C A having been duly sworn states:

"I am A 11588 Sgt Minzen, C W Sgt of The Regt'l Police of The Perth Regt C A (CMF).

On 22 July at approx., 2330 hrs I returned to the unit lines from patrol duty. I checked the personnel in the F P Compound and found Pte Desjardins missing. I searched the surrounding area and roads but could not find him. I reported him as being A.W.L. Pte Desjardins was in confinement awaiting court-martial. I have been continually on duty with the Regt'l Police of The Perth Regt and did not see Pte Desjardins until he was turned over to me on 13 Aug 44.

The accused declines to cross examine this witness.

C W Minzen

(A 11588 Sgt Minzen, C W)

FIFTH WITNESS

Capt P J F Baker, HQ Coy, The Perth Regt C A having been duly sworn states:

"I am Capt P J F Baker, Coy Comdr, HQ Coy of The Perth Regt C A (CMF).

I now produce what purports to be a Certfiicate under Sec., 163(1)(j) Army Act signed by Capt C F Hunt certifying that No. C 40025 Pte Desjardins, E of the 1 st Bn., The Perth Regt C A surrendered himself to L/Cpl R White at Bari on 8th AUG 44 at about 0845 hrs.

The accused declines to cross examine this witness.

P J F Baker Capt

"The Certificate referred to by the witness, produced, read over to the accused, marked Exhibit B, signed by me, and attached hereto."

A Morris Capt

(Signature of Offr taking [illegible])

F G C M

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence."

The accused does not desire to make a statement or give evidence.

E Desjardins
(C 40025 Pte Desjardins, E)

I certify that R P 4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused this 15th day of AUG 44.

J D Cowie
(J D Cowie) Capt
The Perth Regiment C A

F G C M

C 40025 Pte Edgar DESJARDINS
The Perth Regiment C A (CMF)

I do/~~xxx~~ desire the convening Officer to detail an officer to represent me at my forthcoming trial by FIELD GENERAL COURT MARTIAL.

I request the services of Capt S R Granger if available.

In the Field

15 AUG 44

E Desjardins
(C 40025 Pte Desjardins, E)

A
WITNESS

CHARGE APPX "A" 1972/8 [signature]

Army Form B 252
(See King's Regulations)

1st Btn, The Perth Regiment

"D"

~~Battery~~
~~Squadron~~
~~Troop or~~
Company

CHARGE against No. C 40025 Rank Pte

Name Desjardine E.

Place Date of Offence

OFFENCE W.O.A.S. (1) Absent from ? until surrendering to the Military Police of the Military Police HQ, Naples, at about 1430 hrs, on the 2nd July 1954.
(2) Not being in possession of the N.B.N.(1).

Names of Witnesses :—

[illegible] Taylor J.A. Sig. Ind. Mob. Pro. Coy.
[illegible] Agnew R. Sig. Ind. Mob. Pro. Coy.
NCO [illegible] Guard (Body Receipt Attached)

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant

[illegible] P.T.O.

2746

"This is Exhibit "A" referred to in the Summary of Evidence in the case of No, C40025 Pte Edgar DESJARDINE taken before me this 15th day of AUG 1944.

J. Travis Capt.

Statement of EVIDENCE Signature of Off.

No. C40025. Pte Desjardine E.
"D" Coy, 1st Bn The Perth Regt.
C.M.E.

Sir,

At Naples on the 2nd July 1944 at about 1420 hrs, I was on duty at Coy HQ when the above mentioned soldier surrendered himself to me as an absentee.

He stated that he left his unit about 13 days ago.

He was not in possession of M.I. (Paybook).

After his particulars were obtained verbally, he was conducted to the Central Guard Room and handed over to the NCO i/c the Guard to be detained. He was sober.

REMARKS

C.M.E.
2 Jan 44.

7686270 Taylor Sgt.
510 Ind. Med. Pro. Coy.
(S.A. Taylor).

APPX "B"

Certificate under Section 163 (i) (j) Army Act

I Capt. G.F.HUNT Certify that No C40025 Rank Pte

Name Desjarbins E. of the 1st,Btn.PerthReg 5th Div.

surrendered himself to No 4694216 Rank L/c Name R.White

at BARI on the 8th,AUGUST at about 0845 hrs hrs as a

deserter/absentee without leave.

[redacted]

Commanding 230 Provost Coy.C.M.Police.

(Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made).

PSSZ 9078 SM.7-44

W.O.M.L.O.S.

"This is Exhibit "B" referred to in the Summary of Evidence in the case of No. C 40025 Pte Edgar DESJARDINS taken before me this 15th day of AUG 1944.

J. Lewis Capt.

Signature of Officer Taking Summary

Substitute for AFB 296
or MFB 356

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. C 40025 Rank Pte Name DESJARDINS, Edgar Unit Perth R

Age 22 yrs 2 mos Married or single Single No of Dependents None.

Date of Attestation 18 Oct 1939

Number of days in Close arrest awaiting trial

Civil Nil Military ~~28~~ 21 Hospital 7 Total ~~28~~ 28

Dates of appointments, promotions etc (if any)

NIL

Decorations CVSM & Clasp

In the Field

~~18~~ Aug 1944

Date

(Officer i/c Regtl Books)

The Perth Regiment C A

Unit

Note: certified true copy of MFA must accompany this form.

2 destroyed 18 Oct 41

No C40025 Name DESJARDINE E | Sqn, Battery, or Company D | Corps C I C | Date of enlistment 13 Sep 39 | GC Signs | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk 17 Jan 40 | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc | Character C

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Ottawa	15 May 40	Gdsm		AA Sec 15(1) WOAS AWL from 15 May until 20 May 40 (5 days)	CSM Ridgeley Sgt Verne	72 hrs DETN	20 May 40	Capt Barham	Forf 5 day pay
Ottawa	26 May 40	Gdsm		AA Sec 40 Condj to prej.	CSMS Curran Cpl Emerson	72 hrs DETN	27 May 40	Capt Barham	
Ottawa	17 Jun 40	Gdsm		AA Sec 15(1) WOAS. AWL from 0800 hrs 14 Jun 40 until 2245 hrs 16 Jun 40 (2 days, 14 hrs 45 min)	Sgt Kirk CQMS Curran	168 hrs Detn	17 Jun 40	Lt Col Wurtele	Forf 3 days pay
Camp Borden	13 Jan 41	Gdsm		AA Sec 15(1) WOAS. AWL from 0630 hrs 13 Jan 41 until 2200 hrs 18 Jan 41 (5 days 15 hrs 30 mins)	Cpl Adams Sgt Verne	10 days C B	23 Jan 41	Lt Col Wurtele	Forf 6 days pay

(FTO)

No C40025 Name DESJARDINE E | Sqn, Battery, or Company D | Corps C I C | Date of enlistment 13 Sep 39 | GC Signs | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk 17 Jan 40 | Period not reckoning towards freedom from extra fine N/A | Sheet No 5 | Signature OC Company, etc | Character C

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Jan 44	Pte		AA Sec 40 Cond to prejin that he consumed or lost one emergency rations.	CSM Habkirk	Forf 5 days pay FR&I 149(2) Stoppi of 1s FR&I 153(2)	5 Jan 44	Lt Col Rutherford	
Field	16 May 44	Pte		AA Sec 15(1) WOAS. AWL from 1945 16 May 44 until 2200 hrs 16 May 44 (2 hrs 15 mins)	Sgt Scantell	5 days F P Forf 5 days pay FR&I 149(2)	17 May 44	Lt Col	
Field	17 Jun 44	Pte		AA Sec 15(1) WOAS. AWL from 0600 hrs 17 Jun 44 until 2100 hrs 17 Jun 44 (15 hrs)	Capt W J Ridge Sgt Halliday	28 days F P 28 days pay FR&I 149(2)	19 Jun 44	Maj MW Andrew	Forf 1 days pay FR&I 149(1

Certified true copy of original document held in my possession as custodian of Regtl Documents.

(J D Cowie Capt & A/Adjt.

(FTO)

No C40025 Name DESJARDINE E | Sqn, Battery, or Company D | Corps C I C | Date of enlistment 13 Sep 39 | GC Signs | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk 17 Jan 40 | Period not reckoning towards freedom from extra fine N/A | Sheet No 4 | Signature OC Company, etc | Character C

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Nov 41	Pte		AA Sec 15(1) WOAS. AWL from 2200 hrs 1 Nov 41 to 0730 hrs 2 Nov 41 (1 day)	Sgt S Cordell	7 days C B	3 Nov 41	Lt Col GW Little	For 1 days day.
Field	27 Feb 42	Pte		AA Sec 15(1) WOAS. AWL from 2000 hrs 27 Feb 42 until 2400 hrs 28 Feb 42 (2 days)	Sgt C Dyke	168 hrs DETN	3 Mar 44	Lt Col Little	Forf 2 days pay
Field	21 Sep 42	Pte		AA Sec 15(1) WOAS. AWL from 0600 21 Sep 42 until appr in at 1545 hrs 21 Sep 42 (9 hrs 45 mins)	Cpl McIlveen	Forf 5 days pay FR&I 149(2)	25 Sep 42	Lt Col Little	Forf 1 days pay.
Field	4 Jan 43	Pte		(1) AA Sec 15(1) WOAS. AWL from 0630 hrs 4 Jan 43 until appr 0140 hrs 10 Jan 43 (5 days 19 hrs 10 mins)	L/Sgt Rowe	28 days F P stoppages 13s 2d Cost of App FR&I 172(3)	25 Jan 43	Lt Col JSH Lind	Forf 16 days pay FR&I 149(

PTO

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Borden	7 Feb 41	Gdsm		AA Sec 15(1) WOAS. AWL from 1800 hrs 7 Feb 41 until 0645 hrs 15 Feb 41 (8 days)	Cpl Adams	14 days C B	15Feb 41	Lt Col Wurtele	Forf 8 days pay
Toronto	15Feb 41	Gdsm		AA Sec 15(1) WOAS. AWL from 1630 hrs 15 Feb 41 until 1530 hrs 26 Feb 41 (11 days)	Sgt Headley Cpl Lavigne	21 days DETN	26 FEB 41	Col Wurtele	Forf 11 days pay
Toronto	7 Apr 41	Gdsm		AA Sec 15(1) WOAS. AWL from 0630 hrs 7 Apr 41 until 2210 hrs 11 Apr 41 (5 days)	Sgt Headley	Forfs 10 days pay	16 Apr41	Col Wurtele	Forf 5 days pay
Sussex	5Sep 41	Pte		AA Sec 15(1) WOAS AWl from 0630 hrs 5 Sep 41 until apprehnded at Ottawa at 2030 hrs 15 Sep 41 (11 days)	Gdsm Grassett	Stoppages $17.79 20 days DETN	25 Sep 41	Col Wurtele	Forf 11 days pay

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	4 Jan 43	Pte		(2) AA Sec 10(4) WOAS. Broke out of camp while under open arrest. (3) AA Sec 15(1) WOAS. AWL from 2200 hrs 10 Jan 43 until 1915 hrs 12 Jan 43 when apprhd by, 21 hrs 10 mins) (4) AA Sec 10(4) WOAS Broke out camp while under close arrest. (5) AA Sec 15(1) WOAS AWl from 2000 hrs 14 Jan 43 until 2025 hrs 21 Jan 43 (6 days 20 hrs)	L/Sgt Goold L/Sgt Goold A/Sgt. McColl	See Reverse Side of This Sheet for Punishment			
Field	16 Jun 43	Pte		AA Sec 15(1) WOAS AWL from 2359 hrs 16 Jun 43 until 1923 hrs 17 Jun 43 (19 hrs, 23 min)	7 days C B	18 Jun 43		J Swartz	Forf 1 days pay NRAI 149(1)
Field	7 Nov 43	Pte		AA Sec 40 WOAS. Cond to the prej lost by neglect one emergency ration	Sgt Leghorn	Forf 3 days pay 149(2) stoppages of 1s 15d(2)	12 Nov43	Lt Col Rutherford	

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 108731 Private Lester Henry Desjardine

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 12(1)(a)	NOT GUILTY		Is not guilty of desertion but is guilty of absence without leave.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B.355 or AF B.296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B.355 or AF B.296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for six (6) months.

(Sgd) ..... Judge-Advocate, if any. 20 Dec. 44 Date awarded. (Sgd) J Payette Capt. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until finally approved. (1)

(1. AA 57A. Delete if not used.)

(Sgd) N Hutchison Brig

Date 28 Dec 44 Commanding COMMANDER 1 CDN BASE SUB AREA GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A-108731 Pte DESJARDINE, L.H. R.C.R. 4 Bn - 1 CBRGP	5 Jan 45	John Anderson Lieut Adjutant 2 Cdn Reinforcement Units.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 17 JAN 1945 JAG BRANCH

RECORDED AT CMHQ IN AB 160 41-73

FIELD GENERAL COURT-MARTIAL

CPA86 (To Rep of AFA3) 40/P & S/1698 (40/50) 4/38B

Convened by Order of Lt Col L J Flynn Comd 1 CBRC dated 16 Dec 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 108731	Private		Lester Henry	Desjardine	4 Cdn R Regt 1 CBRC

PROCEEDINGS REVIEWED 18 Jan 45 REVIEWING OFFICER JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 20 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-19

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elects to be tried by court-martial instead of being dealt with summarily (Can Cdr).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. Objection see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~be interpreted by~~ ~~Nil.~~ ~~The Interpreter sworn~~ (1) Do you object to 87 3333 S/Sgt Rodgers as shorthand writer? Ans No Sir The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 98(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	G Payette	4 Cdn R Regt Bn
Member	Capt	J. Marcotte	4 Cdn R Regt Bn
Member	Capt	G Vaugeois	4 Cdn R Regt Bn
Judge-Advocate			
Prosecutor	Capt	W S Hopper	4 Cdn R Regt Bn
Defending Offr	Lieut	B A Nunn	4 Cdn R Regt Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused A 108731 Pte Desjardine L H before arraignment make(s) (no) ~~application~~ ~~objection~~ (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 18, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See paras 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. (M98)

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(A). *As to plea when sentence may be death see RP* 35(D).

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (A) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(C) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(A) (B) ; *duty and privileges of accused and Defending Offr see RP* 60(C), 87(C), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(C), 92(B), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(E) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment th[illegible] liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP* 37(B). 2. *RP* 37(D) *fn* 6. 3. *RP* 35(B) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole of part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(B). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(B). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)
(1. *If "yes", see RP* 39(A) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(B), 60(A) (B), 90, 92(C) (D). *Record address per Notes, subject to RP* 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(C), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(2). The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed as the First charge(s), ~~and allowed as to the charge(s) and the accused is (not) found Not Guilty on the latter charge(s)~~ and that, accordingly, the trial will proceed on the former, ~~but the accused is (not) found Not Guilty on the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Accused gives evidence on oath. Do you intend to call witnesses on your behalf ? Ans No Sir. Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(A), *see* 80(D). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF ARS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 40(A) *fn* 1, 86(C). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by, see JA under RP* 42, 103(e).)

D7. The Court is closed to consider the finding(s). The finding(s) of the Court is (are) recorded in Part I of the Schedule.(1) The Court is re-opened.
(1. *RP* 43, 117(A). *See Notes in Part I of Schedule.* 2. *RP* 44(A).)

D8. The President announces the finding(s), ~~of Guilty~~, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s), ~~being subject to confirmation~~, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty of the charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (4), *RP* 45, 120(A). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(C) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) bearing the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 556. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) of Conduct Sheet(s) in mitigation of punishment ?(1) Ans Yes Sir (2)
(1. *RP* 37(C), 46(D). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(F) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the members of the Court~~.(2)
(1. *When several accused tried separately see RP* 71 (D). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its powers, is to be awarded to cover all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(A), *KR Can* 538, 539, 563-566, *Overseas RO* X9, 2323, *MML p* 80, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(2), *MML p* 136. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see lesson on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4P

CHARGE SHEET

THE ACCUSED, NUMBER A108731 PRIVATE LESTER HENRY DESJARDINE, OF 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 12 (1)(a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, after having been duly warned that he would be proceeding to his unit in the field on draft, absented himself without leave from 1000 hrs 4 Dec 44 until apprehended at 1630 hrs 13 Dec 44, with intent to avoid so proceeding. (Total time absent 9 days, 6 hrs, 30 mins).

L J Flynn

(L J Flynn) Lt-col
Commanding
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
15 Dec 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L J Flynn

(L J Flynn) Lt-col
Commanding
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

In the Field
15 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname.	Unit.
A108731	PRIVATE	LESTER HENRY DESJARDINE	4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 15 Dec 44 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint ~~(a) three Offrs to form the Court~~, (b) a Fd Offr as President, for the reasons I have attached hereto. None available

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(*RP 106(F). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(*Must be named. RP 106.*)	(Unit.)
Capt	G PAYETTE	4 Cdn Rft Bn

MEMBERS.

Capt	F MARCOTTE	4 Cdn Rft Bn
Capt (Rank.)	G VAUGEOIS (*Named or detailed. RP 106.*)	4 Cdn Rft Bn (Unit.)

WAITING MEMBER.

(Rank.)	(*Named or detailed, if any. RP 106.*)	(Unit.)
Lt	D J DOOLEY	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(*Must be named, if any. RP 106.*)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 18 Dec 44

(L J Flynn) (*Signed personally. RP 185 fn 2.*)

Lt-col (Rank.)

Commanding 4 Cdn Rft Bn - 1 Cdn Base Rft Group CMF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (*Para 1(a) (i) Pers (a) AFAO 2/1945 Amd. P de G/1947 (Amd)*)

(*See overleaf for oaths and notes for use on trial.*)

4P

MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) Para 557

DEC 20th 1944

I hereby certify that I have this morning examined No A.108731.

PTE DESJARDINE L.H. on strength 4 Cdn

Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

Capt

Medical Officer 4 Cdn Rft Bn.

FIRST WITNESS FOR PROSECUTION

D71493 Sgt McIlroy A M, 4 Cdn Rft Bn, having been duly sworn, states:

I am D71493 Sgt McIlroy A M, P E Sgt of 'B' Coy. At approx 0800 hrs 3 Dec 44, in the performance of my duty as Orderly Sgt, I called the roll for the RCR. I called the name and number of Pte Desjardine. He was present and answered his name. I then warned all present to be available for draft for the field unit on 4 Dec 44. At approx 1400 hrs 3 Dec 44 I mustered my outgoing draft. I proceeded to put them through draft routine - through the Medical Officer, Dental Officer and Quartermaster Stores. At approx 1000 hrs 4 Dec 44, I mustered my outgoing draft. Pte Desjardine failed to answer his name. I searched the coy lines, also the billets. I could not locate him. I placed him as an absentee at 1000 hrs 4 Dec 44. I have not seen Pte Desjardine in the coy lines since.

Question by Prosecution

Q Did you recognize Pte Desjardine on parade in the morning and in the afternoon?

A Yes Sir. He was on parade and on the Medical Officer's parade.

Question by Court

Q If you saw Pte Desjardine would you recognize him?

A Yes Sir.

Q Is he in this court?

A Yes Sir.

R P 83 B complied with

SECOND WITNESS FOR PROSECUTION

P9577 BSM McDermott M M, 4 Cdn Rft Bn, having been duly sworn, states:

I am P9577 BSM McDermott, 'B' Coy, 4 Bn, 1 C B H Gp. At approx 0800 hrs 3 Dec 44 I was present on parade when Sgt McIlroy called the roll of the draft. Pte Desjardine's name was on that roll. Pte Desjardine was reported present

Cross-examination by Defence

Q How many men were on that draft?

A I could not tell you, Sir. There was approx 35.

Q Did you hear the accused answer his name? Would it be possible for someone else to answer his name?

A As far as I am concerned it was possible.

Question by Court

Q If you saw Pte Desjardine would you recognize him?

A Yes Sir.

Q Is he in this room?

A Yes Sir.

Q Will you point him out to the court?

A (Witness points out accused).

Q Are you willing to state on oath that the accused was present on that parade?

A No Sir.

RP 83 B complied with

THIRD WITNESS FOR PROSECUTION

A22296 Sgt White J P, 4 Cdn Rft Bn, having been duly sworn, states:

I am A22296 Sgt White J P, Bn Orderly Room Sgt of 4 Bn. I produce a certificate under A A Sec 163 (1) (jj) purporting to relate to the accused and showing that Pte Desjardine L H was arrested at ANCONA at about 1630 hrs 13 Dec 44.
(Produced, signed by President, marked Exhibit 'A' and attached to proceedings).

R P 83B complied with.

ADDRESS BY DEFENCE

I submit that the evidence of the prosecution has not established a prima facie case in that it might have been possible for someone else to answer the accused's name on that parade and that it was not shown that the accused went absent without leave with the intention of missing the draft in that he did not know when the draft was going.

REPLY BY PROSECUTION

I would like to draw the attention of the defence to the question I put to Sgt McIlroy, which was in fact a sworn testimony by Sgt McIlroy, that he recognized the accused on both the morning parade and the afternoon parade of the day the draft was warned. The fact that the Sgt Major will not swear that the accused was on parade does not detract from the positive identification and statement of Sgt McIlroy. The point was established on the sworn testimony of Sgt McIlroy that Pte Desjardine was in fact present on the morning parade and, at the same time, shows that he heard the warning for draft which can be taken as strong evidence of showing intent. I will read to the court Chap. 6 of "Evidence" in the M M L with the respect to "Intent" (quotes).

A108731 Pte Desjardine L H, having been duly sworn, states:

On 3 Dec 44 I got up at Reveille in the morning. I had my breakfast and went down town and had a shave. I told a fellow to answer my name on roll call if there was any. I stayed down town and went to a pub and I did not get back. I was not warned that I would be proceeding on draft on 4 Dec. I did not go through Medical Officer and Dental Officer. I do not know how many men there were in the RCR draft.

Cross-examination by Prosecution

Q Pte Desjardine what was the name of the man who you told to answer your name for you?

A I don't remember, Sir.

Q Do you know where he is?

A No Sir.

Q Why did you go absent without leave?

A I just wanted to get a shave and come back, Sir.

Q You were away 9 days?

A I got drinking and one thing and another.

Q Did you at any time after you left camp hear some of the boys you knew in the RCR were leaving on draft the next day?

A I never saw any of them.

Q Did you have a shave in FANO?

A Yes Sir.

Question by Court

Q What time did you go for your shave?

A Right after I had my breakfast.

Q What time did you have breakfast?

A Around 7 o'clock, Sir.

Q After you had your shave, did you come back again?

A No Sir.

Q Pte Desjardine, who looked after your kit for you?

A The Q.M. as far as I know, Sir.

Q When did you last see the Q.M. before going A.W.L.?

A I don't know, Sir.

Q Did you draw any kit on 3 Dec 44?

A Not that I know of Sir. I got it all at once.

R P 83B complied with.

SUMMING UP BY PROSECUTION

I would like to draw the attention of the court again to the three points in the charge sheet which are to be proven to substantiate a charge of desertion. The fact that in the first place the accused was warned for draft, that in the second place in actual fact he went A.W.L. and in so far as possible as to establish the fact that there was intention. If we are to accept the sworn testimony of a senior NCO, he was present on parade and warned. The fact is established that he went AWL and the question of intention rests on the establishment of the first part of the charge, that is, that he was warned for draft. It is for the court to decide whether or not Pte Desjardine was present on parade on the morning of 3 Dec 44.

SUMMING UP BY DEFENCE

The accused has stated under oath that he was not in camp on the morning of 3 Dec 44, that he was not warned for draft. Hence he could not have intended to go absent to avoid proceeding on draft.

ADDRESS BY DEFENCE IN MITIGATION OF PUNISHMENT

This man went to his unit, the RCR, in May 44 and served with them as a Rfn until Nov. He claims that he was not in good health all this time, that his Company Commander recommended that he be transferred out of the rifle coy. Both were killed before anything was done about it. He has had no leave since leaving Canada over a year ago. He tried to get leave at his unit and was refused. He also has family troubles which causes him to worry. All these circumstances have preyed on the man's mind and I ask the court to consider this when passing sentence.

Exhibit A-41

CERTIFICATE IN ACCORDANCE WITH A.A.SEC 163 (1) (JJ)

I certify that No: A 108731 Rank: Private Name: DESJARDINE L.H.

Unit: "D" Coy. 1st Bn. The Royal Canadian Regt. Was arrested at: OTTAWA.

at about: 1630 hrs. hours: On: December 13th. 1944.

Officer Commanding Provost Dets. C.M.Police. Capt. LIEUT.

Signature of Provost Marshal, APM., or other Officer into whose custody the s/n soldier was taken on arrest.

Ex "B" 4P

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
A108731	Private	Lester Henry DESJARDINE	4 Cdn Rft Bn - 1 C B R G

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement not not annexed to the proceedings.

† See para. 627, R.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, pro-minute being given to the most serious offence in each entry, and in any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	nil times	nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, or cases in which trial has been dispensed with under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of from 1630 hrs 13 Dec 44

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 7 days in military custody, making a total of 7 days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 28

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 23 Mar 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____ and in his regiment (*or corps or department*) the rank of _____ dated _____

[illegible]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A108731 Rank Private Name DESJARDINE L H of 4 Cdn Rft Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which trial, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of December 1944

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 C B R G

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

In the rank of

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

Supplementary

No. A108731 Name Desjardine L H | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | Cy "C" | MFM 6 (AFB 122) 40/P&S/136 (9438) | YP

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature GC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED THERE IS NO M.F.M.6 AVAILABLE IN THE REGIMENTAL BOOKS HELD IN MY CUSTODY

A E Davidson

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 C B R G

In the Field
16 Dec 44

(PTO)

9P

Summary of Evidence in the case of A108731 Private Lester Henry DESJARDINE, of 4 Cdn Rft Bn, 1 C B R G, who is charged with WOAS Deserting His Majesty's Service, A A Sec 12 (1) (a).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st Witness D71493 Sgt McIlroy A M, 4 Cdn Rft Bn, having been duly sworn, states:

I am D71493 Sgt McIlroy A M, of 4 Cdn Rft Bn, 1 C B R G. On 3 Dec 44 at 0800 hrs I called the roll of the RCR. Pte Desjardine, whom I now recognize as the accused, was present on this parade. When I called the roll he answered his name. I warned him that he would be proceeding to the RCR unit at 0800 hrs 4 Dec 44. At approx 1400 hrs 3 Dec 44 the accused, Pte Desjardine, passed through the draft routine, that is, the M.O. and the D.O. At approx 1000 hrs 4 Dec 44 I mustered my draft. Pte Desjardine did not answer his name. I searched the coy lines, also the billets, calling out his name. I couldnot locate him. I placed him on the absentee report as being absent from 1000 hrs 4 Dec 44. I have not seen the accused in the coy lines or camp area since.

(McIlroy A M)

The accused declines to cross-examine this witness.

2nd Witness P9577 BSM McDermott M M, (P E) 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am P9577 BSM McDermott M M of 4 Cdn Rft Bn. On 3 Dec 44 at approx 0800 hrs I was present on parade when Sgt McIlroy called the roll of the RCR personnel. Pte Desjardine's name was on that roll. He was present on parade. In my presence Sgt McIlroy warned the RCR personnel that they were all on draft and that they would be proceeding to their unit in the field on 4 Dec 44.

(McDermott M M)

The accused declines to cross-examine this witness.

3rd Witness A22296 Sgt White J P, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am A22296 Sgt White J P, Bn Orderly Room Sgt, 4 Cdn Rft Bn.

I produce a certificate under A A Sec 163 (1) (jj) purporting to the accused and showing that Pte Desjardine L H was arrested at 1630 hrs 13 Dec 44. Produced, shown to accused, marked Exhibit 'A' and attached hereto.

(White J P)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence on oath. You are not obliged to make a statement or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

Answer by Accused:

I have nothing to say at this time.

I certify that R P 4 (c) (d) (e) and (f) have been complied with.

I certify that this summary was taken down by me in the presence and hearing of the accused.

In the Field
15 Dec 44

(R R Brown) Capt
Officer taking Summary

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 18 Dec. 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of Desertion A9 12(1)(a)

for which I was remanded for Court Martial.

K.R. Deslardins
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut B.A. Nunn if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

K.R. Deslardins
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Sig of Accused)

CORRECTION

This document has been rephotographed to assure legibility

4473.
E. Desjardins L.H.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 108731 Private Lester Henry Desjardine

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st HA 126(1)(a)	NOT GUILTY		Is not guilty of desertion but is guilty of absence without leave.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for six (6) months.

(Sgd) ..... Judge-Advocate, if any. 20 Dec. 44 Date awarded. (Sgd) G Payette Capt. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Brig. Commanding

Date 28 Dec 44

COMMANDER
1 CDN BASE SUB-AREA GROUP

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A-108731 Pte DESTARRINE, L.H. R.C.R. 4 Bn - 1 C.B.R.Gp	5 Jan 45	J Dickson Lieut Adjutant 2 Cdn Reinforcement Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 4L-73.

REGISTERED 17 JAN 1945 JAG BRANCH

CPA96 (To lieu of AFA8) 40/P & S/1698 (40-6)

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Lt Col L J Flynn Comd 1 C B R Gp dated 16 Dec 1944

4 Cdn R H Bn

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A108731 ~~H108731~~	Private	Lester Henry	Desjardine	4 Cdn R H Bn 1 C B R Gp

REVIEWING OFFICER 18 Jan 45 JAG BRANCH C.M.H.Q. REVIEWED

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date) 20 Dec 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-19

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in the form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily (or not).~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For object see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~the Interpreter~~ (1) Do you object to 87 2323 S/Sgt Redgrave as shorthand writer? Ans No Sir The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Capt	G Payette	4 Cdn R H Bn
Member	Capt	J. Marcotte	4 Cdn R H Bn
Member	Capt	G Vaugeois	4 Cdn R H Bn
Judge-Advocate			
Prosecutor	Capt	H S Hopper	4 Cdn R H Bn
Defending Offr	Lieut	B A Nunn	4 Cdn R H Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused A 108731 Pte Desjardine L H before arraignment makes(s) (no) ~~a~~ plea(s).(2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charge in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 20, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 52; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. M98

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60*(*C*) *; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60*(*A*) (*B*) *; duty and privileges of accused and Defending Offr see RP 60*(*C*), 87(*C*), 91, 92 *; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87*(*C*), 92(*B*), *and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17*(*E*) *fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(1. *RP 37*(*B*). 2. *RP 37*(*D*) *fn 6.* 3. *RP 35*(*B*) *fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole of part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35*(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex.....initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37*(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37*(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37*(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B3 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No Sir.(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the First charge(s). The Court is closed, and considers the submission.(2) The Court is re-opened and the President announces that the submission is disallowed on the First charge(s), ~~and allowed on the charge(s)~~, ~~but the accused is (are) found Not Guilty on the latter charge(s)~~.(3) Upon that, accordingly, the trial will proceed on the former, ~~but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80*(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Accused gives evidence on oath. Do you intend to call witnesses on your behalf ?
Ans. No Sir. ~~Are those witnesses as to character or fact ? Ans.....~~
(1. *RP 115.* 2. *RP 40*(*A*), *see 80*(*D*). 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AO2. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46*(*A*) *fn 1, 86*(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103*(*e*).)

D7. The Court is closed to consider the finding(s). The finding(s) of the Court is (are) recorded in Part I of the Schedule.(1) The Court is re-opened.
(1. *RP 42, 117*(*A*). *See Notes in Part I of Schedule.* 2. *RP 44*(*A*).)

D8. The President announces the finding(s), Guilty, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s) is subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on the charges and is to be released forthwith, and that the proceedings are hereby terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. *AA 54*(*3*) (*6*), *RP 45, 120*(*A*). 2. *AA 54*(*3*), *RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No Sir.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37*(*C*) *fn 4, 40 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements of Service and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.S. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) bearing the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(2)
(1. *MFR 255 or AFB 294.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) of Service, Conduct Sheet(s) in mitigation of punishment ?(1) Ans. No Sir.(2)
(1. *RP 37*(*C*), *46*(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37*(*F*) *fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54*(*6*), *RP 120*(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him.
(1. *When several accused tried separately see RP 71* (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 120 promulgated, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119*(*4*), *KR Can 306, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41*(*5*), *MML p 130. When accused already under sentence of imprisonment or detention see AA 44*(*1*) (*b*), *58*(*1*), *KR Can 564.* 2. *RP 50. As to minutes from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4P

CHARGE SHEET

THE ACCUSED, NUMBER A108731 PRIVATE LESTER HENRY DESJARDINE, OF 4 CDN RFT BN, 1 CDN BASE RFT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ALLIED ARMIES IN ITALY, IS CHARGED WITH:

1ST CHARGE
A A Sec 12 (1)(a)

WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, in Italy, after having been duly warned that he would be proceeding to his unit in the field on draft, absented himself without leave from 1000 hrs 4 Dec 44 until apprehended at 1630 hrs 13 Dec 44, with intent to avoid so proceeding. (Total time absent 9 days, 6 hrs, 30 mins).

L J Flynn

(L J Flynn) Lt-col
Commanding

In the Field
15 Dec 44

4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

L J Flynn

(L J Flynn) Lt-col
Commanding

In the Field
15 Dec 44

4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names. Surname. Unit.
A108731	PRIVATE	LESTER HENRY DESJARDINE 4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Dec 44 endorsed by me, for ~~by an offr of my staff (or me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint ~~(a) three Offrs to form the Court~~, (b) a Fd Offr as President, for the reasons I have attached hereto. None available
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Capt	G FAYETTE	4 Cdn Rft Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	F MARCOTTE	4 Cdn Rft Bn
Capt	G VAUGEOIS	4 Cdn Rft Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	D J DOOLEY	4 Cdn Rft Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 18 Dec 44

(L J Flynn) (Signed personally. RP 105 fn 2.)

lt-col (Rank.)

Commanding 4 Cdn Rft Bn - 1 Cdn Base Rft Group CMP Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (Replaces the Form of AFAS 46/P & C/1001 (4601).)

4P

MEDICAL OFFICER'S CERTIFICATE

DEC 20th 1944

K.R. (CAN) Para 552

I hereby certify that I have this morning examined No A.108731.

PTE DESJARDINE L.H. on strength 4 Cdn

Rft Bn, 1 C B R Gp, and in my opinion he is FIT/~~UNFIT~~ to undergo

trial by Court Martial

Capt

Medical Officer 4 Cdn Rft Bn.

FIRST WITNESS FOR PROSECUTION

D71493 Sgt McIlroy A M, 4 Cdn Rft Bn, having been duly sworn, states:

I am D71493 Sgt McIlroy A M, P E Sgt of 'B' Coy. At approx 0800 hrs 3 Dec 44, in the performance of my duty as Orderly Sgt, I called the roll for the RCR. I called the name and number of Pte Desjardine. He was present and answered his name. I then warned all present to be available for draft for the field unit on 4 Dec 44. At approx 1400 hrs 3 Dec 44 I mustered my outgoing draft. I proceeded to put them through draft routine - through the Medical Officer, Dental Officer and Quartermaster Stores. At approx 1000 hrs 4 Dec 44, I mustered my outgoing draft. Pte Desjardine failed to answer his name. I searched the coy lines, also the billets. I could not locate him. I placed him as an absentee at 1000 hrs 4 Dec 44. I have not seen Pte Desjardine in the coy lines since.

Question by Prosecution

Q Did you recognize Pte Desjardine on parade in the morning and in the afternoon?

A Yes Sir. He was on parade and on the Medical Officer's parade.

Question by Court

Q If you saw Pte Desjardine would you recognize him?

A Yes Sir.

Q Is he in this court?

A Yes Sir.

R P 83 B complied with

SECOND WITNESS FOR PROSECUTION

P9577 BSM McDermott M M, 4 Cdn Rft Bn, having been duly sworn, states:

I am P9577 BSM McDermott, 'B' Coy, 4 Bn, 1 C B H Gp. At approx 0800 hrs 3 Dec 44 I was present on parade when Sgt McIlroy called the roll of the draft. Pte Desjardine's name was on that roll. Pte Desjardine was reported present

Cross-examination by Defence

Q How many men were on that draft?

A I could not tell you, Sir. There was approx 35.

Q Did you hear the accused answer his name? Would it be possible for someone else to answer his name?

A As far as I am concerned it was possible.

Question by Court

Q If you saw Pte Desjardine would you recognize him?

A Yes Sir.

Q Is he in this room?

A Yes Sir.

Q Will you point him out to the court?

A (Witness points out accused).

Q Are you willing to state on oath that the accused was present on that parade?

A No Sir.

RP 83 B complied with

THIRD WITNESS FOR PROSECUTION

A22296 Sgt White J P, 4 Cdn Rft Bn, having been duly sworn, states:

I am A22296 Sgt White J P, Bn Orderly Room Sgt of 4 Bn. I produce a certificate under A A Sec 163 (1) (jj) purporting to relate to the accused and showing that Pte Desjardine L H was arrested at ANCONA at about 1630 hrs 13 Dec 44.
(Produced, signed by President, marked Exhibit 'A' and attached to proceedings).

R P 83B complied with.

ADDRESS BY DEFENCE

I submit that the evidence of the prosecution has not established a prima facie case in that it might have been possible for someone else to answer the accused's name on that parade and that it was not shown that the accused went absent without leave with the intention of missing the draft in that he did not know when the draft was going.

REPLY BY PROSECUTION

I would like to draw the attention of the defence to the question I put to Sgt McIlroy, which was in fact a sworn testimony by Sgt McIlroy, that he recognized the accused on both the morning parade and the afternoon parade of the day the draft was warned. The fact that the Sgt Major will not swear that the accused was on parade does not detract from the positive identification and statement of Sgt McIlroy. The point was established on the sworn testimony of Sgt McIlroy that Pte Desjardine was in fact present on the morning parade and, at the same time, shows that he heard the warning for draft which can be taken as strong evidence of showing intent. I will read to the court Chap. 6 of "Evidence" in the M M L with the respect to "Intent" (quotes).

A108731 Pte Desjardine L H, having been duly sworn, states:

On 3 Dec 44 I got up at Reveille in the morning. I had my breakfast and went down town and had a shave. I told a fellow to answer my name on roll call if there was any. I stayed down town and went to a pub and I did not get back. I was not warned that I would be proceeding on draft on 4 Dec. I did not go through Medical Officer and Dental Officer. I do not know how many men there were in the RCR draft.

Cross-examination by Prosecution

Q Pte Desjardine what was the name of the man who you told to answer your name for you?

A I don't remember, Sir.

Q Do you know where he is?

A No Sir.

Q Why did you go absent without leave?

A I just wanted to get a shave and come back, Sir.

Q You were away 9 days?

A I got drinking and one thing and another.

Q Did you at any time after you left camp hear some of the boys you knew in the RCR were leaving on draft the next day?

A I never saw any of them.

Q Did you have a shave in FANO?

A Yes Sir.

Question by Court

Q What time did you go for your shave?

A Right after I had my breakfast.

Q What time did you have breakfast?

A Around 7 o'clock, Sir.

Q After you had your shave, did you come back again?

A No Sir.

Q Pte Desjardine, who looked after your kit for you?

A The Q.M. as far as I know, Sir.

Q When did you last see the Q.M. before going A.W.L.?

A I don't know, Sir.

Q Did you draw any kit on 3 Dec 44?

A Not that I know of Sir. I got it all at once.

R P 83B complied with.

SUMMING UP BY PROSECUTION

I would like to draw the attention of the court again to the three points in the charge sheet which are to be proven to substantiate a charge of desertion. The fact that in the first place the accused was warned for draft, that in the second place in actual fact he went A.W.L. and in so far as possible as to establish the fact that there was intention. If we are to accept the sworn testimony of a senior NCO, he was present on parade and warned. The fact is established that he went AWL and the question of intention rests on the establishment of the first part of the charge, that is, that he was warned for draft. It is for the court to decide whether or not Pte Desjardine was present on parade on the morning of 3 Dec 44.

SUMMING UP BY DEFENCE

The accused has stated under oath that he was not in camp on the morning of 3 Dec 44, that he was not warned for draft. Hence he could not have intended to go absent to avoid proceeding on draft.

ADDRESS BY DEFENCE IN MITIGATION OF PUNISHMENT

This man went to his unit, the RCR, in May 44 and served with them as a Rfn until Nov. He claims that he was not in good health all this time, that his Company Commander recommended that he be transferred out of the rifle coy. Both were killed before anything was done about it. He has had no leave since leaving Canada over a year ago. He tried to get leave at his unit and was refused. He also has family troubles which causes him to worry. All these circumstances have preyed on the man's mind and I ask the court to consider this when passing sentence.

Exhibit A. 4P.
[illegible]
Capt

CERTIFICATE IN ACCORDANCE WITH A.A.SEC 163 (1) (jj)

I certify that No: A 108731. Rank: Private; Name: DESJARDINE.L.H.
Unit: "D" Coy. 1st Bn The Royal Canadian Regt. Was arrested at: ANCONA.
At about: 1630hrs. hours: On: December 13th. 1944.
Officer Commanding Provost Dets.C.M.Police.

[illegible] LIEUT.

Signature of Provost Marshal, APM., or other Officer into whose custody the a/n soldier was taken on arrest.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A168731 Rank Private Name DESJARDINE L H of 4 Cdn Rft Bn Regiment (or as the case may be).

INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16th day of December 1944

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 C B R G

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years

In the rank of ..... years.

In the rank of .....

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph corrected accordingly.*)

Cdn "B" GP

ARMY FORM B.2246.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A108731	Private	Lester Henry DESJARDINE	4 Cdn Rft Bn - 1 C B R G

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since Enlistment.
For	nil times	nil times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, or

~~From the date of the latest [illegible] court martial or civil court, summary award under section 47 of the Army Act, or since he/she was brought to the present trial, the accused has been convicted on [illegible] occasions by [illegible] court martial, by [illegible] civil court, and by [illegible] summary award under section 47 of the Army Act, as set out in the sheets attached hereto and marked~~

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for _____ beginning on the _____ day of from 1630 hrs 13 Dec 44

4. The accused has been in confinement awaiting trial on the present charges, for N.A days in civil custody, and 7 days in military custody, making a total of 7 days, of which N.A days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28

6. The date of his ~~attestation~~ specified in his ~~record of service~~ attestation paper is 23 Mar 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*). N/A

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A dated _____ and in his regiment (or corps or department) the rank of _____ dated _____

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement for not attached to the proceedings.

† See para. 677, K.R., 1940.

* The accuracy herein stated can only correspond with the number of entries in the conduct sheets produced to the accused before being given to the said entries in each entry and books recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is not founded upon the entries for misconduct must be stated separately and dated.

Supplementary

No. A108731 Name Desjardine L H | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

CERTIFIED THERE IS NO M.F.M.6 AVAILABLE IN THE REGIMENTAL BOOKS HELD IN MY CUSTODY

In the Field
16 Dec 44

(A E Davidson) Capt & Adjt
4 Cdn Rft Bn - 1 C B R G

(PTO)

Summary of Evidence in the case of A108731 Private Lester Henry DESJARDINE, of 4 Cdn Rft Bn, 1 C B R G, who is charged with WOAS Deserting His Majesty's Service, A A Sec 12 (1) (a).

By direction of the Commanding Officer, the evidence is taken upon oath.

1st Witness D71493 Sgt McIlroy A M, 4 Cdn Rft Bn, having been duly sworn, states:

I am D71493 Sgt McIlroy A M, of 4 Cdn Rft Bn, 1 C B R G. On 3 Dec 44 at 0800 hrs I called the roll of the RCR. Pte Desjardine, whom I now recognize as the accused, was present on this parade. When I called the roll he answered his name. I warned him that he would be proceeding to the RCR unit at 0800 hrs 4 Dec 44. At approx 1400 hrs 3 Dec 44 the accused, Pte Desjardine, passed through the draft routine, that is, the M.O. and the D.O. At approx 1000 hrs 4 Dec 44 I mustered my draft. Pte Desjardine did not answer his name. I searched the coy lines, also the billets, calling out his name. I couldnot locate him. I placed him on the absentee report as being absent from 1000 hrs 4 Dec 44. I have not seen the accused in the coy lines or camp area since.

(McIlroy A M)

The accused declines to cross-examine this witness.

2nd Witness P9577 BSM McDermott M M, (P E) 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am P9577 BSM McDermott M M of 4 Cdn Rft Bn. On 3 Dec 44 at approx 0800 hrs I was present on parade when Sgt McIlroy called the roll of the RCR personnel. Pte Desjardine's name was on that roll. He was present on parade. In my presence Sgt McIlroy warned the RCR personnel that they were all on draft and that they would be proceeding to their unit in the field on 4 Dec 44.

(McDermott M M)

The accused declines to cross-examine this witness.

3rd Witness A22296 Sgt White J P, 4 Cdn Rft Bn, 1 C B R G, having been duly sworn, states:

I am A22296 Sgt White J P, Bn Orderly Room Sgt, 4 Cdn Rft Bn.

I produce a certificate under A A Sec 163 (1) (jj) purporting to the accused and showing that Pte Desjardine L H was arrested at 1630 hrs 13 Dec 44. Produced, shown to accused, marked Exhibit 'A' and attached hereto.

(White J P)

The accused declines to cross-examine this witness.

Question to the Accused:

Do you wish to make a statement or to give evidence on oath. You are not obliged to make a statement or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

Answer by Accused:

I have nothing to say at this time.

I certify that R P 4 (c) (d) (e) and (f) have been complied with.

I certify that this summary was taken down by me in the presence and hearing of the accused.

(R A Brown) Capt
Officer taking Summary

In the Field
15 Dec 44

4.P.

Question to the Accused:

Do you wish to make a statement or to give evidence on oath. You are not obliged to make a statement or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

Answer by Accused:

I have nothing to say at this time.

I certify that R P 4 (c) (d) (e) and (f) have been complied with.

I certify that this summary was taken down by me in the presence and hearing of the accused.

(R H Brown) Capt
Officer taking Summary

In the Field
15 Dec 44

RECEIPT FOR CHARGE SHEET & SUMMARY OF EVIDENCE

I hereby certify that I have this date 18 Dec 1944 received from 4 Cdn Rft Bn, 1 C B R Gp, 1 copy of Charge Sheet and Summary of Evidence referring to charge (s) of Desertion A9 12(1)(a)

for which I was remanded for Court Martial.

K.H. Desjardins
(Sig of Accused)

REQUEST FOR DEFENDING OFFICER

I hereby request that Lieut B.A. Munn if available, act in my defence. If this officer is not available I request that the Commanding Officer of 4 Cdn Rft Bn, 1 C B R Gp appoint an officer to act in my behalf.

K.H. Desjardins
(Sig of Accused)

Pursuant to Chap V Sec V Sub Sec [illegible] of MML, I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Sig of Accused)

COUNTER NUMBER 547095

HOUR 920

OPERATOR'S INITIALS DH

RELIEVING OPERATOR JR

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

FLASH NUMBER THREE

HH-38
PTE DESJARDINS A.

HH·38

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 15th day of JUNE, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 2 ARMY GROUP, ROYAL CANADIAN ARTILLERY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted] WEH

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[redacted] WEH

Proceedings Reviewed

Reviewing Officer (A.G.) Capt

for [illegible] 1943

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J. G. MALLON,	81 Cdn Arty Coy, RCASC.

Members.

Rank.	Name.	Regiment.
Captain	H. LEITCH,	81 Cdn Arty Coy, RCASC.
Captain	R. B. JOHNSTON,	69 Cdn Tk Tptr Coy, RCASC.
WAITING MEMBER Lieut.	F. L. SEYMOUR,	69 Cdn Tk Tptr Coy, RCASC.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed W.E. Huckvale

(W.E. HUCKVALE) Brigadier

Commanding 2 Army Gp, R.C.A.

Convening Officer.

SCHEDULE

Number, Rank (*a*) Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D-127179 Pte. DESJARDINS, A., 85 Canadian Bridge Company, R.C.A.S.C.	FIRST CHARGE A.A. SEC. 40. See Charge Sheet attached.	guilty	guilty 60 days detention 21 June 43 Gpo	Confirmed 23 June 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) W.E. Huckvale (Signed) (J.G.Mallon) Major
(W.E.HUCKVALE) Brigadier 61 Cdn Arty Coy, RCASC.
Commanding 2 Army Gp, R.C.A. President.
Convening Officer (*d*)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses.~~ Sm
*(3. The Interpreter)
*(~~4. The officers under instruction~~) Sm

were duly sworn.

*Omit if not applicable.

Signed this 21 day of June 1943.

(J.G.Mellon) *President of the Court Martial.* Major
81 Cdn Arty Coy, RCASC.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 23 day of June 1943. WEH

(W.E.HUCKVALE) *Confirming Officer.* Brigadier
Comd, 2 Army Gp, R.C.A.

Promulgated and extracts taken in the case of D-123379 PG DESJARDIN A.

(a) (Dated) 25th, JUNE, 1943 (Signed) Alex Gagnon Major

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20704) Wt.47535/242 25/[illegible] A.& E.W.Ltd. Gp.[illegible]
(21195) Wt.19066/1350 40,000 7/42

85 Cdn. Bridge Coy.RCASC
CANADIAN ARMY OVERSEAS

CHARGE SHEET

The accused D-123379 Pte. Amedee Desjardins, 85 Cdn. Bridge Coy. R.C.A.S.C. a soldier of the Canadian Army Overseas, is charged with

FIRST CHARGE
Section 40
Army Act

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on the 27 May 1943, threw approximately ten rounds of blank ammunition into a stove in Hut 31, within 85 Cdn. Bridge Coy. R.C.A.S.C. Unit lines thereby causing injuries to himself as well as B-89470 L/Cpl Curphey, S.E. of the 85 Cdn. Bridge Coy. R.C.A.S.C.

In the Field
12 June 1943

Alex. Bagnon
(ALEX. BAGNON), Major
Officer Commanding
85 Cdn. Bridge Coy.
R.C.A.S.C.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
15 Jun 43

W.E. Huckvale
(W.E.HUCKVALE) Brigadier
Comd
2 Army Gp, R.C.A.

G.M.

MEDICAL OFFICER'S CERTIFICATE
(K.R.(Can) para 557)

I certify that I have this morning examined D 123449, Pte. Desjardins, A. of 85 Cdn Bridge Coy R.C.A.S.C. and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station 1 C.G.H.

Date 21 June 43

G. H. Raymond
(Medical Officer)

572 36-8-5

PAGE 1

Accused D125379 Pte Amedee Desjardins 85 Cdn Bridge Coy RCASC
(Number) (Rank) (Christian Names) (Surname) (Unit)

Held in the Field in England on 21 June 1943
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Maj J. G. Mallon	81 Cdn Arty Coy RCASC	
MEMBERS:	Capt. H. Leitch	81 Cdn Arty Coy RCASC	
	Lieut F. L. Seymour	69 Cdn Tk Tpt Coy RCASC	

JUDGE ADVOCATE: (If any)

OFFICERS UNDER INSTRUCTION:

PROSECUTING OFFICER: Capt D. S. Stephens Lawyer? Ans yes

DEFENDING OFFICER: Capt M Charbonneau Lawyer? Ans no.

(The following procedure must be actually carried out)

The President produced the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs 5.17(a), 22(a)).

The President, in closed court (R.P.22, fn 1), reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (R.P.[illegible]; R.P.105) and constituted, that the accused is (are) amenable to Military Law, and that each charge disclosed an offence. (R.P.106)

The accused is (are) brought before the Court, and at 1030 hours, the trial commences.

The Prosecuting Officer produces a Medical Certificate under E.R. (Can)557 (See CMAC Circular Letter 173) that the accused is (are) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings.

President to accused:
Do you object to D105503 L/Cpl Bruetsch E as interpreter? Ans no.

The interpreter is duly sworn.

~~Do you object to~~ ~~[illegible]~~

~~The Court and writer is duly sworn.~~ (Forms of Oath on Page 'D'. Sm

The Convening Order is read in the hearing of the accused.

The names of the President and Members of the Court are read to the accused (R.P.10)

President to accused:
Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Ans no.

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P.M-27 (Forms of Oath on Page 'D')

The Charge Sheet(s) is (are) initialled by the President.

PAGE 'A'

(For use when accused pleads guilty to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President)

1. R.P.35(B) is complied with, by the President ascertaining that accused understands the nature of the charge/s (fn 3) and his plea thereto, explaining the difference in procedure by the plea (R.P. 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.

2. President to accused:
Q. Do you desire to make any statement of the circumstances, in reference to the charge/s? (R.P.37(B) Ans no.

(Statement, if any, not on oath is recorded on separate sheet, initialled by the President and attached hereto. Accused is not subject to cross-examination thereon)

3. Summary of Evidence is read aloud, in the presence of the accused, initialled by the President and attached to the proceedings. (If no such summary, it is necessary for determination of sentence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings (R.P.37(B)).

4. President to accused:
Q. Do you wish to make any statement in mitigation of punishment? (R.P.37(C). Ans no

(Statement, if any, is recorded on separate sheet, initialled by the President and attached hereto. No cross-examination)

5. President to accused:
Q. Do you wish to give evidence yourself or call any witnesses as to character? (R.P.37(C). Ans no

(Such evidence, confined to character only, is recorded on separate sheet, initialled by the President and attached hereto)

6. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (K.F.M.6), signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number(if any), rank, name and Corps, are produced to the Court, read, marked "X", and "Y", initialled by the President and attached to the proceedings. (R.P. 46; Overseas R.O. 3131)

7. President to accused:
Q. Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)). Ans yes. (No cross-examination)
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

8. The Court is now closed to consider sentence. (Record on Page 2 of A.F.A.3)
(Punishments, A.A.44, K.R(Cnn)563 - 566; one sentence only awarded, R.P.48). Sentence should be dated)

The sentence is not announced to the accused by the Court.

[signature]
(Signature of President)

Plea of Mitigation.

Pte Desjardins has been with 85th C Bridge Coy
Since June 1941 since it was formed in
Canada. He came overseas with Coy
Nov '41 since that time he has had only
one charge placed against him, &
that was during Spartan —
Circumstances of that charge were
that the man being young has first
scheme, & being very tired was
negligent in carrying out orders
this was quite excusable under the
circs, before this charge, & since
his conduct has been exemplary
His age according to records 23 years
actual age under 20 years. Two years
ago when he joined army, he
did not produce birth cert. as
he was too young, he would
not have been accepted. This alone
should be taken into consideration, as
the charge against him is purely
thoughtlessness, & as it proved, him
himself was the greater sufferer

Placing these cartridges in the store along with the other shops in the hut was done in a moment of recklessness & more in the light of a boyish prank rather than a grown up soldier.

Feel assured he had no idea of the serious consequences due to the injury sustained by himself. I hope the court will take this in consideration, as I think it is a very good lesson to himself & his fellow soldiers. He has pleaded guilty & is relying on the clemency ~~of the~~ & justice of the court.

[illegible]

85 Cdn. Bridge Coy. RCASC

Summary of evidence in the case of D123379 Pte. Amédée Desjardins, 85 Cdn. Bridge Coy. R.C.A.S.C. Canadian Army Overseas.

The Commanding Officer directs that evidence be taken on oath.

First Witness: D123419 Sgt. Knott R.J. 85 Cdn. Bridge Coy. RCASC having been duly sworn stated:
I am D123419 Sgt. Knott R.J. 85 Cdn. Bridge Coy. R.C.A.S.C.
Shortly before 1630 hrs on 27 May 43 I was in "C" Hq Lady Anne in Hut 19, which adjoins Hut 31.
I heard an explosion which sounded to me like a rifle shot coming from the direction of Hut 31. I proceeded there to investigate and found nobody in the Hut. I noticed smoke & fire in the stove. I smelled burnt cordite and saw a split cartridge case on the floor in front of the stove which was open. I looked through the door of the stove from an angle but did not see any other cartridges and I figured that the explosion was from an isolated cartridge which had been dropped in the stove.
I returned to my Orderly Room and within two or three minutes of my arriving there I heard further explosions. I returned to Hut 31 to investigate further and take steps
[illegible]

to remove the cause of same. At the entrance to Hut 31 I met L/Cpl. Curphy and Pte. Desjardins who were both nursing slight injuries, both of whom I had taken care of.

I sent Pte. Snedden for a bucket of water which I poured into the stove after which I raked out the contents from the stove. From the contents in the stove and on the floor in front of the stove I recovered seven exploded blank cartridges and four unexpended blank cartridges and at the extreme end of the hut I found one unexpended blank cartridge all of which I produce herewith.

The accused declined to cross-examine the witness.

R. G. Pratt.
Signature of Witness

The cartridges referred to by the witness, produced, marked Exhibit A, signed by me and attached hereto.

D. S. Stipson, Captain
[illegible]
Officer detailed to take Summary.

Gm

Accused Witness:- C 11352 Pte. McNamara H. 85- Cdn. Bridge Cy. RCASC having been duly sworn states:-

I am C 11352 Pte. McNamara H. of 85 Cdn. Bridge Cy. RCASC.

On 27 May 43 I was in Hut 91 all morning cleaning my wet equipment as I was going to guard in the afternoon. I lit a fire in the stove + hung my wet around the stove to dry.

At around 1300 hrs I took my wet fire around the stove and put it out in the same as there was no heat coming from the stove. I did not look into the stove to see if the fire was out.

The accused declined to cross-examine the witness

H. McNamara
Signature of Witness

Third Witness:- D109997 Pte. Courtois J.M. 85 Cdn. Bridge Cy, NCASC having been duly sworn states:-

I am D109997 Pte. Courtois J.M of H Plu, 85 Cdn. Bridge Cy, NCASC.

On the 27 May 1943 I was in Hut 31 at around 1400 hrs with Pte. Forand A, Pte. Desjardins A and Pte. Mauchal. I was getting my laundry out to wash it, Ptes. Forand, Mauchal were getting ready to go out and wash. Pte. Desjardins was near his bed & getting ready to go out and wash & take his work ticket back to the Orderly Room. I was also looking for my ammunition in order to get rid of it. I found 10 rounds of blank ammunition and put it on a bed. Pte Desjardins picked them up off the bed and the next thing I saw was Pte Desjardins throwing the ammunition in the stove.

We then started out of the ~~stove~~ hut together and just as we got outside I heard an explosion but continued on my way. Pte Desjardins continued on to the Plu. Orderly Room.

While I was talking to a friend outside another hut I heard some more explosions and when I returned to my hut there was an N.C.O & some OR's there & I noticed water on the floor near the stove.

The accused declined to cross-examine the witness.

D109997 Courtois J.M.
Signature of Witness

34 in witness
B 123225, Pte. Hillman E
of the 85th Bridge Coy
Document purporting to be
a signed statement of the
evidence B 123225 Pte. Hillman
E, of the 85th Coy. Bridge
Coy R.C.A.S.C. was read over
to the accused, marked
exhibit A and attached
hereto.

I certify that in my
opinion owing to the exigencies
of the service, considering the
time and expense involved
the attendance of this witness
at the hearing of the
summary of evidence cannot
readily be procured

D. S. Stephens
Captain

Witness D121795 Pte Forand A.
of the 85 Cdn. Bridge Coy.
RCASC having been duly
sworn states
" I am D121795 Pte. Forand, A,
Just before supper time on
the 27 May. 1943, I went into
hut 31 of H platoon, which
is my billet. I was going
in to get my towel and
soap and have a wash.
As soon as I entered the
hut, I saw Pte. Desjardins
A, whom I knew counting
some blank cartridges on
his bed. a man whom
I later identified as Pte.
Courtois was standing
beside him watching him
count the cartridges. Pte
Desjardins counted twelve
cartridges, and put them
in a small bag. I saw
that Pte. Desjardins
intended to put bag of
cartridges in the stove.
I said "Do not put them
in the stove" he replied "It
does not matter" I then
went into the ablution
for a wash. upon my
return to the hut, the
two men were gone, and
Sergeant Nutt told me
there had been an explosion

I did not at any time
fear the explosion. The
detention room is some
distance from hut 31, about
(10.1.15) ~~200~~ 150 yards. I did not notice
whether the stone was
lighted or not. As I was
on duty at the Petrol
Point I did not receive
any ammunition myself.
This is all I know about
this matter.
The accused declines to
cross examine this witness.
D. 131785. Sorand.

gm

Sixth Witness

Lieut. J. S. Higgins of the 85 Cdn. Bridge Coy RCHSC having been duly sworn states

"I am Lieut. J. S. Higgins administrative officer of the 85 Cdn. Bridge Coy RCHSC. I now produce a certified copy of the A.F. B371 of D123397 to Desjardins A, showing the nature of the injuries he received on the 27 May 1943, such certified copy being marked exhibit "B" to this summary of evidence.

I also produce the AFB 371 of B89470 Hyde Corporal G-E, showing the nature of the injuries he received on the 27 May 1943, such certified copy being marked exhibit "C" to this summary of evidence. Both soldiers above mentioned are on the strength of the 85 Cdn Bridge Coy RCHSC

The accused declined to cross examine this witness

GM

Question to the accused.

Do you wish to make any statement or give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

answer by accused

I have nothing to say at this time

D123379 [illegible]

D123379 Ate D [illegible]
NS Cdr. Bridge Coy. RCHSC

I certify that the foregoing summary of evidence consisting of nine pages, was taken by me in the presence and hearing of the accused, and that Rules of Procedure 4(c) (d) (e) (f) and (g) have been complied with

signed by me in the field this 12 day of ~~May~~ June 1943

D. S. Stephens Capt
Officer detailed
to take summary.

[illegible] 5 Pte. Edgar Hillman
of the 85th Cdn. Bridge Coy
R.C.A.S.C., having been duly
sworn states.

" I am platoon clerk
of platoon H of the 85th
Cdn. Bridge Coy R.C.A.S.C. I was
ordered by the platoon officer
Lieut. Couture to issue
blank .303 ammunition
to all the men in the
platoon. I issued 5 rounds
per man to every O.R.
When my officer became
aware that there was
still further ammunition
available, he ordered me
to issue a further five
rounds to each O.R.
This was done. I obtained
the ammunition from the
Water Master's stores, on
orders being received from
my officer to do so.
This ammunition was drawn
during the scheme Wellington
which took place between
the 10th and 17th of May
1943

D-123225 Pte E Hillman.

D 123225 Pte Hillman E.
This is exhibit referred to in
the summary of evidence in the case
of taken before me this 11th day
of June 1943. D.S. [illegible]

REPORT ON WOUNDS OR OTHER INJURIES, EXCEPT ON WOUNDS RECEIVED IN ACTION

(Refer Overseas R.O. 2022)

PART I

No. A-89470 Rank L/Cpl Name Curphey, G.E.

Unit 85 Cdn. Bridge Coy. RCASC was reported on the 27 May 1943

suffering from Laceration left middle finger

The disability is of a Minor nature, and in all probability will not interfere with his future efficiency as a soldier.

He claims (Here insert "claims" or "does not claim") that he was in the performance of military duty at the time of the accident.

(If the soldier makes no claim that he was on duty at the time the certificate below (Part II) should be signed by him.)

STATION No.1 Cdn. Gen. Hospital

DATE 31 May 43 Signed(C.R Salisbury Major)

Medical Officer in charge.

PART II CERTIFICATE TO BE SIGNED BY SOLDIER

I, ... hereby declare that the injury sustained by me on the ..... DID NOT occur while I was in the performance of military duty.

N/A

Soldier's Signature

STATION

DATE

Signature of Medical Officer

PART III

STATEMENT OF COMMANDING OFFICER:

(a) Was the individual in the performance of military duty? Yes

(b) Nature of duty? Investigating explosion of ammunition

(c) Was it incurred in a game or other form of physical recreation organized with the approval of unit commander? No

(d) If it was incurred on leave, was such leave with or without pay? N o

(e) Was anyone to blame? Yes

Whom? D-123379 Pte. Desjardins, A.

(f) Did the injury occur on military premises and if so what part of such premises? Yes, Billets Hut 31

(g) Court of Inquiry (See Overseas R.O. 2022, paragraph 9).

(i) Has one been held? When? Yes, 28 May 43

(ii) Will one be held? When? N/A

(h) Disciplinary action taken (if any required) or other remarks Awaiting decision of higher authority

Signed(M.E. Charbonneau, Capt)

Date 31 May 1943 Comd A/O.C. 85 Cdn. Bridge Coy.RCASC

M.F.R. 371
M.F.A.S. 683 (2457)

See Part IV Overleaf

PART IV

STATEMENT OF INJURED PERSON:

(Short statement by injured person of the circumstances of the injury. Signed statements of witnesses, or of persons to whom the injured person may have mentioned his injury, to be attached).

I was proceeding from "H" Platoon Orderly Room to Hut No. 31. As there was an explosion there I went to investigate, but on reaching the hut there was nobody in. Pte. Desjardins followed me in and as we proceeded on past the stove there was another explosion. I was hit on my middle finger, left hand and Pte. Desjardins was hit on the left shoulder.

Signed(L/Cpl. Curphey, G.E. A-89470)

Certified true copy of document in my possession

J.S. Higgins, Lieut & Adjt.
1st Cdn. Bridge Coy. R.C.A.S.C.

REPORT ON WOUNDS OR OTHER INJURIES, EXCEPT ON WOUNDS RECEIVED IN ACTION

(Refer Overseas R.O. 2022)

PART I

No. D-123379 Rank Pte Name Desjardins, A.

Unit 85 Cdn. Bridge Coy. R.C.A.S.C. was reported on the 27 May 1943

suffering from Gunshot Wound Left Shoulder

The disability is of a Minor nature, and in all probability will not interfere with his future efficiency as a soldier.

He does not claim (Here insert "claims" or "does not claim") that he was in the performance of military duty at the time of the accident.

(If the soldier makes no claim that he was on duty at the time the certificate below (Part II) should be signed by him.)

STATION 1 Cdn. Gen Hosp.

DATE 27 May 1943 Signed (G.H. Raymond, Major)
Medical Officer in charge.

PART II CERTIFICATE TO BE SIGNED BY SOLDIER

I, D-123379 Pte. Desjardins, A. hereby declare that the injury sustained by me on the 27 May 1943 DID NOT occur while I was in the performance of military duty.

Signed Amedee Desjardins D-123379 — Soldier's Signature

STATION No.1 Cdn. Gen. Hospital Signed G.H. Raymond, Major — Signature of Medical Officer

DATE 27 May 1943

PART III

STATEMENT OF COMMANDING OFFICER:

(a) Was the individual in the performance of military duty? No

(b) Nature of duty? N/A

(c) Was it incurred in a game or other form of physical recreation organized with the approval of unit commander? No

(d) If it was incurred on leave, was such leave with or without pay? No

(e) Was anyone to blame? Yes

Whom? D-123379 Pte. Desjardins, A.

(f) Did the injury occur on military premises and if so what part of such premises? Yes, Billets

(g) Court of Inquiry (See Overseas R.O. 2022, paragraph 9).

(i) Has one been held? When? Yes, 28 May 1943

(ii) Will one be held? When? N/A

(h) Disciplinary action taken (if any required) or other remarks Awaiting decision of higher authority.

Signed(M.E. Charbonneau, Capt.)

Date 29 May 1943 Comd. A/O.C. 85 Cdn. Bridge Coy. RCASC

M.F.R. 871
[illegible] 683 (2497)

See Part IV Overleaf

PART IV

STATEMENT OF INJURED PERSON:

(Short statement by injured person of the circumstances of the injury. Signed statements of witnesses, or of persons to whom the injured person may have mentioned his injury, to be attached).

"I heard an explosion coming from Hut 31 where I live. I went into the hut with L/Cpl. Curphey and I tried to get the bag of ammunition which I had thrown in the stove, out of the stove. Some more explosions started and I was hit in the left shoulder".

Signed(Amedee Desjardins)D-123379 Pte.

Certified true copy of document in my possession.

J.E. Higgins, Lieut & Adjt.
65 Cdn. Bridge Coy. RCASC.

S72 36-85-8 Pt 1

No. D-123379 Name DESJARDINS Amedee Jr | Sqn., Battery, or Company 85 Cdn Bridge Coy Corps R.C.A.S.C. | Date of enlistment 20-6-41 | G.C. Badges | Service or Proficiency Pay .20 1-1-43 | M.F.M. 6 F.B. (22) 40/P & S/136 (2637)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. Alex Gagnon Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Original sheet destroyed on completion of six months service in accordance with CAORO 319 Entries NIL								
Field	8-3-43	Pte		A.A. Sec 40 - In that he, when ordered to report for guard duty by guard commander Cpl. MacLean, D.L. said 'Fuck the guard' or words to that effect.	Cpl McLean Cpl Sweet	27 days F.P.	20-3-43	Major A. Gagnon	27 days pay FR&I 149 (1)(b)

Certified to be a true copy from the Regimental Books in my custody

(J.S. Higgins) Lieut.,
Adjutant
No. 85 Cdn Bridge Coy R.C.A.S.C.

Field
21 Jun 43

(P.T.O.)

"A" Sqn

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-123379	Pte.	DESJARDINS, A.	85 Cdn. Bridge Coy. RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Incorrection.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 40	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

[redacted]

or

[redacted]

2. The accused has not been previously convicted, or [redacted]

3. The accused is not under sentence at the present time, or [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and nil days in military custody, making a total of nil days, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] 25 years

6. The date of his [redacted] attestation, as certified in his record of service [redacted] 20 Jun 1941

7. [redacted]

8. [redacted]

9. [redacted]

10. [redacted]

11. [redacted]

12. [redacted]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of June, 1943

(J.S. Higgins) Lieut.,
Adjutant
85 Cdn. Bridge Coy. R.C.A.S.C.

13. ~~The accused has served in a more efficient, bound, efficient, constitutionally, efficient, reduction, to the present date.~~

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

~~In the rank of ..... years.~~

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

5 U-101

Pte L/Cpl. Desjardins, E.

RECORDED AT CMHQ IN AB 160 5-4-101

CPA96 (In lieu of AFW 3) – 40/P & S/1608 (40/46)

FIELD GENERAL COURT-MARTIAL

4/38B

RECEIVED 29 OCT 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig. J. E. Sprague. Comd 2 Cdn Base Repl Gp dated 29 Aug 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 326, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-40025	Pte	(L/Cpl)	Edgar	Desjardins	4 Cdn Base Repl Dep

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

REVIEWED 30 OCT 45 JAG BRANCH C.M.H.Q.

Held at Utrecht (country) Holland on (date(s)) 11 Sep 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 37/135

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under Instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~if any~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(if not)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(if not)~~ brought before the Court. At 1230 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(if not)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ~~the Interpreter~~ as interpreter ? Ans .....

The Interpreter ~~is~~ sworn.(1) Do you object to ~~the shorthand writer~~ as shorthand writer ? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NAD/R (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under Instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A. Woodhouse	13 Cdn Base Repl Bn
Member	Capt.	I. S. Hamilton	13 Cdn Base Repl Bn
Member	Lt.	E. R. Wood	13 Cdn Base Repl Bn
Judge-Advocate	Major	F. H. Jermyn	HQ 2 Cdn Base Repl Gp.
Prosecutor	Lt.	C. Vanasse	4 Cdn Base Repl Dep
Defending Offr	Lt.	J. E. Tappin	4 Cdn Base Repl Dep

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (E) and fn 2 were not followed. See DI p 2.)

A8. The accused C-40025 Pte (L/Cpl) Desjardins E. before arraignment makes(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(if not)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(if not)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(if not)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRB AB160 Vol VIII P18

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President or~~ JA, ~~if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge[s], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge[s] or call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge[s].(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N.D. Sir (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
~~(1. Court may be closed to consider the statement. Delete whole or part not used.)~~

B4. On the charge[s] to which the plea[s] of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive on Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C40025 (No)

L/Cpl. (Rank) DESJARDINS (Name) and in my opinion he is

fit to under go trial by Court-Martial.

Station

Date 11 Sept 45

C. Brookfield Capt (Sgd),
Medical Officer

(Unit) 13 E BR Br.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement[A] as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier[A] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 235 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement[A] and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. You will hear my defending officer.(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-40025 Pte (A/Sgt) Klejnadelis, E 41 Can Base Sft Bn.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ 1 year detention beginning on 15 Aug 44, suspended 24 Jul 45. ~~beginning on (date)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 6 months.

(Sgd) Gordon A Jermyn Judge-Advocate, if any. Major

11 Sep 45. Date awarded.

(Sgd) A Woodhouse President. (RP 45, 50) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) W H Mungo BRIG.

Date 13 Sept. 45. Commanding COMD 2 CDN. BASE SFT. GP. Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 573, 577.)

Accused. Date. Signature of Offr.

Acting Sgt C-40025 (A/C Sgt) E. Klejnadelis 21 Sept 45 D. Macmillan, Lt. D.C.L.C. 41 CAN BASE SFT BN 2 CDN BDE GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C40025	Pte	1/Cpl	Edgar	DESJARDINS	4 Cdn Rft Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [have] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Sep 45 endorsed by me, ([ORDER OF CONVENING AUTHORITY]), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [and that it is not practicable that the trial of such person(s) by a military court should be delayed.]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [I am unable to appoint 3 or more Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A. WOODHOUSE (RCAC)		13 Cdn Base Rft Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt.	I.S. HAMILTON (CIC)		13 Cdn Base Rft Bn
Lieut	W.L. BARNEY (CIC)		13 Cdn Base Rft Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	E.R. WOOD (CIC)		13 Cdn Base Rft Bn

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Major	G.F. JERROY (RCA)		HQ 2 Cdn Base Rft Gp

On Active Service in the Fd

in Holland (Country.)

(J.C. [signature] personally. RP 105 fn 2.) Brigadier (Rank.)

Date 7 Sep 45 Commanding 2 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Para 12a DHQ of AFA) AG 9 (a) 6/1801 (4031)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

THE ACCUSED C40025 PTE(L/CPL) Edgar DESJARDINS 4 CANADIAN REINFORCEMENT BATTALION, 2 CANADIAN BASE REINFORCEMENT GROUP, A SOLDIER OF THE CANADIAN ARMY OVERSEAS, IS CHARGED WITH:

1ST CHARGE
AA SEC 15(1)

WHEN ON ACTIVE SERVICE
ABSENCE WITHOUT LEAVE

in that he,

in the field in Holland, was Absent Without Leave from 1100 hours 18 Aug 45 until apprehended by the Canadian Provost at CASTER, Belgium, at 0400 hours 31 Aug 45.
(Total time absent - 12 days 17 hours.)

L.J. Flynn

In the Field.
6 Sep 45

(L.J. FLYNN) Lt-Col.,
Commanding,
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

To be tried by FGCM

In the Field
7 Sep 45

(J.C. STRAGGE) Brig
Comd - 2 Cdn Base Rft Gp

A-7

The Court satisfy themselves that Lieut W L Barkey, CIC, 13 Cdn Base Aft Bn is not available to serve owing to being posted to a new area.

Lieut E R Wood, CIC, 13 Cdn Base Aft Bn waiting member takes his place as a member of the Court.

F-3. Defending Officer in Mitigation

Mr President, Gentlemen of the court Sirs: I respectfully submitthis document as a plea of mitigation of sentence in the case of C40025 Pte (L/Cpl) Edgar Desjardins.

Pte Edgar Desjardins made an application to be married almost three months ago to a girl in Anzegham. There was unknown delay in the acceptance of his application. Seven days prior to his going absent he received a report that his blood test had proved positive, he went immediately to the adjutant of his battalion and asked for a pass, he was refused on the grounds that he had had to many passes. His to many previous passes amounted to nine days leave in June a seventy two in July and a forty eight in the early part of August.

With the thought of perhaps having a Venereal disease, he, Private Desjardins decided that he would like to check up so he went to Anzegham and had another blood test. This time it proved negative and permission for him to marry came through on 7 Sep 45.

I ask you now gentlemen to consider this factor, put yourself in his place, imagine the turmoil in which your mind would be in if you had a blood test and it was recorded a positive and you were contemplating marriage.

Owing to the delay in his marriage papers coming through this soldier asked that he be taken off a Canada Repatriation Draft until such time as the papers were in order, and yet when he asked for a pass he was refused because he had had to many.

Pte Desjardins joined the Canadian Active Force on 7 Sep 45.37 37
During the fighting in Italy the Regiment to which Pte Desjardins belonged was under fire in the Hitler line for fourteen days. When they were taken out for a rest, he asked permission to visit his platoon officer and sergeant who were wounded and in a hospital only twenty miles away. He was refused. So he took it upon himself to go. He was away fifteen hours and for this he received twenty eight days field punishment. He felt that an injustice was done and he and others broke confinement for which he received a year in detention. He received full remittance for good behaviour and since that time has served as a regimental

policeman on the strength of 4 Battalion and has behaved himself as a model soldier. The question of his guilt of being AWL is unquestionable but in view of the factors I have just related to you, I ask you to be as lenient as possible.

Thank You Gentlemen
Respectfully

(John E Tappin) Lieut

EXHIBIT 'A'

Summary of evidence in the case of C 40025 Pte(L/Cpl) Edgar Desjardins 4 Cdn Rft Bn, 2 CBRC.

By direction of the CO the evidence is taken on oath.

The accused is informed of his rights.

First Witness

K 47591 Sgt Bishop D R, RP Sgt 4 Cdn Rft Bn, sworn, states:

I am K 47591 Sgt Bishop DR, RP Sgt 4 Cdn Rft Bn. On 18 Aug 45 at 1100 hrs it was reported to me by Cpl White of the RP's 4 Bn that L/Cpl Desjardins whom I now recognize as the accused, had failed to report for duty at 1100 hrs on that day. I went with Cpl White to the accused's quarters and I could not locate him. I searched the area in the vicinity of his quarters but he was not there. I marked the accused absent as from 1100 hrs 18 Aug 45 and turned in the Absentee Report on 19 Aug 45 tothe RSM. I next saw the accused at 1730 hrs 5 Sep 45 in the compound of the RP's at 4 Bn where had was under close arrest. I was present at 4 Bn on duty continuously from 18 Aug 45 up until now and the accused was not present during this time and he had no pass to be away for any part of this period. There is no daily roll call of all the RP's but there is a roll call for each shift by the senior soldier of each shift and absentees are reported to me as the RP Sgt. There are only 34 RP's on the staff including the accused and myself and I gave instructions to my men that immediately the accused returned it was to be notified at once to me.

D R Bishop

RP 83(B) complied with. Signed K 47591 Sgt DR Bishop

The accused declines to question this witness.

Second Witness

K 68714 Cpl White G of the RP's 4 Cdn Rft Bn, having been duly sworn, states:

I am K 68714 Cpl White G of the RP's 4 Cdn Rft Bn. At about 1100 hrs 18 Aug 45 I went to locate L/Cpl Desjardins, whom I now recognize as the accused, for duty but could not find him. I searched the lines for him and made inquiries but he was not present. I reported this to Sgt Bishop. I next saw the accused at about 0800 hrs to-day (6 Sep) when I returned from leave. I went on leave 23 Aug 45 and from 1100 hrs 18 Aug 45 until then I did not see the accused.

RP 83(B) complied with. Signed K 68714 Cpl White G

The accused declines to question this witness.

Documentary Evidence

The certificate of Apprehension in accordance with AA 163(1)(a) produced as documentary evidence was read to the accused, marked exhibit "A", signed by me and attached hereto.

Signed Lieut C Vanasse
Officer detailed to take the summary of evidence.

The accused was cautioned as follows:

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused replied:

A "I do not wish to make a statement at this time."

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of 2 pages was taken down by me in the presence of the accused and that AW 4(c), (d), (e) and (f) have been complied with.

Nijmegen Holland
6 Sep 45

Signed C Vanasse Lieut
Officer detailed to take
the Summary of Evidence.

LIST OF WITNESSES FOR PROSECUTION

First Witness - K47591 Sgt. BISHOP, D.R.

Second Witness - K68514 Cpl. WHITE, G.

LIST OF WITNESSES FOR DEFENCE

N I L

LIST OF EXHIBITS

Exhibit "A" - The Certificate of Apprehension.

RECEIPT FOR CHARGE SHEET AND SUMMARY OF EVIDENCE (MML Ch 5 Sec 5 SS24)

I hereby acknowledge that I have this date 7 Sep 1945 received from 4 Cdn Rft Bn. (unit) one copy of Charge Sheet and Summary of Evidence referring to charge(s) of AA Sec 15(1)

for which I was remanded for Court Martial.

E. Desjardins
(Signature of Accused)

REQUEST FOR DEFENDING OFFICER (MML Ch 5 Sec 5 SS 27)

I hereby request that _____ if available, act in my defence. If this officer is not available, I request the Commanding Officer of 4 Cdn Rft Bn. (unit) appoint an officer to act on my behalf.

E. Desjardins
(Signature of Accused)

I hereby certify that Lt J.E. Tappin (rank & name) was appointed to defend C40025 Pte.(L/Cpl.) Desjardins (number, rank and name) at his forthcoming trial by Court Martial and that the said Lt J.E. Tappin (rank and name) was notified that he was to act as defending Officer on _____ (date)

L.E.J. Mongeon Capt
(L.E.J. MONGEON) Capt.,
Adjt of Unit)
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

WHEN PROSECUTING OFFICER POSSESSES LEGAL QUALIFICATIONS
(MML Ch 5 Sec 5 SS 25)

I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

(Signature of Accused)

CERTIFICATE UNDER ARMY ACT. SECTION 165 (i) (ii)

Certified that No. C-40025 .... Rank. L/cpl ... Name DESJARDING E. J. V. .....

of the P.E.4Bn. 2CBRG Gp. ..... Regt, XXXXXXXXXXXXXX No. H-63009 .....

was apprehended by

Rank L/cpl ..... Name Legarrie A.A. ..... of the 2 Cdn. L. of C. Provost Coy.

9. Section Ghent Det. ... at Ghent .... at 0400 Hrs, on the 31st ....

day of August 45. ..... as an absentee without leave.

He was wearing Military Uniform at the time of his XXXXXXXX Arrest.

XXXXXXXXXXXXXXXX

Place CASTER BELGUIM

Date 31/8/45. .....

GHENT DET. 2 CDN. L. of C. Provost Coy.

C. Newman

Canadian Provost Corps.

C. Newman i/c Ghent Det.

2 Cdn L of C Provost Coy.

Exhibit 'A'

L Vanasse L

office taking

2 of E.

EXHIBIT B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C40025	Pte.(L/Cpl)	DESJARDINS, E.	4 Cdn Rft Bn (P.E.)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AA Sec 15(1)	19 times.
For	AA Sec 40	3 times.
For	AA Sec 10(4)	2 times.
For		times.

Date of first entry in Field Conduct Sheet 15 May 40

Date of last entry in Field Conduct Sheet 4 Apr 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. See Overleaf.

*3. The accused at the present time is under sentence for ~~beginning on the~~ day of

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 11 days in military custody, *i.e.*, nil days in open arrest, 11 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 23 yrs 2 mths 26 days

6. The date of his ~~enlistment~~ attestation is 18 Oct 39

7. The service which the accused is allowed to reckon is 5 yrs 10 mths 24 days

8. The accused is in possession of CVSM & Clasp, France - Germany, 1939 - 45 Star, Defence Medal, Italy.

State the military decoration (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of L/Cpl.	1 Jun 45
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[17151] W.L.3677/668 250,000 8/42 A.& E.W.Ltd. Gp.646 Forms/B.296/War/1
[22489] W.L.2/24/1672 60,000 8/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	Field 18 Aug 44	(1) AA Sec 15(1) WOAS AWL while undergoing Fd Punishment. (2) AA Sec 15(1) WOAS AWL while in confinement awaiting FGCM from 2330 hrs 22 Jul 44 to 0845 hrs 8 Aug 44.	One year's detention.	Granted Suspended sentence 24 Feb 45 having served 195 days Unexpired portion 170 days.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11 TH day of Sep 45

L.P.J. Morgeon Capt.

(L.P.J. MORGEON) Capt.,
Adjutant,
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

EXHIBIT C

Certified True Copy

Sheet #2 destroyed 18 Oct 41

No C40025 Name DESJARDINS E | Sqn, Battery, or Company | Corps CIC | Date of enlistment 18 Oct 39 | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/138 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
					Capt Bidgely				
Ottawa	19May	Cdsm		AA Sec 15(1) WOAS AWL from 19 to 20 May 40 (Absent 5 days)	Sgt Verne Cpl Curran Cpl Emerson	72 hrs Detn	20May40 27May40	Capt Barbat Capt Barbat	FOP 5 days
Ottawa Ottawa	26May 17Jun	Cdsm Cdsm		AA Sec 40 Conduct to prej AA Sec 15(1) WOAS AWL from 0800 hrs 14 Jun 40 to 2245 hrs 16 Jun 40 (Absent 2 days 14 hrs 45 mins)	Sgt Kirk Cpl Curran	168 hrs Detn	17Jun40	Lt-Col Wurtele	FOP 3 days
Camp Borden	13Jan	Cdsm		AA Sec 15(1) WOAS AWL from 0630 hrs 13 Jan 41 to 2200 hrs 18Jan 41 (Absent 5 days 15 hrs 30 mins)	Cpl Adams Sgt Verne	10 days CB	23Jan41	Lt-Col Thirtele	FOP 6 days
Camp Borden	7Feb	Cdsm		AA Sec 15(1) WOAS AWL from 1800 hrs 7 Feb 41 to 0645 hrs 15 Feb 41 (Absent 8 days)	Cpl Adams	14 days CB	15Feb41	Lt-Col Thirtele	FOP 8 days

(PTO)

No C40025 Name Desjardins E | Sqn, Battery, or Company D | Corps CIC | Date of enlistment 18 Oct 39 | Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/138 (3438)

Date of last entry in Company Conduct Sheet 21 Sep 42 | No and date of last drunk (1) 20 Jan 43 | Period not reckoning towards freedom from extra fine N/A | Sheet No 2 | Signature OC Company, etc M.W. Andrew Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	4 Jan 43	Pte		(1) AA Sec 15(1) WOAS AWL from 0630 hrs 4 Jan 43 until 0140 hrs 10 Jan 43 (Apprehended) (5 days 19 hrs 10 mins)	L/Sgt Rowe J M	28 days F.P. and placed under stoppages 13s2d Cost of apprehension & return	25 Jan 43	Lt Col J S H Lind	Forfeits 16 days pay under Art 149 I (a) FR & I.
				(2) AA Sec 10 (4) WOAS Broke out of camp while under open arrest.	L/Sgt Goold				
				(3) AA Sec 15(1) WOAS AWL from 2200 hrs 10 Jan 43 until 1910 hrs 12 Jan 43 when apprehended (1 Day 21 hrs 10 mins)	L/Sgt Goold	FR & I 172(8)			
				(4) AA Sec 10(4) WOAS Broke out camp while under close arrest.					
				(5) AA Sec 15(1) WOAS AWL from 2000 hrs 14 Jan 43 until 2025 hrs 21 Jan 43 (6 days 20 hrs)	A/Sgt J J McColl				

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
Toronto	15Feb	Odsm		AA Sec 15(1) WOAS AWL from 1630 hrs 15 Feb 41 to 1230 26 Feb 41 (Absent 11 days)	Sgt Headley Cpl Lavigne	21 days Detn	26 Feb41	Col Wurtele POP	11 days
Toronto	7Apr	Odsm		AA Sec 15(1) WOAS AWL from 0630 hrs 7 Apr 41 to 2230 hrs 11 Apr 41 (Absent 5 days)	Sgt Headley	Forfeits 10 days pay	16 Apr41	Col Wurtele POP	5 days
Sussex	5Sep	Pte		AA Sec 15(1) WOAS AWL from 0630 hrs 5 Sep 41 till apprehended at Ottawa at 2030 hrs 15 Sep 41 (Absent 11 days)	Odsm Grassett	Stoppages$17.79 20 days Detn	25 Sep41	Col Wurtele POP	11 days
Field	1Nov	Pte		AA Sec 15(1) WOAS AWL from 2200 hrs 1 Nov 41 to 0730 hrs 2 Nov 41 (Absent 1 day)	Sgt S Cordell	7 days CB	3 Nov 41	LtColGW Little	POP 1 day
Field	27Feb	Pte		AA Sec 15(1) WOAS AWL from 0600 hrs 27 Feb 42 to 2400 hrs 28 Feb 42 (Absent 2 days)	Sgt C Dyke	168 hrs Detn	3May 42	LtColGW Little	POP 2 days
Field	21Sep	Pte		AA Sec 15(1) WOAS AWL from 0600 hrs 21 Sep 42 till apprehended in at	Cpl PMcIlveen	forfeits 5 days OP FRAI 149(2)	27Sep42	LtColGW	Little POP 1 day

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if order dispensing with trial	By whom awarded	Remarks
Field	16 Jun	Pte		AA Sec 15(1) AWL from 2359 hrs.16 Jun 43 till 1923 hrs. 17 Jun 43(Absent 19 hrs.23 mins)	7 Days C.B.	18 June 1943		J.S.Rube Capt.	Forfs 1 days pay FR&I 149 (I)(a)
Field	7 Nov 43	Pte		AA Sec 40 Conduct to the prejudice in that he consumed or lost by neglect one emergency ration	Sgt Leghorn L A	Forf 3 days pay FRI 149(2)	12 Nov 43	Lt Col WS Rutherford	Rube Capt&Adjt.
Field	2 Jan 44	Pte		AA Sec 40 Conduct to the prejudice in that he consumer or lost by neglect one emergency ration	CSM Habkirk	Forf 5 days pay FRI 149(2) stoppages of 1s FRI 158(2)	5 Jan 44	Lt Col WS Rutherford	Rube Capt&Adjt.
Field	16May 44	Pte		AA Sec 15(1) WOAS AWL from 1945 hrs 16 May44 to 2200hrs 16May44(2hrs 15 mins)	Sgt Scammel	5 days FP Forf 5 days pay FRI149(2)	17May44	Lt Col WS Rutherford	Rube Capt&Adjt

S72 36-5-2

No C40025 Name DESJARDINS E | Sqn, Battery, or Company D | Corps C I C | Date of enlistment 18 Oct39 | RC Badges | Service or Proficiency Pay N-A | MFM 6 (AFB 122) 40/PAM/126 (5439)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk 20Jan40 | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	17Jun 44	Pte	/	AA Sec 15(1) WOAS AWL from 0600hrs 17 Jun44 until 2100hrs 17Jun44. (15 hrs)	WJ Ridge Capt Sgt Halliday	28 days F.P. Forf 28dys pay FRI 149(2)	19 JUN44	Major MW Andrew.	Forf 1 dyspay FRI149(I)(a)
Field			/ (1)	AA Sec 15(1) WOAS AWL while undergoing FD Punishment		one year's detention	18 Aug 44	FGCM	
			(2)	AA Sec 15(1) WOAS AWL while in confinement awaiting FGCM from 2330 hrs 22 Jul 44 to 0845 hrs 8 Aug 44.					
Field	4.4.45	Pte		AA Sec 15(1) WOAS AWL from 2200 hrs 4-4-45 until 2250 hrs 4-4-45 Total Absence 50 min.	Sgt Arnold	JK 3 days CB	5-4-45	C.E. Essery, Capt.	

(PTO)

S72 36-85-40

Date of offence	Rank	Cases of drunken-ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
			Granted 7 days Privilege Leave to continent commencing 6 Jun 45	L.P.J. Mongeon, Capt.				SUSPENSION OF SENTENCE Released from 32 Military Prison on the 28 Feb 45 sentence 1 yr dtn awarded 18 Aug 44 having been suspended authority GOC Cdn 02E No CECH/A8/2794 dated 24 Feb 1945 Having served 195 days. Unexpired portion now stands as 170 days. MARKS EARNED: 1560 REMISSION: 100% RCEd Lads, Major.

CERTIFIED TRUE COPY OF MFM 6 TAKEN FROM REGIMENTAL BOOKS IN MY CUSTODY

In the Field.
7 Sep 45.

L P Mongeon Capt
(L.P.J. MONGEON) Capt.,
Adjutant,
4 Cdn Rft Bn - 2 Cdn Base Rft Group-CAO

30 M. Pte. DESJARDINS, EA.

O. H. M. S.

B-38185 Pte F.A. Desjardins 30 H.
1 C.Scot R.

Correspondence to be PINNED here.

Army Form A.3.

"G"

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

RECEIVED APR 30 1942 H. Q. 7 CDN. INF. BDE.

On Active Service, this 6TH day of April, 1942,

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers ~~[illegible]~~ appointed or detailed hereunder.

* Omit if not applicable.

*~~I am unable to appoint:—~~

*~~(1) Three Officers to form the Court.~~

*~~(2) A Field Officer as President.~~

*~~(3) Three Officers having more than one year's service.~~

~~for the following reasons, namely:—~~

PROCEEDINGS REVIEWED.

Judge Advocate: Capt. R.A. Ritchie HQ 3 Cdn Div

President.

Rank.	Name.	Regiment.
Major	J.S.Merrett	R Wpg Rif

Members.

Rank.	Name.	Regiment.
Lieut	J.T. Carvell	R Wpg Rif
Capt.	A.H.Plows	1 C Scot R
(Waiting) Lieut	R.S.Gray	1 C Scot R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (H.L.N.SALMON) Brigadier,
Commanding 7 Canadian Infantry Brigade.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B 38185 Pte.Desjardins, Frank August 1st Bn. The Canadian Scottish Regiment	ABSENTING HIMSELF WITHOUT LEAVE in that he in the Field, absented himself without leave from 2130 hrs. 25 Feb 42, until apprehended by the Canadian Provost Corps, at 2359 hrs. 28 Mar,42. (Total of 31 days, 2 hrs. 29 mins.), thereby incurring costs of apprehension to the amount of £0-6-11.	GUILTY	GUILTY	
First Charge A.A. 15(1)		GUILTY	GUILTY	
2nd Charge A.A. 40	CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE in that he at London, at 2359 hrs. 28 Mar 42, was in improper possession of a document (AFB 295) knowing it to be not genuine.	GUILTY	GUILTY	
3rd Charge A.A. 40	CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE in that he at London, at 2359 hrs. 28 Mar 42, made a false statement to an N.C.O. of the Canadian Provost Corps, in that he stated that he was on seven days leave when he knew this to be false.	GUILTY	GUILTY	Confirmed [illegible]

110 DAYS DETENTION AND TO MAKE GOOD COSTS OF APPREHENSION IN THE AMOUNT OF £-6-11.

Dated in the Field this 28 day of April 1942

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [signature] (H.L.N.SALMON) Brigadier
Commanding 7 Canadian Infantry Brigade
Convening Officer (e)

(Signed) [signature] Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28 day of April 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*(~~3. The interpreter~~)
*(3. The officers under instruction)
4. The Judge Advocate

were duly sworn.

* Omit if not applicable.

Signed this 28 day of April 1942

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~19~~

~~President of the Court Martial~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison until further orders.~~) [illegible]

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 28th day of April 1942

[signature] Brig
Confirming Officer.

Promulgated and extracts taken in the case of B38185 Pte. Desjardins F.A.

(a) (Dated) 30th April, 1942. (Signed) [signature]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

APPENDIX TO SCHEDULE

o. Rank (a), me & Unit of ccused (b)	Offence charged	Plea	Finding, and if convicted Sentence (c)	How dealt with by Confirming Officer (d)
38185 Pte. Desjardins, Frank August, 1st Bn. The Canadian Scottish Regiment.	BEING IN ARREST OR CONFINEMENT, OR BEING IN PRISON OR OTHERWISE IN LAWFUL CUSTODY ESCAPES, OR ATTEMPTS TO ESCAPE.			
Fourth Charge A.A. 22.	In that he In the Field, between the hours of 2330 hours, 6th April 1942, and 0630 hours, 7th April 1942, when in confinement (in the Unit Guard-room) at Denne Park, Horsham, escaped.	Guilty	Guilty	
Fifth Charge A.A. 15(1)	ABSENTING HIMSELF WITHOUT LEAVE In that he In the Field, absented himself without leave between the hours of 2330 hours, 6th April 1942, and 0630 hours, 7th April 1942, until apprehended by the Corps of Military Police at 0745 hours, 11th April 1942. (Total: 4 days, 1 hour, 15 minutes).	Guilty	Guilty.	

A. G. L. 30.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a FIELD GENERAL Court-Martial held at

on the 28 day of APRIL 1942 by order of

BRIGADIER H. L. N. SALMON

Commanding 7 CANADIAN INFANTRY BRIGADE.

dated the 6 day of APRIL 19

President.

MAJOR J. S. MERRETT R. WPG RIFLES.

Members.

LIEUT. J. T. CARVELL R. WPG RIFLES.
CAPT. A. H. PLOWS I. C. SCOT. R.

CAPT. F. A. LYCHE RCA., Judge Advocate.

Trial of* B. 38185 PTE DESJARDINS, FRANK AUGUST I. C. SCOT. R.

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† CAPT. ROUNDING.

~~Counsel‡ or~~ defending officer† CAPT EASTMAN

At 10 45 o'clock the Trial commences.

The order convening the Court is read, and is marked "G" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

GUILTY *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

GUILTY *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

GUILTY *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

GUILTY *Answer.*

ARE YOU GUILTY OR NOT GUILTY OF THE FIFTH CHARGE AGAINST YOU WHICH YOU HAVE HEARD READ

The accused having pleaded Guilty to ALL charges, the provisions of Rule of Procedure 35 (B) are here complied with. GUILTY

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CHARGE SHEET

The accused, B38185 Pte. Frank August Desjardins, 1st. Battalion, The Canadian Scottish Regiment, a soldier of the Canadian Army, placed on Active Service in England, is charged with:-

First Charge
A.A. 15(1).

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2130 hrs. 25 February, 1942, until apprehended by the Canadian Provost Corps, at 2359 hrs. 28 March, 1942. (Total of 31 days, 2 hrs. 29 mins.), thereby incurring costs of apprehension to the amount of £0-6-11.

2nd Charge
A.A. 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at London, at 2359 hrs. 28 March, 1942, was in improper possession of a document (AFB 295). knowing it to be not genuine.

3rd Charge
A.A. 40.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at London, at 2359 hrs. 28 March, 1942, made a false statement to an N.C.O. of the Canadian Provost Corps, in that he stated that he was on seven days leave when he knew this to be false

In the Field
6th April, 1942.

(J.R.KINGHAM.) Lt.-Col.,
O.C., 1st.Bn.C.Scot.R.AF.

To be tried by Field-General Court Martial.

Date:- 6-4-42

.....
Convening Officer.

ADDITIONAL CHARGE SHEET.

The accused, B38185 Pte. Frank August Desjardins, 1st Battalion, The Canadian Scottish Regiment, a soldier of the Canadian Army, placed on Active Service in England, is charged with:-

Fourth Charge A.A. 22. Being in arrest or confinement, or being in prison or otherwise in lawful custody escapes, or attempts to escape,

in that he

In the Field, between the hours of 2330 hours, 6th April, 1942 and 0630 hours, 7th April 1942, when in confinement (in the Unit Guard-room) at Denne Park, Horsham, escaped.

Fifth Charge A.A. 15(1). ABSENTING HIMSELF WITHOUT LEAVE,

in that he

In the Field, absented himself without leave between the hours of 2330 hours, 6th April 1942, and 0630 hours, 7th April 1942, until apprehended by the Corps of Military Police at 0745 hours, 11th April 1942. (Total: 4 days, 1 hour, 15 minutes).

In the Field
26th April, 1942

R.C.L. Parker
.....
(R.C.L.PARKER) Lt.-Col.
O.C., 1st Bn. C.Scot.R. (AF)

To be tried by Field-General Court Martial.
Date:

.....
Convening Officer.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with

~~*[The Court having been re-opened, the accused is again brought before it, and the charge — to which he has pleaded "Guilty" — read to him again.]~~

The accused B-38180 The Frank Mayart Desjardins 1st Bn. The Canadian Scottish Regt is found guilty of all charges as laid.

†The summary (or abstract) of evidence is read, marked "Z" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Answer. The accused in mitigation of punishment says :—

~~[or hands in a written statement, which is read, marked — , signed by the President, and attached to the proceedings.]~~

THE DEFENDING OFFICER ADDRESSED THE COURT.

This is a good soldier who has got into bad company and thus into trouble. He will have to be punished but I suggest that the Army should not be deprived of his services and he should not be compelled to miss training for any appreciable time. I feel that this man has been brought down by bad companies.

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

yes, Sir

Answer.

Evidence as to character.

Sir 6-2.

E

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~Finding.~~

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before Sentence.*

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Capt. L. A. G. Rounding. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked K, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes.

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

E2

CHARACTER EVIDENCE

LIEUT. C.E.C. MACNEILL having been duly sworn Sets:

The accused was in my Platoon from Sometime in April 1941 until March 8 1942 when I left the platoon. This soldier arrived with a good bunch of lads from Ontario and they were some of the best lads we had.

The accused was always cheerful, willing and a good soldier. He was uncomplaining and seemed to be getting on well so long as he remained with the chaps he had come into the unit with, he was no trouble to anyone but he has since got into different company [particularly PA BENNETT]. He was a good rifle shot & had no trouble with his T.O.E.T.'s.

RULE OF PROCEDURE 83(B)

COMPLIED WITH.

EVIDENCE CALLED TO SUPPLEMENT SUMMARY OF EVIDENCE

Capt. L. A. G. Roundings having been duly sworn states:

I am adjutant of the 1. C. Scott. R and the accused was on the strength of this unit on 24th Feb 25th 1942 and on March 28th 1942. The pers signed 2.C. SHARP CAPT is not a genuine leave pass of this unit. There is no Capt Sharp on strength this unit and there never has been.

Rule of Procedure 83 (B) Complied with

L. A. G. Roundings Capt.

H

MEDICAL CERTIFICATE

1st. Bn. G.Scot.R. In the Field Date. 26 April 1942

This is to certify that No. [illegible] Rank. Pte.

Name. [illegible] has been examined by me and is declared well and physically fit to undergo trial by Field General Court Martial.

(J.A. WRIGHT) Capt.,
R.C.A.M.C.
H.Q. 1st. Bn.
G.Scot.R. (AF)

Summary of Evidence in the case of B38185 Pte. Desjardins F.A.

I

By direction of the Commanding Officer the Summary of evidence is taken on oath.

1st Witness for the Prosecution

K57228 L/Cpl. Silverman L., 1st.Bn., The Canadian Scottish Regiment, having been duly sworn states:-

"Being orderly sergeant I called the roll on 25th February, 1942 at 2130 hrs. and found Pte. Desjardins absent from his quarters. I also called the roll as orderly sergeant up to 2 March, 1942, and found Pte. Desjardins absent on each occasion."

The accused declines to cross-examine the witness.

L. Silverman
Signature of Witness.

2nd. Witness for the Prosecution

B38208 Pte. Mulligan C.W., 1st.Bn., The Canadian Scottish Regiment, having been duly sworn, states:-

"I live in the same hut as Pte. Desjardins whom I recognize as the accused. When I returned from leave on 27th February, 1942, I found Pte. Desjardins absent. I did not see him until 30 March, 1942, when he was being paraded to the company orderly room. During that time I paraded daily with the company and Pte. Desjardins was absent from the company during the period, as far as I know."

The accused declines to cross-examine the witness.

Pte Clarence Mulligan
L. Silverman
Signature of Witness.

3rd Witness for the Prosecution

A9048 L/Cpl. Akiens L.W., No 6 Provost Coy C.P.C.

A written statement of this witnesses evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

The accused does not demand the attention of this witness for cross-examination.

R. Mehendinn Capt
Signature of Officer taking Summary.

The accused having been duly cautioned in accordance with Rule of Procedure 4(E).

Reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) have been complied with.
Taken down by me in the presence and hearing of the accused this 3rd Day of April, 1942.

R. Mehendinn Capt
Signature of Officer taking Summary

Additional Summary of Evidence in the case of B38185 Pte. Desjardins, F.A., 1st Bn., The Canadian Scottish Regiment.

1st Witness for the Prosecution

K42131 Pte. Dimor, J., 1st Bn., The Canadian Scottish Regiment, having been duly sworn, states:

"Sir. I was Corporal of the Guard on the night of April 6, 1942, when in confinement I had amongst the prisoners, Pte. Desjardins, whom I now recognize. He was confined in the Regimental Guard-room, and at Reveille I found him missing. One bar had been removed from the window, and the barbed wire had been twisted off, allowing the prisoner to escape, Sir."

The accused declines to cross-examine the witness.

2nd W

J Dimor
.....
Signature of Witness.

2nd Witness for the Prosecution

K57238 L/Cpl. Anderson, W.W., 1st Bn., The Canadian Scottish Regiment, having been duly sworn, states:

"Sir: On the night of April 6, 1942, I mounted guard as 2 in charge of Guard. I checked the prisoners at 2330 hours, and found the accused, Pte. Desjardins, whom I now recognize, to be present. Before taking over from Cpl. Dimor in the morning at Reveille, I checked the prisoners and found two missing: Pte. Bennett and Pte. Desjardins. I immediately reported to Cpl. Dimor, Sir."

The accused declines to cross-examine the witness.

W. Anderson
.....
Signature of Witness

The accused having been duly cautioned in accordance with Rule of Procedure 4(e).

Reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 20th day of April, 1942.

James Lees
.....
Signature of Officer taking Summary.

Additional Summary of evidence in the case of B38185 Pte. Desjardins, F.A., 1st Bn., The Canadian Scottish Regiment.

1st Witness for the Prosecution.

L/Cpl. C. Holteem, Corps of Military Police. London, England.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence.

The accused does not demand the attention of this witness for cross-examination.

Thomas Lieut
.....
Signature of Officer taking summary.

2nd Witness for the Prosecution.

B38179 Cpl. Cameron, D.R., 1st Bn., The Canadian Scottish Regiment, having been duly, sworn, states:

"Sir. Acting as Platoon Commander of No. 14 Platoon in the absence of Mr. Moore, from the 7th April, 1942 until the 11th April 1942, Private Desjardins was absent during that time, and I did not see him around the camp. That is all, sir."

The accused declines to cross-examine this witness.

D R Cameron Cpl
.....
Signature of Witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4(E),

Reserves his defence.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 26th day of April, 1942 at Denne Park, Horsham.

Thomas Lieut
.....
Signature of Officer taking summary.

STATEMENT OF EVIDENCE IN THE CASE OF

B38185 Pte. Desjardins, F.A., "C" Coy, 1st Bn. The Canadian Scottish Regiment (AF).

Sir:

At London on the 11th April 1942 at 0745 hours I was on duty at Victoria Station when I saw the above named soldier.

I asked him for his pass which he was not able to produce. He said "I am on long leave and my mate has my pass". I asked him for his Pay Book and he said "My mate has got them."

Further questioned he admitted that he was absent about 6 weeks, he produced a Pay Book.

I communicated with the CANADIAN PROVOST COY; who sent an escort to collect him. He was handed over to L/Cpl W. Parker, No. 6 Canadian Provost Coy, to be detained.

He was sober and dressed in Uniform.

"C. HOLTEEM" L/Cpl.
C.M.Police.

LONDON.
21.4.42

Duly sworn this 21st day of April, 1942, in my presence.

"R.S.MENSHAW" Capt.
R.T.O. Victoria Station.

Certified a True Copy.

MFM 6.

No B38185 Pte. Desjardins F.A. "C" Coy. 1 C.Scot.R. (AF). Date of Enlistment 27 Jul 40

Sheet No 2

Signature of Coy Comd "AWEMacDONALD" Capt. Coy. Comd

Place	Date of Offence	Rank	Cases of Drunkenness.	Offence	Names of Witnesses	Date of award	By whom awarded	Remarks
Camp Borden	16 10 40	Pte		AWL from 0615 hrs. 16-10-40 to 1115 hrs. 23-10-40. Total 7 days 5 hrs.	Sgt. Watson Sgt. Young	3 days pay 24-10-40	Lt-Col. Sinclair	8 days pay
Camp Borden	6 Jan 41	Pte	nil	AWL from 0730 hrs. 6-1-41 to 0950 hrs. 8-1-41 (2 days 2 hrs. 20 mins.)	Cpl. Gerow Sgt. Pelletier	7 days C.B. 9-1-41	Capt. MacDonald	3 days pay
Debert Camp	7-5-41	Pte	nil	AWL from 0600 hrs 7-5-41 to 2359 hrs. 7-5-41(18 hrs.)	Sgt. Paterson	5 days CB 1 hr. Pack Drill 8-5-41	Major F.N.Cabeldu	1 days pay
Salamance Brks	16-10-41	Pte	1	Drunkenness. A.A.19 AWL from 0600 hrs. to 1700 hrs. 16-10-41(11 hrs.) A.A. 15.	Cpl.LorimerJD Cpl.BarberGW	2 days FP 2 dayspay 20-10-41	Major RGLParker	1 days
Shawfield	7-11-41	Pte	nil	AWL from 0630 hrs.7-11-41 to 0905 hrs. 7-11-41(2hrs.35mins.)	Cpl.BarberGW	4 days C.B. 7-11-41	Major FNCabeldu	
Denne Park	13-11-42	Pte	nil	Failing to appear at place of parade appointed by C.O.	L/CPL. HeatonR	3 days CB 14-1-42	Major F.N.Cabeldu	

CERTIFIED A TRUE COPY

ADJUTANT 1st Bn. CAPTAIN

CANADIAN SCOTTISH REGT., A. F.

Statement as to Character and Particulars of Service of Accused.

B38185 Pte. Desjardins F.A., 1st.Bn., Canadian Scottish Regt. (A.F.)

The following is a fair and true summary of the entries in the Regimental conduct sheets of the accused, exclusive of convictions by a Court-Martial or a civil court, of summary awards under Sec. 47 of the Army Act, and of cases in which trial has been dispensed with:--

	Within last 12 months	Since Enlistment.
Absence without leave A.A. 15(1)	4 times	6 times
Drunkenness. A.A. 19.	once	once

Number of instances of gallantry or distinguished conduct. Nil

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement, awaiting trial on the present charges for NO days in civil custody, and 9 days in military custody, making a total of 27 days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 yrs 11 months.

6. The date of his attestation, specified in his attestation paper, is 27th July, 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the Reserve is one year 8 months 10 days.

8. The accused is in possession of or entitled to NO military decorations or military reward.

SCHEDULE

of convictions by a Court-Martial or civil court , of summary awards under Sec 47. A.A. and of cases in which trial has been dispensed with of accused, B38185 Pte. Desjardins F.A., 1st.Bn., The Canadian Scottish Regiment. (A.F.).

NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of April, 1942.

(J.R.KINGHAM.) Lt.-Col.;
O.C., 1st.Bn.C.Scot.R.A.F.

The above statement (with the schedule of convictions of cases in which trial has been dispensed with) is read marked, signed by the President, and annexed to the predeedings.

Certificate in accordance with the Army Act Section 163(1)(ii)

I certify that Regt No B38185 Pte. Desjardins F.

C Coy Canadian Scottish Regt. was arrested at London

at 2359 hrs. ~~28~~ 28 Mar 42, and that at the time of his

arrest he was wearing military uniform.

Signature of Provost Marshall, A.P.M. or other Officer into whose custody the above named person was taken in arrest. "L.A. Whittington" Lieut. Oi/c Detention Room No 6 Provost Company.

Expense Voucher Re: Ref K.R. & O (Can) 539.

Regt No B38185 Pte. Desjardins F.A., Cdn Scottish

The following expenses were incurred in apprehending and returning the m/n soldier to Three Bridges from London.

		£ s d
29 Mar 42.	Escorts fare(return) from London to Three Bridges	4 7
	Prisoners fare from London to Three Bridges	2 4
	Total	& 6 11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"M.E. Byers " Lieut.

Officer Issuing Railway Warrant and Expense monies
No 6 Provost Company, Canadian Provost Corps, London.

CERTIFIED ~~XXX~~ A TRUE COPY

CAPTAIN
1ST BN.
CANADIAN SCOTTISH REGT., A. F.

File: No 12/58

Officer Commanding,
Canadian Scottish Regt.
Three Bridges.

Re B38185 Pte. Desjardins F.

1. Forwarded for your information and necessary action, please, and sisposal under C.A. Routine Orders (O) No 388 dated 29 Oct 40.

2. The m/n has no complaints as to his treatment. He states he had been AWL about 30 days.

London
29 Mar 42.

" " Lieut.
for Capt. S. Dalton
O.C. No 6 Coy.
Cdn Provost Corps.

CERTIFIED A TRUE COPY

W Rounding
CAPTAIN
ADJUTANT 1ST BN.
CANADIAN SCOTTISH REGT., A. F.

Statement of Evidence in the case of B38185 Pte.
Desjardins F.A., 1st.Bn., The Canadian Scottish Regt. A.F.

Sir,

At London on the 28 Mar 42, at about 2359 hrs.
I was on duty at Waterloo Station in company with L/Cpl.
McIntosh when I checked the a/m soldier for his pass. He
produced a blank (A.F.B.295) with the signature of a E.C.
Sharp. Capt. He was informed that this pass was worthless
and he stated that he was on 7 days leave but had lost his
pass. Not being satisfied I had him escorted to No 6 Cdn
Provost Coy HQ where he was again asked if he was on leave
and he again stated that he was. His unit was then telephoned
and the duty Officer stated that he was absent without leave.
I placed him under arrest and turned him over to the N.C.O.
i/c cells to be detained.

London
28 Mar 42

Sgd L.W. Akiens L/Cpl.
A9048

Sir
I have read over and corroberate the above statement.

London
28 Mar 42

Sgd. M. Intosh G.P. L/Cpl.
G37026

Remarks

The m/n has no complaints as to his treatment. He states he
has been AWL about 30 days.

Sgd. L.A.W. Lt.

CERTIFIED A TRUE COPY

J.R. Rounding CAPTAIN
ADJUTANT 1ST BN.
CANADIAN SCOTTISH REGT., A. F.

No. .....

Regiment .....

Army No. .....

Rank .....

Name .....

Date from .....

..... to .....

.....

Commanding .....

Station .....

Date .....

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. ..... Regiment .....

PASS

Army Form B295
(In pads of 100)

No. ..... (Rank) ..... (Name) .....

has permission to be absent from his †quarters/duty, from

..... to .....

for the purpose of proceeding to* .....

(Station) .....

(Date) .....

E C Sharp.
Capt. Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless justification is desirable owing to local conditions or is necessary to enable purchase of a full ticket at reduced fare.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

W.L. 29434/900 35000 10-45 D.P.W. 54-7952.

STATEMENT OF EVIDENCE IN THE CASE OF

NO: B/ 38185 Pte. DESJARDINES F.A.
"C" COY: 1st BTN: CANADIAN SCOTTISH REGT.
C.A.S.F.
.....

Sir,

At LONDON on the 11th April 1942 at 0745hrs I was on duty at VICTORIA STATION when I saw the above named soldier.

I asked him for his pass which he was not able to produce. He said "I am on long leave and my mate has my pass". I asked him for his Pay Book and he said "My mate has got them".

Further questioned he admitted that he was absent about 6 weeks, he produced a Pay Book.

I communicated with the CANADIAN PROVOST COY: who sent an escort to collect him. He was handed over to L/CPL. W. PARKER. NO: 6 CANADIAN PROVOST COY: to be detained.

He was sober and dressed in Uniform.

LONDON.
21.4.42.

[signature] L/CPL.
C.M.POLICE.

Duly sworn this 21st Day of April Nineteen Hundred and Forty Two., in my presence.

LONDON.
21.4.42.

[signature] CAPT.
R.T.O. VICTORIA STATION

Certificate in accordance with the Army Act Section 163 (1) (JJ).

I certify that REG'T NO. [illegible] RANK Pte NAME DesJardins, F.

UNIT. C.Cov.Canadian Scottish Regt. was arrested at PLACE London

at HOUR 2350 DATE 30 Nov 42 and that the time of his arrest

he was wearing military uniform.

Signature of Provost Marshal, A.P.M. or other officer into whose custody the above named person was taken in arrest

L.C. Whittington Lieut.
O. i/c Detention Room
No. 6 Provost Company.

512 36-8-42

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No B.38185 Rank Pte Name Desjardins N. Unit Can Scottish

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ Three Bridges from London

Date	Particulars	Amount		
29 Nov 42	Escorts return fare from LONDON To Three Bridges	—	4	7
	Prisoners single fare to LONDON From	—	—	—
	Prisoners fare from London To Three Bridges	—	2	4
	Escorts & Prisoners expenses for Bed, Meals, Bus fares	—	—	—
	Total £	—	6	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

M. E. Byers. Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/483

CHARGE

Army Form B 252
(See King's Regulations)

Canadian Scottish Regt. Regiment

C.Company. Battery / Squadron / Troop or Company

CHARGE against No. B.38185 Rank Pte

Name DesJardins. F.

Place London Date of Offence 28-Mar-42.

OFFENCE W.O.A.S. Was absent without leave.
From. 28.3.42 .....Until apprehended by the
(1) Canadian Provost Corps, at Waterloo Station
at about 2359hrs on the 28-Mar-42.
Being in possession of a document (A.F.B.295
(2) without proper authority. Same time and plac
e.
Making a false statement to an N.C.O. of the
(3) Canadian Provost Corps i/a. stated that he
was on 7 Days leave when he knew this to be
false. Same time and place.

Names of Witnesses :—
L/Cpl Akiens. L.W. Canadian Provost Corps.
L/Cpl McIntosh. G.F. Canadian Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded Remanded to C.O.

By whom Awarded [illegible]

Adjutant.

O.C. Detention Room
No. 6 Provost Company.

P.T.O.

Satatement of **EVIDENCE** in the case of
No.B.38185.Pte De Jardins. P.
C.Coy.Canadian Scottish Regt.

Sir,
At London on the 28-Mar-42,at about 2350hrs I was on duty at Waterloo Station in company with L/Cpl McIntosh when I checked the a/m soldier for his pass.He produced a blank(A. F. B.295)with the signature of a K.C.Sharp.Capt. He was informed that this pass was worthless and he stated that he was on 7 days leave but had lost his pass.Not being satisfied I had him escorted to No.6 Can Provost Coy.H.Q.Where he was again asked if he was on leave and he again stated that he was.His Unit was then telephoned and the duty Officer stated that he was absent without leave.
I placed him under arrest and turned him over to the N.C.O.i/c of cells to be detained

London
28-Mar-42. A.9048.Akkens.L.W. L/Cpl

Sir,
I have read over and corroborate the above statement.

London
28-Mar-42. G.370256.McIntosh.G.P. L/Cpl

REMARKS

The accused has no complaints as to his treatment. He states he has been A.W.L. about 30 days.

CR[redacted]ME

"C"

~~SQUADRON, BATTERY OR~~ COMPANY

CHARGE against No B 38185 Pte. Desjardines F.A.

Place	Date of Offence	OFFENCE	Name of Witness	Punishment Awarded	By whom Awarded
In the Field	28/3/42	Section 15 .1.A.A. absent without leave from 21.30 hours 25 Feb.1942 until apprehended by Military authorities at 23.59 hours 28 March 1942.absent 31 days two hours and twenty nine minutes. Section 25.1.A.A. Being in possession of a document (A.F.B. 295) without proper authority. Section 27,4 A.A. Making a false statement to an N.C.O.in that he stated he was on 7 days leave knowing it to be false.	documentary	Remanded to C.O. 30-3-42	[illegible] Lieut

Service years

Number of good conduct badges

Date of last entry in company conduct book

Character

Date of last entry for an act of drunkenness

Number of cases of drunkenness within the last twelve months

Commanding

M. F. B. 264

[illegible] 6-4 (872-5)
H.Q. 1773-35-99

File No.12/58...

Officer Commanding
[illegible].Coy.Canadian Scottish Regt.
Three-Bridges.

Re: B.38185.Pte.DesJardins.F.

1. Forwarded for your information and necessary action, please, and disposal under C.A. Routine Orders (O) No. 388 dated 29 Oct.40.

2. The m/n has no complaints as to his treatment. He states he has been A.W.L. about 30 days.

London
29-Mar-42.

----------Lt.
for Capt.S.Dalton
O.C.No.6 Coy.
Cdn.Provost Corps.

Record of the Declaration of a Court of Inquiry assembled in the Field, on the 25th day of March, 19 42, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of B38185 Pte. Desjardins F.A.

DECLARATION

The Court declare that No B38185 Pte. Desjardins F.A. 1st.Bn., The Canadian Scottish Regiment. (A.F.)., illegally absented himself without leave in the Field, on the 25th day of February, 1942, and that on the 25 Feb 42, he was deficient, and that he is still deficient of the following articles.

NIL

"J.M.Rockingham" Capt. President.

"C.E.C.MacNeill" Lieut. Member

"W.H.Gibson" Lieut. Member

Signed in the Field

this 25th day of March, 1942.

Signature of Commanding Officer.

"J.R.Kingham" Lt.-Col.

CERTIFIED A TRUE COPY

J.M. Desjardins

CAPTAIN

ADJUTANT 1ST BN.

CANADIAN SCOTTISH REGT., A. F.

63 Q. (2nd case)

O. H. M. S.

re DESJARDINS, F.A.

See 30 H for 1st case.

63 Q

A

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Thirtieth day of September, 1942.

Whereas it appears to me, the undersigned, an officer in Command of 7 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~*I am unable to appoint:~~

~~*(1) Three Officers to form the Court.)~~

~~*(2) A Field Officer as President.)~~

~~*(3) Three Officers having more than one year's service.)~~

~~for the following reasons, namely:~~

PROCEEDINGS REVIEWED

[signature] Assembly Officer (JAG) [illegible] 30 Oct 42

President.

Rank.	Name.	Regiment.
Major	W. Kennedy	Regina Rif

Members.

Rank.	Name.	Regiment.
Capt.	L.H. Denison	R Wpg Rif
Lieut.	H.L. Glendinning	1 C [illegible]
Lieut	J.H. Russell Waiting Member	1 C Scot R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialed by him.

*Signed [signature]

(H.D. GRAHAM) Brigadier,
Commanding 7 Canadian Infantry Brigade
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B.38185 Private DESJARDINS, F.A. 1 C Scot R	FIRST CHARGE Army Act Sec 15 (1)	Guilty	Guilty 145 days detention ~~29 days forfeiture of pay~~ stoppage of pay to cost of apprehension 71 $ d.	W.K. Finding and sentence confirmed but remit 85 days detention. H.D. Graham Brig. Comd 7. C.I.B.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H.D. Graham (H.D. GRAHAM) Brigadier, Commanding 7 Canadian Infantry Brigade Convening Officer (e)

(Signed) W. Kennedy major, Regina Rif President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 2nd day of October 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~
*~~(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this 2nd day of October 1942

W. Kennedy major.
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~ H.D.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 2nd day of October 1942

H.D. Graham
Confirming Officer.
(HD. GRAHAM) Brigadier,
7 Canadian Infantry Brigade.

Promulgated and extracts taken in the case of B38185 Private Desjardins F.A. Regina Rif. Co. Bo. C Scot. R. (A.F.)

(a) (Dated) 3rd October, 1942. (Signed) [illegible] Major A.C.O.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2 Nov 15.

CHARGE SHEET

The accused, B38185 Private Frank August Desjardins, 1st Bn. The Canadian Scottish Regiment, a soldier of the Canadian Army placed on Active Service in England, is charged with--

Section 15(1) Army Act

ABSENCE WITHOUT LEAVE

in that he

was absent without leave from 0700 hours, 30th August 1942 until apprehended by military authorities in London at 2030 hours, 27th September 1942 (total absence 28 days, 13½ hours), thereby incurring costs of apprehension in the amount of seven shillings, eightpence (7/8d)

In the Field

29th September, 1942

R. G. L. Parker

(R.G.L.PARKER) Lt.-Colonel
O.C., 1st Bn. C.Scot.R. (AF)

To be tried by Field-General Court Martial.

Date: 30.9.42

H. D. Graham

.....
Signature of Convening Officer

MEDICAL OFFICER'S REPORT

I certify that No. B 38185 Pte Desjardins F.A.

of 1 C Sloth R is in a good state of health,

and fit to undergo Trial by Court Martial.

[illegible signature]
Medical Officer

Station Sn me field

Date 20 Oct 42

M.F.B. 246
40 T.A. 8372

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the Field on the 2nd day of October 1942 by order of Brigadier H. D. Graham E. D.

Commanding 7th Canadian Infantry Brigade dated the 30th day of sept. 1942.

President.
W. Kennedy major
Regina Rif.

Members.
Capt. J. H. Denison
R. Wpg. R.
Lieut H. L. Gladstone
1 C. Scot R.

W.H. Judge Advocate.

Trial of*
B 38185 private F. A. Desjardins,
1 C. Scot R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing~~ to

, ~~waiting member takes his place as a member of the Court.~~ W.H.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt C. G. Stewart, 1 C. Scot. R.

Counsel‡ or defending officer† Capt J. S. Henderson 1 C. Scot R.

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked 'A', signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

no

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W16630/78. 25,000 sets. 6/40. R. & D., Ltd. G46/311. Forms A9/22.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~ w.t.

The accused B 38185 pte F. A. Desjardins, 1C Scot R.
is found guilty of The Charge

†The summary (or abstract) of evidence is read, marked "C"
signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes my defending officer will give a statement

Answer. The accused in mitigation of punishment says :—
statement attached marked "D" w.t.

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

yes.

Answer.

Evidence attached marked "D"

Evidence as to character.

NOT.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused 13 38/8 Pte F. G. Desjardins 1 R. Scot R. is guilty of the charge.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it and~~

Major Capt E. G. Stewart is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes m.F.m. 6 AFB 296

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E & F, signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

Cross-examined by the accused.

no

Question to the accused. Do you wish to address the Court? *Answer.* no

The Court is closed for the consideration of the sentence.

Defence:

First witness "D" not 15.

B 38179 Cpl Cameron D. R. 1st Bn. The Canadian Scottish Regiment having been duly sworn states:

"Sir, I have served for 27 months with the accused pte Desjardins, I have got to know him quite well, while in the line I find him extremely careful at all times and that he is well liked by the men, sir."

Q. "What was pte Desjardins' work as a soldier."

A. "Very good, sir."

witness not cross-examined.

statement for mitigation of sentence by defending officer.

"Sir, I would like the court to take into consideration the age of the accused. He is now only 21 yrs. of age. He has had a record of service 2 yrs. 3 months, so that he was only 19 yrs. of age when he joined up. At that age he had not yet matured,

his character was not formed and had not steadied down in living his life. The first few months of army life made him used to continual changes and learning new things which kept him keen in his work. Then after arriving in England, monotony set in and he was still doing the same type of work. He was anxious to learn and to specialize along some definite lines. He was not however given the opportunity to do this in spite of frequent requests. The result of this was restlessness and on occasions a sudden desire to get away, either on parade or when well thought of by his N.C.O's and for this opinion has the making of a good soldier. His charge sheet with one exception consists only of minor offences. It is the desire of higher command to have members of this force fitted into their proper niche if possible. I would ask the court to take into consideration these points and I submit that the making of a good soldier will be greatly hindered by anything but a light sentence sir."

"C"

Summary of evidence in the case of B38185 Private Desjardins, P.A., 1st Bn. C.Scot.R. (AF).

By direction of the Commanding Officer the Summary of evidence is taken on oath.

1st Witness for the Prosecution

K57019 C.S.M. Knight R.A., 1st Bn. The Canadian Scottish Regiment, having been duly sworn, states:

"Sir, on the 30th August 1942 at approximately 0800 hours, my Company Orderly Sergeant, L/Cpl. Kelly, reported to me the absence of Pte. Desjardins, the accused whom I recognize. He was absent from Reveille 30th August, until it was reported to me that he had been apprehended by the Provost Corps at 2030 hours, 27th September 1942. At no time in this interval did I see the accused in Camp, nor was it reported to me that he was in camp."

Q. "Where is L/Cpl. Kelly at the present time?"

A. "He has been struck off strength of the unit on admission to hospital."

It was not though advisable to delay the Court in order to obtain Cpl. Kelly's evidence.

The accused declines to cross-examine the witness

R.A. Knight C.S.M.
.....
Signature of Witness

2nd Witness for the Prosecution

Lieut. H.W. Cowling, No. 6 Coy, Cdn. Provost Corps.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused, and is included in this summary of evidence.

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attention of this witness for cross-examination.

J.L. McHugh Lt.
.....
Signature of Officer taking summary.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E), reserves his defence.

Certified that Rule of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused this 29th day of September, 1942, in the Field.

J.L. McHugh Lt.
.....
Signature of Officer taking summary.

Additional Summary of Evidence in the case of B38185 Private Desjardins, F.A., 1st.Bn., The Canadian Scottish Regiment (AF).

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

3rd Witness for the Prosecution

K57868 L/Cpl. Kelly W.M., 1st.Bn., The Canadian Scottish Regiment, having been duly sworn states.

"Sir, I am K57868 L/Cpl. Kelly W.M. At approximately 0800 hrs., 30th. August, 1942, after having completed a check on those absent on the Reveille Roll Call, I reported to CSM ~~xxxxxx~~ Knight R.A., that the accused, whom I recognize, Pte. Desjardins, was absent, as from Reveille. During my tour of duty, he did not report back in to me, nor was it reported to me that he had done so. Sir."

W M Kelly L/Cpl
Signature of Witness

The accused declines to cross-examine the witness

The accused having been duly cautioned in accordance with Rule of Procedure 4(E), reserves his defence.

Certified that Rule of Procedure 4(C)(D)(E)(F) and (G), have been complied with.

Taken down by me in the presence and hearing of the accused, this 30th day of September, 1942.

J M McClean Capt. Adj.
Signature of Officer taking Summary.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No. B38185 Rank Pte. Name Desjardins F.

Unit "C" Coy Cdn. Scottish Regt. was arrested at London (Place)

at 2030 (Hours) on 27-9-42 (Date) and that at the time of his arrest he was wearing (Military Uniform). Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of that portion of His Majesty's Forces or the Officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.
(Strike out part inapplicable)

"H.W. COWLING" Lieut.

London,
27-9-42

Officer i/c Detention Room,
No. 6 Cdn. Provost Coy.

Certified a true copy.

[signature] CAPTAIN
ADJUTANT 1st Bn.
CANADIAN SCOTTISH REGT., A. F.

Expense Voucher Re--: Ref. K.R. & O. (Can) 539

Reg.No. B38185 Rank: Pte Name: Desjardins F. Unit: Cdn Scot Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London.

Date	Particulars	Amount £	s	d
28 Sep 42	Escorts return fare from LONDON to Pulborough (½ portion)		3	10
	Prisoners single fare from LONDON to Pulborough		3	10
	TOTAL:	£ 0	7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"H.W. COWLING" Lieut.

Officer Issuing Railway Warrant & expense monies No. 6 Provost Company, Canadian Provost Corps, London.

Certified a true Copy. A.M. Gillan CAPTAIN
ADJUTANT 1ST BN.
CANADIAN SCOTTISH REGT. A. F.

File No. 14/124

Officer Commanding,
"C" Coy, Cdn. Scottish Regt.

Re: B38185 Pte. Desjardins F.

1. Forwarded for your information and necessary action, please, and disposal under C.A. Routine Orders (O) No.388 dated 29th Oct. 1940.

No complaints.

London

28-9-42

"H.W.COWLING" Lieut.

for Capt. M.E. Byers,
O.C. No. 6 Coy,
Cdn. Provost Corps.

Certified a true copy.

[signature] CAPTAIN
ADJUTANT 1st Bn.
CANADIAN SCOTTISH REGT. A. F.

M.F.B. 355
40/P & B/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B38185	Private	Desjardins F.A.,	1st Bn. C.Scot.R. (AF)

1. The following is a fair and true summary of the entries in the Field ~~Service and General~~ ~~Regimental and Squadron, Battery~~ Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For	A.A. 19 Drunkenness once	Once times
For	A.W.L. A.A. 15(1(four times	five times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct nil

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

~~2. The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Army Act Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 72~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and two days in military custody, making a total of two days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 yrs. 5 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27 July, 1940

7. The service which the accused is allowed to reckon towards discharge is 2 yrs. 3 mos.

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). ~~State any air force decoration or reward~~ military.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of N.A.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit
N.A. dated N.A., and in his regiment (or corps), the rank of
N.A. dated N.A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N.A. Date of promotion.

In the rank of N.A. years.

In the rank of N.A. years.

In the rank of N.A. years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Air Force~~ Army Act, and of cases in which trial has been dispensed with of accused, Number R36169 Rank Private Name Desjardins F.A. of 1st Bn. The Cdn. Scottish Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In the Field 28 Apr 42	AWL 1 mos. 3 days:and 4 days.A.A.15(1) Breaking out of confinement A.A. 20	110 days detention and pay Costs of 6/11.	36 days Detention and pay.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this twenty-ninth day of September, 1942

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

R.G.L. Parker

(R.G.L.PARKER) Lt.-Colonel
O.C., 1st Bn. C.Scot.R. (AF)

M.F.W. 6

Old Sheet destroyed 27-1-41

No. B38185 Name: Desjardins F.A. Coy: C Coy Corps: 1 C Scot R Date of enlistment. 27-7-40 Signature of O.C.Coy - "A.H.PLOMB" Capt.

Date of last Entry: 6-1-41 No. and date of last drunk: N.A. Sheet No. 2

Place	Date	Rank	Case of Drunkenness	Offence	Witnesses	Punishment	Date of award	By whom awarded	Remarks
Debert N.S.	7-5-41	Pte	Nil	AWL 0600 7-5-41 to 2359 hrs 7-5-41 (A.A. 15(1)	Sgt. Paterson	5 days C.B.	8-5-41	Maj. F.N. Cabeldu	1 days pay FR&I 149(1)(A)
Field	16-10-41	Pte	1	DRUNKENNESS A.A. 19 AWL 0600 16-10-41 to 1700 hrs 17-10-41 (A.A. 15(1)	Cpl Lorimer J.D. Cpl Barber G.W.	2 days F.P. 2 days pay	20-10-41	Maj. R.G.L.PARKER	1 days pay FR&I 149(1)(A)
Field	7-11-41	"		AWL 0630 7-11-41 to 0905 hrs 7-11-41 (A.A. 15(1)	Cpl Barber G.W.	4 days C.B.	7-11-41	F.N.Cabeldu Major	
Field	13-1-42	"		Failing to appear at place of parade A.A. 15(2)	L/C Heaton	3 days C.B.	14-1-42	F.N.Cabeldu Major	
Field	23-2-42	"		AWL 2130 25-2-42 to 2359 hrs 28-3-42 A.A. 15(1) Cost of apprehension £0-6/11 Conduct to prejudice A.A. 40 Breaking out of confinement A.A. 20 AWL from 0630 hrs 7-4-42 to 0745 hrs 11-4-42 (A.A. 15(1)	Cpl Cameron L/C Atkins L/C Silverman	110 days detention cost £0-6-11 110 days pay FR&I 149(1)(B)	28-4-42	F.G.C.M. Granted 36 days remission of sentence. by comd FT.Darland Det. Bks.	37 days pay FR&I 149(1)(2) 26 days pay 149(1)(U)(11)
Field	20-8-42	"		Absent without Leave A.A.15(1)	L/C Greene W.	5 days C.B.	22-8-42	C.S.C.MacNeill Lieut.	1 days pay FR&I 149(1)(A)

Certified a true copy.

A.W.Ellam CAPTAIN
ADJUTANT 1st Bn
CANADIAN SCOTTISH REGT. A. F.

1st Bn. C.Scot.R. (AF),
Canadian Army, England.

29th September, 1942.

Officer Commanding,
1st Bn. C.Scot.R. (AF)

Dear Sir:

1. I respectfully request that

Captain L.S. Henderson

be appointed as my advisor and Defending Officer.

F.A. Desjardins

(B38185 Pte. Desjardins F.A.)

REVIEW SHEET

F.G.C.M. - Trial: B-38185 Pte F.A. Desjardins, 1 C.Scot R.

Date of trial: 2 OCT 42

President of Court: Major W. Kennedy, Regina Rif.

1. For the information of the officers asked to sign below, the following irregularities are noted:-

(a) The charge sheet does not state the place where the offence was committed, i.e. "in the Field". (See specimen charge sheet No 37, M.M.L. p.721).

(b) Irrelevant portions of A.F.A. 9 are not struck out and initialled. (See marginal note at top of page 1 of A.F.A.9).

(c) No reason is seen why original certificate of provost under A.A. Sec 163 should not have been produced instead of certified copy. (See M.M.L. p.768, para 17), also expense voucher (ref K.R.(Can) 539) as to expenses of apprehension.

(d) Medical certificate is not identified by the president's signature or initials. (See "The Green Book" p24, para 65).

(e) Date of sentence of Court is not inserted in 4th col of schedule on page 2 of AFA 3. (See "The Green Book", p.23, para 59(b) as amended).

(f) The minute of promulgation at the foot of page 3 of A.F.A.3 is not signed by or for the commanding officer.

2. May these remarks and the authorities quoted be read by the following officers, signed and returned to this Headquarters, please.

O. C. 1 C.Scot R.	
Adjutant 1 C.Scot R.	
President of the Court	
A.D.J.A. 3 Cdn Div	
Staff Officer for Convening Officer	
Staff Officer for Confirming Officer	

(A.W. Amsbury) Major,
D.J.A., 1 Cdn Corps.

DISTRIBUTION:

C.J.H.Q.
A.D.J.A. 3 Cdn Div
File

75-V (3rd case)

Mr. DESJARDINS, F.A.

See 30 M for 1st case
63 Q " 2nd "

O. H. M. S.

Correspondence to be PINNED here.

B-38185 Pte.DESJARDINS,
Frank August
1 C.Scot.R.
3 C.D.I.R.U.
Army Form A.3.

75 V

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-sixth day of December, 1942

Whereas it appears to me, the undersigned, an officer in Command of "D" Group, Canadian Reinforcement Units Canadian Army (Overseas), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ GB

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*[I am unable to appoint:—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely:—]~~ GB

Proceedings Reviewed
Martin Capt
Reviewing Officer (J.A.G.) CMHQ
20 Jan 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lieut.Colonel	L.M.Watson, E.D.	Sherbrooke Regt. 1 Cdn.Base Staging Camp

Members.

Rank.	Name.	Regiment.
~~A~~ Major	P.A. Woods E.D. ~~from~~	1 Cdn.Gen.Pioneer Coy
~~A~~ Lieutenant	A. Davies ~~from~~	3 Cdn.Gen.Pioneer Coy.
A Lieutenant	WAITING MEMBER from	3 C.D.I.R.U.

*Signed G. Watson Bash Colonel

Commanding "D" Group, Cdn.Reinf.Units

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
	First Charge A.A.Sec.15(1)	Guilty	Guilty	
	-+++-			I confirm the findings and sentence of the Court G. Mary Basher Col
	Second Charge A.A.Sec.22	Guilty	Guilty	
	-+++-			
	Third Charge A.A.Sec.15(1)	Guilty	Guilty	
	-+++-			
B-38185 Pte. DESJARDINS, Frank August 1 C.Scot.R. 3 C.D.I.R.U.	Fourth Charge A.A.Sec.11	Guilty	Guilty	
	-+++-			
	Fifth Charge A.A.Sec.10(3)	Guilty	Guilty	
	-+++-			
	Sixth Charge A.A.Sec.9(2)	Guilty	Guilty	130 days
	See Charge Sheet attached			Detention [illegible] Col

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded on separate sheet if necessary):—

(Signed) G. Mary Basher Colonel (Signed) L. McWatson Lt Col

Commanding "D" Gp., C.R.U. Convening Officer (e) 1 Cdn Base Staging Camp President

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of December 1942 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ [illegible]
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 28th day of December 1942

L. McWatson Lt Col 1 C.B.S.C.

President of the Court Martial.

C. Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ [illegible] complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 29th day of Dec 1942

G. Mary Basher Col.

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 30 Dec. 42 (Signed) J. A. McIntosh

Officer Commanding, 3 Cdn. Div. Inf. Reinf. Unit, Canadian Army (Overseas).

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Frank Wild

CHARGE SHEET

The accused, Regimental number B-38185 Private FRANK AUGUST DESJARDINS Canadian Scottish Regiment, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, a soldier in the Canadian Army (Overseas), is charged with:

FIRST CHARGE
A.A. 15 (1)

When on Active Service, absenting himself without leave
in that he
without leave
in the Field did absent himself from 2200 hours, 10 Dec 1942 until 0300 hours, 16 Dec 1942. Total absence 5 days, 5 hours.

SECOND CHARGE
AA. 22.

When on Active Service, escaping from confinement,
in that he
in the Field, at Badajos Guard Room, Wellington Lines, Aldershot, Hants, England, on the 18 Dec 42 at about 0730 hours, while a soldier awaiting disposition by the Commanding Officer, did escape from confinement.

THIRD CHARGE
AA. 15 (1)

When on Active Service, absenting himself without leave
in that he
in the Field did absent himself without leave whilst under close arrest, from 0730 hours 18 Dec 42, until apprehended at 0945 hours 21 Dec 1942. Total absence 3 days , 2 hours, 15 mins.

FOURTH CHARGE
AA. 11

When on Active Service, failing to comply with MEM 1 Instructions to soldier Para. 2
in that he
when questioned in London on the 21 Dec 1942 was not in possession of his MEM 1 Part 1.

FIFTH CHARGE
AA. 10(3)

When on Active Service, resisting an escort whose duty it was to arrest him,
in that he
when told he was to be taken to a police station for investigation, said: "I am not coming with you", and had to be taken by the arms.

SIXTH CHARGE
AA. 9(2)

When on Active Service, refusing to obey a lawful command given by his superior officer in the execution of his duty,
In that he
refused to reveal his identity, when questioned by C.M.P. in London.

J. A. McIntosh Colonel
J.A. McINTOSH, Colonel,
Officer Commanding,
3rd Cdn. Div. Inf. Reinf. Unit.

Dated in the Field this
24th day of December 1942.

To be tried by Field General Court Martial

G. Bradley Basher
(G. Bradley Basher) Colonel
Commander
"D" Group, Cdn. Reinf. Units

In the Field
25 Dec. 42

S72 36-82-4 of 1

28 Dec 42

hnw lt Col

To Whom It May Concern:-

This is to certify that I have on this date medically examined the U/M and find him fit to stand trial by Courts Martial.

B-38185 Pte. Desjardines, F. A.

R Hassna Capt.
(M. O. 3, C. D. I. R..U.)

Trial of B.38185 Private Frank August Desjardins, Canadian Scottish Regiment, reinforcement on the strength of the 3rd C.D.I.R.U.

Since Lt/Col

Prosecuter :-

Capt. W.G. White, 7 Brigade Wing, 3 C.D.I.R.U.

Defending Officer :-

Lieut. D.R. Ramsay, Regina Rifles.

Trial commenced at 0930 hours. Names of the President and members were read to the accused.

The accused was asked :-

"Do you object to be tried by me as President or by any of the officers whose names you have heard read over ?"

Answer by the accused :-

"No."

The accused was arraigned upon all the charges in the schedule.

The accused pleaded guilty to all the charges.

The accused declined to give evidence or make a statement.

The prosecuting officer declined to address the Court.

The defending officer declined to address the Court.

The prosecution produced certified true copies of M.F.M. 6 and M.F.B. 296 in connection with the accused.

The defence declined to address the Court.

The Court closed to consider sentence.

SUMMARY OF EVIDENCE

in the case of

Regimental number B-38185 Private FRANK AUGUST DESJARDINS, The Canadian Scottish Regiment, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, a soldier in the Canadian Army (Overseas).

The evidence is taken under oath by the direction of the Officer Commanding.

FIRST WITNESS
Prosecution

Regimental number K-57059 Sgt. BUTT W.M., Canadian Scottish Regiment, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, having been duly sworn, states:
"As Company Orderly Sergeant on the 10th day of December 1942 at 2200 hours I called the roll and the accused, whom I recognize, was absent. I handed over my duties on the 12th day of December 1942 at 1200 hours to Sgt. FITZGERALD R, and reported to him that the accused had been continuously absent from 2200 hours the 10th day of December 1942".

The evidence was read to the witness.

The accused declines to cross examine the witness.

SECOND WITNESS
Prosecution

Regimental number K-62004 Sgt. FITZGERALD R., Canadian Scottish Regiment, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, having been duly sworn, states:
"When I took over the duties of the Company Orderly Sergeant at 1200 hours on the 12th day of December 1942 from Sgt. BUTT W.M., the accused, whom I recognize, was absent. He was reported to the Company as having been apprehended in London at 0300 hours on the 16th day of December 1942. The accused was not present at any roll call from 1200 hours the 12th day of December 1942 until notification of his apprehension was received on the 16th day of December 1942".

The evidence was read to the witness.

The accused declines to cross examine the witness.

THIRD WITNESS
Prosecution
Documentary

Regimental number F-40807 Corporal SCHUTZ G.W., Canadian Provost Corps, states:
"Regimental number B-38185 Private DESJARDINS F.A., Canadian Scottish Regiment, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, returned to 3rd Canadian Division Infantry Reinforcement Unit Guard Room under escort Canadian Provost Corps at 1515 hours on the 16th day of December 1942."

The accused does not require the attendance of F-40807 Cpl. SCHUTZ G.W., for the purpose of cross examination.

FOURTH WITNESS
Prosecution
Documentary

Lance Corporal HARNE R., Special Investigation Branch, Canadian Military Police, states:
"Sir, at London on the 16th day of December 1942, at 0300 hrs I was on duty at Coventry Street, where I saw the accused. He was not wearing any shoulder flashes or cap badge. I told him who I was and asked him for his pass, which he could not produce. I asked him if he was absent and he made no reply. In company with P.C. MCKEOWN C., No.293 Metropolitan Police, I detained him pending the arrival of the Canadian Military Police. He was conducted to No.6 Canadian Provost Coy H.Q., where after questioning he said:-'Alright I am absent'. I arrested him and cautioned him in the usual manner and he made no reply. At 1600 hours I handed him over to the N.C.O. I/c the cells to be detained."

The accused does not require the attendance of Lance Corporal HARNE R., for the purpose of cross examination.

FIFTH WITNESS
Prosecution

Regimental number L-27658 Lance Corporal BROWN J.A., Regina Rifle Regiment, attached "A" Wing, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, having been duly sworn, states:
"While on Provost Duty, Badajos Barracks Guard Room at 0730 hours on the 18th day of December 1942, I escorted a prisoner to the lavatory. During that period of time the accused, whom I recognize, escaped."

The evidence was read to the accused.

The accused declines to cross examine the witness.

SIXTH WITNESS
Prosecution

Regimental number L-27350 Lance Corporal KLINCK J., Regina Rifle Regiment, attached "A" Wing, reinforcement on the strength of the 3rd Canadian Division Infantry Reinforcement Unit, having been duly sworn, states:
"On the morning of the 18th day of December 1942 I was on Provost Duty at the Badajos Barracks Guard Room at about 0715 hours. I was shaving at the time when L/Cpl. BROWN J.A. took Rfn. CHAMPAGNE through the back door to the outside lavatory. When L/Cpl. BROWN returned with Rfn. CHAMPAGNE he then went to get the accused, whom I recognize, and found that he was missing. I told L/Cpl. BROWN to report to No. 3 Coy, 3rd Canadian Division Infantry Reinforcement Unit, also to Salamanca Barracks Guard Room."

The evidence was read to the accused.

The accused declines to cross examine the witness.

SEVENTH WITNESS
Prosecution
Documentary

Lance Corporal FRANZEL E., Corps Military Police, states:
"Sir, at London on the 21st Day of December 1942 at 0945 hours I was on Motor Cycle Patrol in company with L/Cpl. CARPENTER S., Corps Military Police, when we called at the Gordon Services Club Vauxhall Bridge Road. I saw the accused who was not wearing shoulder titles. When asked for his pass he said; ' I am from C.M.H.Q. London and my pay book is in the office'. I told him he would be taken to the Police Station for investigation and he said: 'I am not coming with you'. He began to struggle and we were forced to take him by the arms. On arriving at Rochester Row Police Station he still refused to reveal his identity. The Canadian Military Police were informed by telephone and at 1015 hours the accused was handed over to an escort"

The accused does not require the attendance of Lance Corporal FRANZEL E., for the purpose of cross examination.

The accused, having been duly warned in accordance with Rule of Procedure (4)(E) reserves his defence.

Taken down in the hearing and presence of accused.

Certified that the Rules of Procedure 4(c)(d)(e)(f)(g) have been complied with.

Adjutant - 7th Brigade Wing,
3rd Can. Div. Inf. Reinf. Unit.

Dated at Salamanca Barracks,
Aldershot, Hants., England,
this 24th day of December 1942.

LIST OF WITNESSES

PROSECUTION

1. Reg. No. K-57059 Sgt. BUTT H.M. — Canadian Scottish Regiment, 3rd Canadian Division Infantry Reinforcement Unit. Salamanca Barracks, Aldershot.

2. Reg. No. K-62004 Sgt. FITZGERALD R. — Canadian Scottish Regiment, 3rd Canadian Division Infantry Reinforcement Unit. Salamanca Barracks, Aldershot.

3. Reg. No. F-40807 Cpl. SCHUTZ G.W. (DOCUMENTARY) — Canadian Provost Corps, 3rd Canadian Division Infantry Reinforcement Unit. Salamanca Barracks, Aldershot.

4. L/Cpl. HARNE R. (DOCUMENTARY) — Special Investigation Branch, Corps Military Police, London.

5. Reg. No. L-27658 L/Cpl. BROWN J.A. — Regina Rifle Regiment, Att'd "A" Wing, 3rd Canadian Division Infantry Reinforcement Unit. Badajos Barracks, Aldershot.

6. Reg. No. L-27350 L/Cpl. KLINCK J. — Regina Rifle Regiment, Att'd "A" Wing, 3rd Canadian Division Infantry Reinforcement Unit. Badajos Barracks, Aldershot.

7. L/Cpl. FRANZEL E. (DOCUMENTARY) — Corps Military Police, London.

DEFENCE

NIL.

Annex C&C 1

STATEMENT BY THE ACCUSED

I certify having received, free of charge, a copy of the summary of evidence, list of witnesses, list of exhibits, and charge sheet.

I desire the services of an officer to represent me at my trial.

F A Desjardins

B-38185 Private DESJARDINS F.A.

Old sheet destroyed 27-1-41 A.H. PLOWS, Major.

No. B-38185 Name DESJARDINS F.A. Sqn., Battery, or Company No. 3 Coy Corps 3 C.D.I.R.U. Date of enlistment 27-7-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 6-1-41 No. and date of last drunk N.A. Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc. A.H. PLOWS Major. Character

M.F.M. 6 A.F.B. 137 (1934—7-41 (1215-20) H.Q. 1772-30-1658

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
									For 1 days pay
Debert N.S.	7-5-41	Pte.		AWL from 0600 hrs 7-5-41 to 2359 hrs 7-5-41 A.A.15(1)	Sgt.Paterson	5 days C.B.	8-5-41	Maj.P.W.Cabeldu	FRI 149 (1)(A)
					Cpl.Lorimer	2 days F.P.	20-10-41	Maj.Parker	For 1 days pay FRI 149(1)(C
Field	16-10-41	Pte.	1	Drunkeness A.A.19					
				AWL 0600 hrs 16-10-41 to 1700 hrs 17-10-41 A.A.15(1)	Cpl.Barber	2 days pay			
Field	7-11-41	Pte		AWL 0630 hrs 7-11-41 to 0905 hrs 7-11-41 A.A.15(1)	Cpl.Barber	4 days C.B.	7-11-41	Maj.Cabeldu	
Field	13-1-42	Pte		Failing to appear at place of pde. (A.A.15(2)	L/C Wenton	3 days C.B.	14-1-42	Maj.Cabeldu	
Field	25-2-42	Pte		AWL from 2130 hrs 25-2-42 to 2359 hrs 28-3-42 A.A.15(1)	Cpl.Cameron	110 days Det.	28-4-42	F.G.C.M.	37 days pay FRI 149(1)(A)
				Cost of apprehension £0-6-11	L/C Atkins	Costs £0-6-11 Gr. 36 days rem.			26 days pay
				Breaking out of confinement A.A.20	L/C Silverman	110 days pay of sentence			FRI 149(1)(C)(
				Conduct to Prejudice A.A.40		FRI 149(1)(B) Ft.Darland Det.Bks			

(P.T.O.)

No. B-38185 Name DESJARDINS F.A. Sqn., Battery, or Company No. 3 Coy Corps 3 C.D.I.R.U. Date of enlistment 27-7-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. A.H. PLOWS Major Character

M.F.M. 6 A.F.B. 137 (1934—7-41 (1215-20) H.Q. 1772-30-1658

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.					

(W.D. WHITE) Captain,
Adjutant, 7 Bde Wing,
3 C.D.I.R.U.

(P.T.O.)

S72 36-8

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-8-42	Pte		A.W.L. A.A.15	L/C Greene	5 days C.B.	22-8-42	Lt.MacNeil	For.1 days pay FRI 149(1)(A)
Field	1 Dec	42	Pte	Conduct to Prejudice etc: made a false statement to superior off. appeared on parade unshaven A.A. 40	Sgt.Butt	7 days C.B.	1 Dec 42	Capt.English	
Field	30-8-42	Pte		AWL from 0700 hrs 30 Aug 42 to 2030 hrs 27 Sep 42. absent 28 days 13½ hrs. A.A.15(1)	CSM Knight Sgt Dowling L/C Kelly	60 days Detn. 60 days pay. FRI 149(1)(B) Costs 7/8d. Released from Headley Downs Detn. Bks 11 Nov 42, sentence having expired. Remission earned Rules for Detn. Bks and Mil. Prisons 19 days.	2 Oct 42	F.G.C.M.	For.29 days pay FRI 149(1)(A) For.4 days pay FRI 149(1)(C)(11)
Field	1 Dec	42	Pte.	AWL 2 days 3 hrs A.A.15(1)	Sgt.Baxter	7 days C.B.	1 Dec 42	Lt.Col. T.H. Hewitt	For.3 days pay FRI 149(1)(A)
Field	4 Dec 5 Dec	42 42	Pte. Pte.	AWL 3 hrs 30 mins. A.A.15(1) AWL from Defaulters pde.A.A.15(1)	Sgt. Butt Documentary.	10 days C.B. 7 days extra drill.	7 Dec 42	Lt.Col Hewitt.	

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-38185	Private	DESJARDINS D.A.	Canadian Scottish No.3 Coy. 3 C.D.I.R.U.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, pronouncements being given for all such serious offences in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

		* Within last 12 months.		* Since Enlistment.	
Nil	For A.A. 15(1)	six	times	9	times.
Nil	For A.A. 15(2)	one	times	1	times.
Nil	For A.A. 19	nil	times	1	times.
Nil	For A.A. 20	one	times	1	times.
Nil	For A.A. 40	one	times	1	times.

Number of instances of gallantry or distinguished conduct: XX

~~There are no entries on the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or* ×

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time.~~ ~~The accused at the present time is under sentence for~~ , beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and one days in military custody, making a total of one days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~Record of Service~~ attestation paper is 21yrs 9 mths.

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 27-7-40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs, 4mths, 27 days

8. The accused is entitled to deferred pay or gratuity in respect of 2yrs, 4mths, 27 days service.

9. The accused is entitled to reckon 2yrs, 4mths, 27days service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, the following military decoration or military award [or is in possession of or entitled to (*state any military decoration or award*)]~~ ×

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated .....
and in his regiment (*or corps or department*) the rank of ..... dated .....

(7*1[illegible]) W.L.[illegible] 11,000 12/40 A. & E.W.,Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No B-38185 Rank Private Name DESJARDINS F.A. of Cdn.Scottish Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F.G.C.M.	28-4-42	A.W.L. & Breaking out of confinement	110 days Detention	36 days
F.G.C.M.	2-10-42	A.W.L.	60 days Detention	19 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 24 day of December 1942.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of , years, ...

In the rank of , years .....

In the rank of , years, ...

(INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.)

OO-138 (case [illegible])

PTE DESJARDINS FA.

See H-30 for 1st case
" Q. 63 " 2nd "
" V. 75 " 3rd "
" KK-124 " 4th "

130

B-38185 Pte. Frank August DESJARDINS
1 C.Scot R. 1 C.I.R.U.

00-138

Army Form A.3.

Correspondence to be PINNED here.

No illegalities or irregularities such as would warrant withholding confirmation.
"T.G.Norris Lt.Col"
for D.J.A.G.
9 Sep 43.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 2nd day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~ "JRSL"

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

~~Recommendation to appoint~~ :— "JRSL"

~~(1) Three Officers to form the Court~~ "JRSL"

~~(2) A Field Officer as President~~ "JRSL"

~~(3) Three Officers having more than one year's service~~

~~for the following reasons, namely:—~~

Proceedings Reviewed
"E.K.McDougall Capt"
for Reviewing Officer (JAG)
C.M.H.Q.
2 Oct 43

Certified true copy of original proceedings herein.

26 Apr 44 [signature] Maj
[signature]

President.

Rank.	Name.	Regiment.
LT-COL	D.L. REDMAN, V.D.	CALG HIGHRS

Members.

Rank.	Name.	Regiment.
A Captain to be detailed by O.C.		5 C.I.R.U.
A Lieutenant to be detailed by O.C.		5 C.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "J.R.Stewart Lough"
Brigadier,
Commanding "G" Gp Cdn Rft Units,
Convening Officer. C.A.(O).

"D.L.REDMAN LT-COL"

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-38185 Pte Frank August DESJARDINS 1 C.Scot R. 1 C.I.R.U.	First Charge A.A. Sec. 22 Second Charge A.A.Sec. 15(1) SEE CHARGE SHEET ATTACHED.	Not Guilty Not Guilty	Guilty Guilty	I confirm the findings of the Court, but reserve the sentence for confirmation by superior authority. "JRSL"
	SENTENCE "DLR" To undergo imprisonment for a period of One (1) year "DLR" and to be discharged from His Majestys Service with ignominy 5 Sept 1945 "DLR"			Finding and sentence confirmed "P.J.MONTAGUE" (P.J.Montague) Major-General Senior Officer Canadian Military Headquarters 11 SEP 1945

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— Answer - No.

(Signed) "J.R.STEWART LOUGH" Brigadier, "G" Gp Cdn Rft Units, C.A.(Q). Commanding Convening Officer (e)

(Signed) "D.L.REDMAN LT.COL" President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 3rd day of Sept 1945, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—
1. The members of the Court
2. The witnesses
"DLR" ~~[illegible]~~
*(4. The officers under instruction)
were duly sworn.

* Omit if not applicable.

Signed this 3rd day of Sept 1945.

"D.L.REDMAN LT.COL"
President of the Court Martial.

C. Certificate in case of death sentences.

"DLR" ~~[illegible]~~
"DLR" ~~[illegible]~~
"DLR" ~~[illegible]~~

* See footnote (b) on page [illegible] M.M.L. 1919.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~[illegible]~~ "PJM"

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this day of 19 .

"P.J.MONTAGUE"
(P.J.Montague) Major General
Senior Officer
Confirming Officer.
Canadian Military Headquarters
11 SEP 1945

Promulgated and extracts taken in the case of B-38185 Pte. Desjardins, F.A. (C Scot R)
Promulgated in Part II D.O. 177 dated 16 Sep 45
(a) (Dated) 14th. Sept. 1945. (Signed) "C.W.DEVEY" Colonel Commanding 1 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The Accused, No. B-38185 Private Frank August DESJARDINS of the 1st Battalion, Canadian Scottish Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 24
ARMY ACT

When on Active Service, when in confinement, escaping,

in that he,

at 0630 hours on the 14th day of August 1943, when in confinement at No, I Canadian Infantry Reinforcement Unit Detention Barrack, escaped.

SECOND CHARGE
Section 15(1)
ARMY ACT

When on Active Service, absenting himself without leave,

in that he,

at Albuhera Barracks, No. 1 Canadian Infantry Reinforcement Unit, absented himself without leave from 0630 hours on the 14th day of August 1943 until apprehended by the Military Police in London at 1430 hours on the 30th day of August 1943.

Total Absence: 16 days, 8 hours.

"C.W.DEVEY" Colonel.
(C.W.Devey) Commander,
No. 1 Cdn Inf Rft Unit.

Barrosa Barracks,
Aldershot, Hants.

1st day of September 1943.

To be tried by Field General Court Martial.

"J.R.STEWART LOUGH"
(J.R.Stewart Lough) Brigadier,
Commanding,
"G" Gp Cdn Rft Units,
C.A.(O).

Convening Officer.

2 Sep 43.

"D.L.REDMAN LT.COL"

Medical Officer Certificate.
K.R. Can. para. 557

I certify that I have this morning examined No. B-38185 Pte. Desjardins, P.A., 1 C.Scot.R. and in my opinion he is fit to undergo trial by Court Martial.

Station 1 Cdn Inf Rft Unit

Date 3 Sep 43.

"F.A.TEMES CAPT"(?)
(Medical Officer"

"D.L.REDMAN LT.COL."

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT BARROSA BKS. ALDERSHOT
ON THE 3 DAY OF SEPT. 1943

The accused B 38185 Unit 1 C.I.R.U.
Pte. Frank August Desjardins

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt.Col. D.L.Redman V.D. Unit Calg. Hghrs.

Members Capt. J.S.Freeman Unit H & P.E.Regt
5 C.I.R.U.

Lt. J.D.P. Nead Unit 1 H.H.C. 5 C I R U

The officers under instruction are duly sworn:-

Lt. J.A.Shirkie Unit P P C L I 1 C I R U

Unit

Prosecutor Capt. E.S. Bryant Unit 1 C I R U

Defending Officer Lt.J.C.Crabtree Unit 1 C I R U

The charge sheet is signed by the President and the accused is arraigned.

"DLR" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
"DLR" xxxxxxxxxxxxx Insert XX attached here
"DLR" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
"DLR" xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

"DLR" (a) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
"DLR" (b) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
"DLR" (c) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
(d) xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
The Def. Offr. said he had nothing to say in mitigation

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

"D.L.REDMAN LT.COL."

XX insert on 1st page where marked XX
Trial ofB 38185 Pte Desjardins F.A. 1 C.I.R.U.

The accused when arraigned pled not guilty to each of the charges

The question under R.P. 39(A) was asked.

The answer "no" was recorded.

1st. Witness for the Prosecution

M 31150 Cpl. Hunka S.D. 1 C.I.R.U. being duly sworn states

I recognize the accused. On 13-14 Aug 43 I was the Cpl of the Guard at the Guard Room 1 C.I.R.U. The accused was in the Guard Room under sentence. At 2000 hrs 13 Aug I checked the prisoners. The accused was present. There was no trouble during the night. At between 0600 and 0625 hrs 14 Aug the accused asked my permission to shave. I gave it and he went into the wash room. At 0630 hrs I called the breakfast parade. It appeared to be small. I called the roll. The accused did not answer. I searched the entire Guard Room Building. I could not find the accused. I reported his absence and was myself placed in open arrest.

The Defending officer objected to the evidence stating that it differed from the evidence in the summary.

The Court overuled his objection and stated that he could cross-examine which he declined to do.

The Prosecutor produced Cert. of Apprehension (P.C. 2797) respecting accused (Marked EX 1)

The case for the Prosecution is closed.

The Def. Offr. made a submission under Note 1 R.P. 40 that the prosecution had not made a prima facie case on either charge.

Page 2

His submission in writing is attached.

The Prosecutor replied that each charge had been proven.

The Court is closed to consider the submission.

The Court reopened and the President announced that the submission is disallowed.

The President advised the accused under Note 2 R.P. 40.

The Def. Offr said he would call no evidence and that he had nothing to add to what he said on the submission.

The Prosecutor declined to address the Court.

The Court is closed for the Finding.

The Court reopened.

End of Insert XX

"D.L.REDMAN LT.COL."

3 Sep. 43

Barrosa Barracks
Aldershot Hants.

Re - Pte. Desjardines F.A.

I wish to move a motion that this case be dismissed. Cpl. Hunka, S.D. stated in the Summary of Evidence that the accused was absent from breakfast parade at 0630 hrs 14 Aug. 43. Certificate P.C. 2797 stated he was aprehended in the London Area at 1430 hours 30 Aug. 43.

The evidence has proven only his absence from breakfast parade 14 Aug 43 and his aprehension 30 Aug 43. There is no evidence to prove Charge I. There is no evidence to prove Charge 2. Under the circumstances there is no evidence for conviction.

"J.C.Crabtree" Lt.

"DLR"

Submission note 1 R.P. 40.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr. 42

I CERTIFY that No. B-38185 Rank Pte. Name DESJARDINS P.A.

Unit "A" COY., No.1. C.I.n.U. was arrested at LONDON (place)

at 1430 (hour) on 30 Aug. 43. (date) and that at the time of his arrest he was wearing (Military Uniform) ~~of~~

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

LONDON
30 Aug. 43.

EX I
"DLR"

"W.FERN"
(W.Fern) D.A.P.M.
London Area

Capt.

SUMMARY OF EVIDENCE

In the case of B-38186 Pte. Desjardins, F.A., of the 1st Battalion, Canadian Scottish Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath:

FIRST WITNESS for the PROSECUTION

M-31150 Cpl. Hunka, S.D., Unallotted Reinforcement, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

At Albuhera Barracks, on the 13th of August 1943 at 1600 hrs, I was on duty as Guard Commander at #2 Guard Room. I made my initial check and found all well. All remained in good order until approximately 0630 hrs on the 14th of August 1943. At that time I noticed the breakfast parade smaller than usual. I immediately called the roll and made a check of the Guard Room. Pte. Desjardins, F.A., soldier awaiting sentence, failed to answer to the roll call. I reported the matter to the Regimental Police.

The accused declines to cross-examine this witness.

"S.D.HUNKA"
M31150 Cpl. Hunka, S.D.

ATTACHED HERETO AS APPENDIX:

(a) Certificate in Accordance with P.C. 2797 of 10 Apr 42 purporting to be signed by W.Fern, Capt., D.A.P.M., London Area, which relates to the accused.

The accused having been duly cautioned in accordance with Rule of Procedure 4 (e) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused and that the Rule of Procedure 4 (c) (d) (e) and (f) have been complied with.

"W.C.BRUMPTON" LIEUT.
(W.C.Brumpton) Lieut.
Officer detailed to take the Summary

Albuhera Barracks,
Aldershot, Hants.

1st day of September 1943.

"D.L.REDMAN LT.COL."

No B38185 Name DESJARDINS F.A. | Sqn, Battery or Company | Corps CIC (1 C Scot R) | Date of enlistment 27-7-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	16-10 41	Pte		1. AA Sec 15(1) AWL from 0600 hrs to 1700 hrs 16 Oct 41. Absent 13 hours	D.O. 10 31-10-41	2 days F.P. 2 days Pay	20-10-41	" Lt. COL. "D.L.REDMAN	1 days Pay FR&I 149(1)a)
Field	25-2 42	Pte		2. A.A. Sec 19 Drunkeness 1. AA Sec 15(1) AWL from 25-2-42 to 28-2-42. 2. AA Sec 15(1) AWL from 7-5-42 to 11-5-42 3. AA Sec 40 cond to the prej.etc. 4. AA Sec 22	DO 25 D/8-5-42	110 days detention	28-5-42	F.G.C.M.	Total Forf. 172 days pay (1a)(1b)(1c) stoppage of pay £0-6-11. remission of 36 days with pay

(PTO)

NB38185 Name DESJARDINS F.A. | Sqn, Battery or Company | Corps C.I.C. | Date of enlistment 27-7-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
1 CIRU	14 May 43	Pte		AA Sec 15(1) a.w.l. from 2359 hrs 14 May 43 to 2215 hrs 1 June 43. Absent 17 days 22 hrs 16 mins		9 mons. detention	10 Aug 43	F.G.C.M.	350 days total forf. of pay

Certified true copy from M.F.M. 2 (Trip) consisting of TWO Sheets dated: 3 Sept. 43
"H.F.Atkinson" Capt.
Officer having custody of Original documents.

"DIR"

(PTO)

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Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15(1)	D.O. 42 31-8-42	5 days C.B.	22-8-42		1 days pay FR&I 149(1)(a)
Field	30-8-42	Pte		AA Sec 15(1) A.w.l. from 0700 hrs 30-8-42 to 2030 hrs 27-9-42. Absent 28 days 13 hrs 30 mins.	DO 48 9-10-42	60 days detn	2-10-42	F.G.C.M.	total forf. 145 days pay. remission of 19 days.
3 CDIRU	28-11 42	Pte		AA Sec 15(1) a.w.l. from 28 Nov 42. to 5 Dec 42	DO 286 3-12-42	10 days C.B.	7-12-42		
3 CDIRU	7-12-42	Pte		AA Sec 15(1) a.wl 14 Dec 42		7 extra Drills			
3 CDIRU	10-12-42	Pte		AA Sec 15(1) a.wl. from 22[illegible] hrs 10 Dec 42 to 1515 hrs 16 Dec 42. AA Sec 15(1) a.w.l. from 0730 hrs until apprehended 0945 hrs 21 Dec 42	DO 309/43	130 days detn.	28-12-42	FGCM	total forf. 148 days pay FR&I (1a)(1b)

M.F.B. 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 38185	PTE	DESJARDINS F.A.	1 C Scot R

1. The following is a fair and true summary of the entries in the xxxxxxxxxx "HFA" Conduct sheets xxxxxxxxxx "HFA" xxxxxxxxxxxxxxxx"HFA" of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under xxxxxxxxxxx"HFA" Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1)	3 times	4 times
For AA Sec 19	times	1 times
For	times	times
For	times	times

xxxxxxxxxxxxxxxxxxxxxxx "HFA"

or

There are no entries in the conduct sheets of the accused.
NOTE--If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. xxxxxxxxxxxxxxxxxxxxx "HFA"

or

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the xxxxxxxxxxxxx"HFA" xxxxxxxxxxxxxxx"HFA" Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. xxxxxxxxxxxxxxxxxxxxxxxxxxx"HFA"

or

The accused at the present time is under sentence for 9 mons. beginning on the 10th day of August 1943.

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and 4 days in xxxxxxxxxxxxxxx "HFA" military custody, making a total of 4 days in custody, of which days were spent in hospital.

5. The present age of the accused according to his xxxxxxxxx "HFA" attestation paper is 22 yrs 130 days.

6. The date of his attestation specified in his attestation paper is 27 Jul 40 xxxxxxxxxx"HFA" xxxxxxxxxxxxx"HFA"

7. The service which the accused is allowed to reckon towards discharge is 1 yr 3 days.

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. xxxxxxxxxxxxxxxxxxxx

11. xxxx

KK-124
PTE DESJARDINS F.A.

B-38185 Pte. Frank August DESJARDINS
1 C. Scot. R. - 1 C.I.R.U. KK-124

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 9th day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP CANADIAN REINFORCEMENT UNITS C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint :—

*(1. Three Officers to form the Court)

*(2. A Field Officer as President)

for the following reasons, namely:—]

Fwd 9/8/43

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	S.A. CROMAN	1 C.A.S.C.R.U.

Members

Rank	Name	Regiment
~~Lieut~~ Capt. A Captain	L.E. Fox to be detailed by O.C.	Gen List 5 C.I.R.U.
Lieut A Lieutenant	D.C. GRANT to be detailed by O.C.	Seaforths of Can 1 C.I.R.U.
Lieut A Lieutenant	D.B. MUNDY to be detailed by O.C.	Int Corps 1 C.C.R.C.

Waiting Member

*Must be signed personally by the Officer actually in command at the time, and all alterations in the compositions of the Court to be initialled by him.

*Signed [illegible] Brigadier

Commanding "G" Gp Cdn Rft Units, Convening Officer. C.A.(O)

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-38185 Pte. Frank August DESJARDINS C. Scot. R. 1 C.I.R.U.	First Charge A.A. Sec 15(1)	Not Guilty of A.W.L. from 1600 hrs 28 May - 2215 hrs 1 Jun 43. 3 days 6 hrs 15 min	Guilty	Confirmed
	Second Charge A.A. Sec 15(1)	Guilty	Guilty To undergo detention for a period of Nine (9) months 11 Aug 43 J.R. Stewart Brig Pres	
	SEE CHARGE SHEET ATTACHED			

*Question to be asked of accused if he pleads not guilty (R. of P. 29 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No Court Adjd

(Signed) J. Stewart Lang Brigadier (Signed) R. Desjardins Lieut
Commanding 2nd Cdn Bde Units
Convening Officer (e) CA(O) 1 C.A.S.C. R.U. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

I certify that the above Court assembled on the 11th day of Aug 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

Signed this 11th day of Aug 1943

R. Desjardins Lieut
President of the Court Martial.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** Certificate in case of death sentences.

Signed this _____ day of _____ 19

_____
President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 11th day of Aug 1943.

J.R. Stewart Brig
Confirming Officer.
Brigadier
Commanding 2nd Cdn Bde Units

Promulgated and extracts taken in the case of B-38185 Pte. Desjardins, F.A. (C Scot R)
Promulgated in Part II D.O. 149 dated 15 Aug 43.
(a) (Dated) 11 Aug 43 (Signed) H.C.A. Hervey Lt (H.C.A. Hervey) 1 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-38185 Pte. Frank August DESJARDINS C. Scot. R. 1 C.I.R.U.	First Charge A.A. Sec 15(1)	Not Guilty	Guilty of A.W.L. from 1600 hrs 28 May - 2215 hrs 1 Jun 43. Time 4 days 6 hrs 15 mins	Confirmed
	Second Charge A.A. Sec 15(1)	Guilty	Guilty	
	SEE CHARGE SHEET ATTACHED		To undergo detention for a period of Nine (9) months 11 Aug 43 B. D. Lemaire Maj Pres	

* Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :— No (First Charge)

(Signed) J. Stewart Lough (Signed) B. D. Lemaire Maj

Brigadier
Commanding "G" Gp Cdn Rft Units 1 C.A.S.C. R.U.
Convening Officer (e) CA(O) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of Aug 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 11th day of Aug 1943

B. D. Lemaire Maj
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

~~Signed this~~ day of 19

B. D. L.

President of the Court Martial.

*See footnote (b) on page 762 M.M.L. 1929.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 11th day of Aug 1943.

00149
13 Aug 43

J. R. Stewart Lough
Confirming Officer.
Brigadier
Commanding "G" Gp. Cdn. Rft. Units

Promulgated and extracts taken in the case of B-38185 Pte. Desjardins, F.A. (C Scot R)
Promulgated in Part II D.O. 149 dated 13 Aug 43.

(a) (Dated) 11 Aug 43 (Signed) H C A Hervey Wld
(H.C.A. Hervey) 1 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

C H A R G E S H E E T

The accused, No. B-38185 Private Frank August DESJARDINS, of the 1st Battalion Canadian Scottish Regiment, on the strength of 1 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
Section 15(1)
ARMY ACT

When on active service, absenting himself without leave,

in that he,

at 1 Canadian Base Reinforcement Depot absented himself without leave from 2359 hours on the 14th day of May 1943 until apprehended by the Military Police in London at 2215 hours on the 1st day of June 1943.

Absent: 17 days 22 hours 16 minutes.

SECOND CHARGE
Section 15(1)
ARMY ACT

When on active service, absenting himself without leave,

in that he,

at 1 Canadian Base Reinforcement Depot, absented himself without leave, when in arrest, from 0800 hours on the 4th day of June 1943, till apprehended by the Military Police at London at 0230 hours on the 29th day of June 1943.

Absent: 24 days 18 hours 30 minutes.

(C.W. Devey) Colonel,
Commander,
1 Cdn Infantry Reinforcement Unit.

Albuhera Barracks,
Aldershot, Hants.,

10th day of August 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(J.R. Stewart Lough) Brigadier,
Commanding,
"C" Group Cdn Rft Units, C.A.(O).

9 Aug 43.

Convening Officer.

Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No. B-38185....Pte.....

Desjardins, F.A.....and in my opinion he is fit to undergo

trial by Court martial.

Station...1 C.I.R.U.....

Date..11 Aug. 43.....

.....
(Medical Officer)

[illegible] Enej
Pres

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT
ON THE 10 DAYS OF August 1943

The accused ~~R.26/85 Pte Brandt August Stephen~~ Unit. ~~1 C. Sig. R.~~

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President ~~Major S.A. Forman~~ ..... Unit. 1 C.A.S.C. R.C.

Members. ~~Capt. L.E. Fox~~ ..... Unit. ~~Can Int Sig R.C.I.R.C.~~

~~Lieut D.C. Grant~~ ..... Unit. ~~Seaforths of Canada~~ 1 C.I.R.C.

The officers under instruction are duly sworn:-

..... Unit.....

..... Unit.....

Prosecutor ~~Lieut J.S. Hayden~~ ..... Unit. ~~1 C. Sig R.~~ 1 C.I.R.C.

Defending Officer ~~Lieut D.A. Harper~~ ..... Unit. ~~Seaforths of Canada~~ 1 C.I.R.C.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with. ~~The he must advises the Prisoner to change~~ The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B). his plea to
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6. "Not Guilty" in respect of the first charge
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~ ~~Elects to~~ ~~(b) Calls witnesses as to character.~~ ~~(c) Calls witnesses in mitigation of punishment.~~ ~~(d) Addresses the Court by his Defending Officer.~~ ~~Elects to~~ ~~The 11th Aug~~ ~~43 when~~ ~~Same Court~~ ~~reassembled~~ ~~at 1400 hrs~~

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Accused does not make any statement in mitigation, nor call any witnesses, nor Defending Officer does not make any address

S.A. Forman Maj.
Pres

B-38185 - Pte Frank Ingest Desjardins

Prosecution Evidence

Documentary introduced and proven by the Prosecutor Lieut F. S. Hayden, who having been duly sworn states that Exhibits (1) + (2) produced, signed by the President and attached to the proceedings have reference to the accused whom he now recognizes. Exhibit (1) fixes the time of going absent as at 14 May 1943 and Exhibit (2) fixes times of apprehension as ~~[illegible]~~ 2.215 hrs 1 Jun 43.

R.P. 40 complied with

The accused elects to give evidence under oath and having been duly sworn states:

"I am B 38185 Pte Desjardins F.C. We were still in Crookham X rds on 14 May I remember distinctly turning in a battle dress in a parade between 14 and 28 May 43. Shortly after we moved to Sunningdale. We were paid on 28 May at Sunningdale and I left after Pay parade." While at C.B.R.D. in Crookham I was tested for T.O.E.T and an entry made in my Pay Book on 25 May 43 signed by Lieut

Lieut L. D. Fraser an officer of C.B.R.D. Prior to pay parade on 28 May 43 I attended a Muster Parade of the Unit. I went A.W.L. at approximately 1600 hrs the afternoon of the 28 May 43."

M.B.M. 1 Part 1 of Soldiers Pay Book examined by the Court and Page 8 having the entry respecting T's O.E.T. marked Ex 3 and signed by the President

M.B.M. 1 Part 2 of Soldiers' Pay Book examined by the Court and Pages 8 & 9 having reference to credit of June pay and A.R. 5 of 28 May 43 are marked Ex 4 & 5 respectively by the President.

Both parts returned to the accused at the conclusion of the case.

No further evidence.

Prosecuting and Defending Officers leave the matter in the hands of the Court for decision without addresses.

Court closed for consideration of Finding Court re-opened and O.R.O. 3262 complied with

[illegible] Evans Maj
Pres

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 48.

I CERTIFY that No. B-[illegible] Rank . PTE. . Name . . . . . DESJARDINE.F.A.

Unit . NO.I.C.S.B.DEPOT. . . . was arrested at . . . . . LONDON. . . . . (Place)

at . . 2215 . (hour) on . I-JUNE-43 . . (date) and that at the time of his arrest he was wearing (Military Uniform) ~~or (Civilian Clothes)~~ Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

LONDON.
I-JUNE-43

(Western) D. [illegible] P. M.,
London Area

Ex 2

D. Foxerman Sec.

Pres. Capt.

Ex A

G & C P.S.

FIRST ORDER ISSUED

REAR PARTY 1 CANADIAN BASE REINFOCREMENT DEPOT
Part II Orders issued by
CDN SEC GHQ 2nd ECHELON DET AT CAN RECORDS

No. 1
5 Aug 43

"B" OTHER RANKS

1. STRENGTH DECREASE

(ak) S.O.S. to 1 C.I.R.U. w.e.f. 17 Jun 43 whilst A.W.L. from 0800 hrs 17 Jun 43
Auth ESD/0043 d/27 Jul 43
K-57140 Pte. Anderson, F.C.

(al) S.O.S. to 1 C.I.R.U. w.e.f. 31 May 43 whilst A.W.L. from 0600 hrs 31 May 43
Auth - ESD/0044 d/27 Jul 43.
D-81961 Pte. Powell, W.D.

(ap) S.O.S. to 1 C.I.R.U. w.e.f. 14 May 43 whilst A.W.L. from 14 May 43.
Auth - ESD/0049 d/27 Jul 43.
B-38185 Pte. Desjardins, F.A.

(aq) S.O.S. to 1 C.I.R.U. w.e.f. 30 May 43 whilst A.W.L. from 0600 hrs 30 May 43
Auth - ESD/0050 d/27 Jul 43.
M-11234 Pte. Downs, A.I.

(ar) S.O.S. to 1 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 2359 hrs 16 Jun 43
Auth - ESD/0051 d/27 Jul 43.
M-12439 Pte. Furnius, A.

(at) S.O.S. to 1 C.I.R.U. w.e.f. 16 Jun 43 whilst A.W.L. from 0800 hrs 16 Jun 43.
Auth - ESD/0053 d/27 Jul 43.
K-42630 Pte. Henderson, K.G.

(au) S.O.S. to 1 C.I.R.U. w.e.f. 29 May 43 whilst A.W.L. from 2200 hrs 29 May 43
Auth - ESD/0055 d/27 Jul 43.
C-5394 Pte. Hoag C.C.

(av) S.O.S. to 1 C.I.R.U. w.e.f. 13 Jun 43 whilst A.W.L. from 1000 hrs 13 Jun 43
Auth - ESD/0056 d/27 Jul 43.
M-16186 Pte. Parks, N.O.

(bj) S.O.S. to 1 C.I.R.U. w.e.f. 21 Jun 43 whilst A.W.L. from 0800 hrs 21 Jun 43
Auth - ESD/0075 d/27 Jul 43.
M-11906 Pte. Purnell, L.J.

(cg) S.O.S. to 1 C.I.R.U. w.e.f. 12 Jun 43, whilst A.W.L. from 2300 hrs 12 Jun 43
Auth - ESD/110 d/28 Jul 43.
H-17406 Pte. Graham, J.C.

(cn) S.O.S. to 1 C.I.R.U. w.e.f. 21 Jun 43 whilst A.W.L. from 0800 hrs 21 Jun 43
Auth - ESD/116 d/28 Jul 43.
L-12423 Pte. Hydichuk, M.

(da) S.O.S. to 1 C.I.R.U. w.e.f. 31 May 43 whilst A.W.L. from 0830 hrs 31 May 43
Auth - ESD/131 d/28 Jul 43.
K-68227 Pte. Lester, J.H.

(dd) S.O.S. to 1 C.I.R.U. w.e.f. 5 Jun 43 whilst A.W.L. from 2359 hrs 5 Jun 43
Auth ESD/135 d/28 Jul 43
L-61478 Pte. McKenzie, D.A.

(de) S.O.S. to 1 C.I.R.U. w.e.f. 19 Jun 43 whilst A.W.L. from 2230 hrs 19 Jun 43
Auth - ESD/140 d/28 Jul 43.
M-31004 Pte. Watson, R.A.

(dg) S.O.S. to 1 C.I.R.U. w.e.f. 25 Jun 43 whilst A.W.L. from 1330 hrs 25 Jun 43.
Auth - ESD/143 d/28 Jul 43.
K-63206 Pte. Stinson, J.C.E.

(dh) S.O.S. to 1 C.I.R.U.w.e.f. 23 Jun 43 whilst A.W.L. from 0600 hrs 23 Jun 43
Auth - ESD/144 d/28 Jul 43.
K-85389 Pte. Stuart-Scholefield, C.C.

1. STRENGTH DECREASE (Continued)

(dl) S.O.S. to 1 C.I.R.U. w.e.f. 13 Jun 43 whilst A.W.L. from 1030 hrs 13 Jun 43
Auth - ESD/148 d/26 Jul 43
B-38207 Pte. Moyer, S.D.

(eh) S.O.S. to 1 C.I.R.U. w.e.f. 11 Jun 43 whilst A.W.L. from 2359 hrs 11 Jun 43
Auth - ESD/98 d/27 Jul 43.
L-12908 Pte. Barabash, P.

(sgd) W.J.C. Johnston, Lieut.
Officer i/c
Cdn Sec, G.H.Q., 2nd Echn Det, at Can Records

CERTIFIED TRUE COPY OF EXTRACTS FROM REAR PARTY 1 CANADIAN BASE REINFORCEMENT DEPOT PART II ORDERS ISSUED BY CDN SEC, G.H.Q., 2nd ECH DET AT CAN RECORDS.

H.P. Atkinson .....Capt.

JRT/WIN

(H.P. Atkinson) Records Officer,
1 Canadian Infantry Reinforcement Unit.

Medical Officers certificate
K.R. can. Para 557

I certify that I have this morning examined No. B38185 Pte
Desjardins F.A. and in my opinion he is [redacted] to undergo
trial by court martial.

Station 1 C.I.R.U.

Date 10 Aug 43

(Medical Officer)

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No. B-38185 . Rank Pte . . Name . Desjardins, F.A. . . .

Unit . 4th. Bn. No. 1 C.B.R.D. . . . was arrested at . London . . . . . (place)

at . 0230 hrs. (hour) on . 29 June 43 . . . . . (date) and that at the time of his arrest he was wearing (Military Uniform) or (~~Civilian clothes~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
29 [illegible]

. . . . . Capt.
(W. Fern) D. A. P. M.,
London Area

I Cpl. Barrett J. Regt. No. DZ1320 acting guard commander on the 4th. June 1943 1 Bn. Canadian Base Reinforcement Depot hereby declare that on the 4th. June 1943 at 0800 hrs when calling the role found that B38185 Pte Desjardin J.H. of the 4 Bn was absent. He was being held in custody.

Cpl - Barrett J.
1 - st - Batt.
No. 1 - C.B.R.D.

SUMMARY OF EVIDENCE

In the case of B.38185 Pte. Desjardins, F.A. of the Canadian Scottish Regiment, on the strength of 1 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army (Overseas),

By direction of the Commanding Officer, this summary of evidance is taken on oath:

FIRST WITNESS FOR THE PROSECUTION

Captain P.C.Seaby,Canadian Infantry Corps, on the strength of 1 Canadian Infantry Reinforcement Unit, having been duly sworn, states:

" I am Captain P.C. Seaby, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Reinforcement Unit. I produce a certificate in accordance with P.C. 2797 of 10 Apr 42 purporting to be signed by W. Fern, Captain, D.A.P.M., London Area, which relates to the accused whom I now recognize. This document is marked exhibit "A" and is duly initialled by me for purposes of identificatior This document shows that the accused was apprehended at London at 2215 hours on the 1st of June 1943.

I also produce certificate in accordance with P.C. 2797 of 10 Apr 42, purporting to be signed by W. Fern, Captain, D.A.P.M., London Area, which relates to the accused, whom I now recognize. This document shows that the accused was arrested at London at 0230 hours on the 29th June 1943. This document is marked exhibit "B" and is duly initialled by me for purposes of identification. I also produce certified true copy of rear Party 1 Canadian Base Reinforcement Depot Part II Order No.1, issued by Canadian Section General Headquarters 2nd Echelon Detachment, at Canadian Records, dated 5th August 1943, and purporting to be signed by W.J.C. Johnston, Lieut., officer in charge of Canadian Section General Headquarters 2nd Echelon Detachment, at Canadian Records, showing that B.38185 Pte. Desjardins, F.A., absented himself without leave from the 14th day of May, 1943. This order is marked exhibit "C" and is duly initialled byme for the purpose of identification."

The accused declines to cross-examine this witness.

P.C. Seaby Captain,
P.C. Seaby, Canadian Infantry Corps.

SECOND WITNESS FOR THE PROSECUTION

D.21320 Cpl. Barrett, J., 1st Battalion, Canadian Base Reinforcement Depot, having been duly sworn, states:

"I, Cpl. Barrett, J., Regt No. D-21320 acting guard commander on the 4th June 1943, 1 Bn Canadian Base Reinforcement Depot hereby declare that on the 4th June 1943 at 0600 hours when calling the roll found that B.38185 Pte. Desjardins, J.H. of the 4 Bn was absent. He was being held in custody.

(Signed) Cpl. Barrett, J.
1st Batt.
1 C.B.R.D.

a statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this summary of evidence. Owing to the fact that this witness is presently on the strength of 1 C.B.R.D. his attendnace at this summary of evidence cannot readily be procured. The accused does not demand the attendance of this witness for cross-examination.

(A.R. Turner) Captain,
Officer taking summary.

The accused having been duly cautioned in accordance with Rule of Prodcedure 4(e) reserves his defence.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f), and (g) have been complied with.

J. R. Turner Captain,
(J. R. Turner)
Officer taking summary.

Albuhera Barracks,
Aldershot, Hants.,

10th day of August 1943.

872 36-83-40 (1)

B 38185

No. Name Desfardens Sqn., Battery, or Company Corps Coln Inf Corps Date of enlistment 27-7-40 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet F. A. No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc. Character

M.F.M. 6 (A.F.B. 122) 125M—7-41 (1219-30) H.Q. 1772-39-1652

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	16-10-41	Pte		AA. Sec 15 (1) AWL from 0600 hrs to 1700 hrs 16 Oct 41 (2) AA Sec 19 (1st offence)	D.O.10 d/31-10-41	2 days F.P. Forf 3 days pay	20-10-41		2 days 149 (1) B 1 days Pay 149 (1) A Total Forf 3 days pay
Field	25-2-42	Pte	1	F. G. C. M. (1) AA 15 (1) AWL from 25-2-42 to 28-2-42 (2) AA 15 (1) AWL from 7-5-42 to 11-5-42. (3) AA Sec 40 Cond to the Predg etc (4) AA Sec 22 (1st offence) Stoppage of Pay £ 0-6-11	D.O. 25 d/8-5-42	110 days Detention	28-5-42		Total Forf 172 days pay (1A) (1B) (1C)

Certified True Copy From M.F.M 2 (Top)

(P.T.O.)

872 36-85-[illegible]

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
3 C D I R U	Granted a remission of 36 days with pay off sentence of 28-5-42 D.O. 166 d/ 16-7-43								
Field		Pte	1	A.A. Sec 15(1) A.W.L	D.O. 42 d/31-8-42	5 days C.B	22-8-42		1 days pay 149(1) A
Field	30-8-42	Pte	1	F.G.C.M A.A Sec 15(1) AWL from 0700 hrs 30-8-42 to 2030 hrs 27-9-42	D.O. 48 d/7-10-42	60 days Detention	2-10-42		Forf 145 days pay
Granted a remission of 19 days with pay D.O. 269 d/ 13-11-42 of 3 C D I R U									
3 C D I R U	28-11-42	Pte	1	AWL from 28 Nov 42 to 5 Dec 42	D.O. 286 d/3-12-42	10 days C.B. & 7 Extra Duties	7-12-42		
~~3 C D I R U~~	~~[illegible]~~	~~Pte~~	~~1~~	~~AWL 14 Dec 42~~					
3 C D I R U	10-12-42	Pte	1	F.G.C.M. A.A. 15(1) AWL from 2200 hrs 10 Dec 42 to 1515 hrs 16 Dec 42 (2) AWL 0730 hrs until appr 0945 hrs 21 Dec 42	D.O. 309 /43	130 days Detention	28-12-42		Total Forf 148 days pay

Certified true copy from MF.M. 2(Trip) consisting of one Sheet

(officer haing custody of original docu ents)

29 Jul 43

11 Aug 43

11 Aug 43

[illegible]

M.F.B. 355
22M—5-41 (573-5)
H.Q. 1772-99-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B38185	Pte	Desjardins F.A.	1 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Service and General Regimental and Squadron, Battery~~ Conduct sheets or ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 15 (1)	2 times	3 times
For A.A. Sec 19	times	1 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ ~~A.F.A. 73~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~210~~ days in civil custody, and ~~70-3~~ ~~Air Force~~ days in military custody, making a total of ~~70~~ 73 days in custody, of which ~~210~~ days were spent in hospital.

5. The present age of the accused according to ~~his record of service~~ attestation paper is 22 yrs 98 days

6. The date of ~~his commission specified in this record of service~~ attestation is attestation paper 27-7-40

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 43 days.

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. military

~~10.~~ (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~the~~ Air Force regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number B38185 Rank Pte Unit

Name Desjardins F.A. of No. 1 Cdn Inf Reinf Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	28 - 5 - 42 Field	AA Sec 15(1) AA Sec 15(1) AA Sec 40 AA Sec 22	110 days detention	36 days
F.G.C.M.	2 -10-42 Field	AA Sec 15(1)	60 days detention	19 days remission
F.G.C.M.	28-12-42 3 C.D.I.R.U.	A.A. Sec 15(1) A.A. Sec 15(1)	130 days detention	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Aug 1943

Asst. Records Officer, No. 1 CIRU

The above statement (with the schedule of convictions and of with) is read, marked Annex signed by the president, and annexed to the proceedings.

11 Aug 43

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Albuhera Barracks, Aldershot, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the Charges under which I am being brought to Court Martial.

Dated at Aldershot, Hants.,
this 10th day of August 1943. Signature: [illegible]

I hereby request that the Convening officer appoint an officer to represent me at my trial.
I desire the services of ..... if he is available.

Signature: [illegible]

82-130.

Pte. Desjardins, C.

56-130

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA8) 40/P & S/1698 (40/0)
4/38B

Convened by Order of Brig J G Spragge DSO OBE ED Comd 2 CBRG dated 15 May 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D6987	Pte		Gerard	DESJARDINS	R de Mais att 1 Cdn Discip Cen

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 28 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 33/20

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). ~~Delete, if not applicable.~~

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter ~~is sworn.(1)~~ Do you object to ..... as shorthand writer? Ans .....
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G H JERMYN		Cdn C M Centre
Member	Major	A E LEFROY	Seaf Highrs	Cdn C M Centre
Member	Capt	R G L MILES		Cdn C M Centre
Judge-Advocate				
Prosecutor	Lt	V POPE		Cdn C M Centre
Defending Offr	Capt	F MATTE		Cdn C M Centre

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DF p 3.)

15Jun45 jwb A8. The accused D6987 Pte Gerard DESJARDINS before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed~~ and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(1)(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(1), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused: Do you wish to make a statement? Ans N C S / C.(4)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) ~~ ~~change(s) his (their) plea(s) on charge(s). Part 1 of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 54 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....
Do you intend to call witnesses on your behalf? Ans.....
Are they witnesses as to character only? Ans.....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 3.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A91. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 42, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans N C S / C.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(2)
(*1. MFB* 355 *or MFB* 294. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans [illegible].(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 176(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), (*d*)(*i*), *KR Can* 564. *2. RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

Prosecution

67

The accused, D-6987 Pte Gerard DESJARDINS, Le Reqt De Mala, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with-

ARMY CHARGE
S 19 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 2230 hrs 14 Dec 44 until surrendering himself at 1300 hrs 19 Mar 45.

(Absent: 94 days 14 hrs 30 minutes)

Remanded for Summary of Evidence

In the Field
// May 45

(J H Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

Remanded for Field General Court-Martial

In the Field
// May 45

(J H Medhurst) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
15 May 45

"J G Spragge" Brig
(J G Spragge) Brigadier,
Commander
2 Cdn Base Rft Gp

"GJ"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D6987	Pte		Gerard	DESJARDINS	R de Mais att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 May 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as judge-advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	G H JERMYN (Must be named. RP 106.)	CDN C M CENTRE (Unit.)

MEMBERS.

Major	A E LEFROY	SEAF MEMBRS CDN C M CENTRE
Capt (Rank.)	R G L MILES (Named or detailed. RP 106.)	CDN C M CENTRE (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

"J G Sprague" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(J G Sprague)

Date 15 May 45

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

(QR(Can) Para 807)

"QJ"

I certify that I have this day examined D6987 Pte Desjardin G

and in my opinion he is fit/~~unfit~~ to undergo

trial by Court Martial.

Station 1 Cdn Disc Centre

Date 28 May 45

" A A TOMS" CAPT
Medical Officer
1 Cdn Disc Centre

Unit

PART II ORDER EXTRACT FORM

DEFENDING OFFICER IN MITIGATION

Pte Desjardins has been in the army for some 4½ years. He joined R de Mais in Aug 44 and was with them until Dec 44 except for one 20 day absence. He surrendered himself in March when there was still plenty of fighting going on. He has been in close arrest for two months. I ask the court to consider these facts.

"G Jermyn" Maj.

Exhibit "A" "GJ"

Summary of Evidence in the case of D-6987 Pte Gerard DESJARDINS, e Regt De Maisoneuve, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt 11 Order No 71 dated 30 Dec 44.

FIRST WITNESS 33262861 Sgt Robert FARRELL 796 MP Bn

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him has been read to the accused and is attached hereto as Exhibit "B".

M. Rousseau Capt
(Maurice Rousseau) Capt

I do not require the attendance of Sjt FARRELL R, for the purpose of cross-examination.

Gerard Desjardins
(the accused)

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

M. Rousseau Capt
(Maurice Rousseau) Capt
Officer detailed to take summary of evidence

Dated in the Field
11 May 45

PART II ORDER EXTRACT FORM

To: 1 Cdn Disciplinary Centre

99/20 R DE MAIS/1 (A5c)
26 Mar 45

EXTRACTS FROM: UNIT LE REGIMENT DE MAISONNEUVE
Part II Order No 71 dated 30 Dec 44

AWL from 2230 hrs 14 Dec 44 Still absent 2230 hrs 22 Dec 44 (8th day)
D6987 Pte DESJARDINS GO

Certified to be a true extract from the regimental books and documents in my custody.

"FENELON" Capt
Officer ic Records
Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of Exh "A"

M Rousseau Capt

RESTRICTED

STRAGGLER REPORT
Office of the Provost Marshal

1. Gerard O DESJARDINS Pvt
2. Co. "A" Regt De Maisonneuve D-6987
3. Place apprehended CHARLEROI Belgium (APO) None , did turn himself in
4. Date 19 March time 1300 hrs
5. Date separated from unit on or about 16 December 1944
   Place separated from unit MOOK Holland
6. Statement of Straggler Left unit on or about 16 Dec 1944 at Mook Holland without authorized pass.
7. Statement of arresting MP - E M was not armed, clean shaven, with neat uniform.

Sgt ROBERT FARRELL 3326861
Co "A" 79th MP Bn

Certified copy of Exh "B"

M Rousseau Capt

"Exhibit B"

RESTRICTED
STRAGGLER REPORT
OFFICE OF THE PROVOST MARSHAL

Post

1. Gerard O DeJardins (Name) Pte (Rank) D6987 (No)

2. CO "A" Reg De Maisonneuve (Unit) (None) (APO)

3. Place Apprehended Charleroi Belgium
Did turn himself in DID TURN HIMSELF IN

4. Date 19 Mar 45 TIME 1300 Hrs

5. Date separated from unit On or about 16 Dec 44
PLACE SEPARATED FROM UNIT MOOK HOLLAND

6. Statement of Straggler Left unit on or about 16 Dec 44 at MOOK HOLLAND without authorized pass.

7. Statement of arresting MP Em was not armed, clean, shaven, with neat uniform.

"Sjt Robert Farrell 33262861
(Rank, Name of MP ASN)

CO"A" 796 MP Bn
(Unit)

Exhibit "B" "GJ"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may
D6987	Pte	DESJARDINS G	REGT DE MAIS

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For 15(1) ..... 7 ..... times

For .... times

For ....First entry 7 Jan 41 ..... times
Last entry 6 Nov 44

For .... times

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The accused at the present time is under sentence for .....NIL.....

beginning on the .....N/A..... day of .N/A.....

4. The accused has been awaiting trial on the present charges for ...NO.. days in civil custody; and for 69... days in military custody, making a total of 69..... days of which ...NO... days were spent in hosp.

5. The present age of the accused is 28.YRS.6.months

6. The date of his attestation is 17.Oct.40.....

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of #

CVSM with Clasp

State the military decorations (if any) held by accused.

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date -

	Date of Promotion
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	punishment remitted or sentence suspended
DCM	PETAWAWA 13 May 41	AWL fr 0700hrs 18 Apr 41 to apprehension at 1900hrs 23 Apr 41	14 days detn	no record
DCM	PETAWAWA 16 Jun 42	(1) Desertion AWL fr. 0615hrs 26 Sep 41 to app in civ clths at 1235hrs 6 May 42 (2) Losing by neglect clothing & Regtl Necessities, def. in kit to amt of $33.26	9 mos imp with Hard Labor for both chgs	no record
DCM	PETAWAWA 25Oct43	AWL fr. 0600hrs 26Mar43 till surrendering at 0710hrs 10 Oct 43	1 yeard detn	No record
Magistrate Fred S Doyle	Carelton Place Ont 4 Nov 43	Convicted by Civil Power for an offence under Sec 285(3)CCC	1 mth imp	No record
DCM	PETAWAWA 22 Dec 43	(1) Escaping confinement AA 22 6 mths detn (2) AWL fr 1930hrs 31Oct43 until app at 0408 hrs 1 Nov 43		No record

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 28th day of May 45

"M A COOKE" LT

S12 36-3-41

Exhibit "C" "G.J"

No. D6987 Name DESJARDINS GO | Sqn, Battery, or Company | Corps CIC | Date of enlistment 17 Oct 40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	24-12-40	Gnr		AWL fr.0700hrs 24-12-40 to 0800hrs 6-1-41 (13 days 1 hr	Gnr Arseneau L/Bd Slinger	13 days Det	7-1-41	Col AV Tremaine	14 days pay FRI
Petawawa	24-1-41			AWLfr.1400hrs 24/1/41 to 2230hrs 5-2-41 (12 dys 8 hrs 30 min)	Sgt Doysdale	12 days det	6-2-41	Col AV Tremaine	13 dyPy FRI
Petawawa	21-3-41			AWL fr.0715hrs 1-3-41 to 0830hrs 24-3-41 (23dys 1hr 15 min)	Sgt Hamilton T	28 dys detn	24-3-41	ColAV Tremaine	24 dyPy FRI
Petawawa				AWL fr.0700 18Apr41 to app 1900hrs 23Apr41 (cost app $4.78)	L/B Pousy	14 days detn	13-5-41	DCM	For 25 dys FRI
Petawawa	6-7-41			AWL fr.2230hrs 6-7-41 to 0700hrs 10-7-41 (Abs 3 dys 8 hrs 30 min)	Sgt Jones J	14 days detn	10-7-41	MajJ Maunders	F. 4 dyPy FRI
Petawawa	2-9-41			Overst.leave fr.0700hrs to 2150hrs 2-9-41- to make good cost of tele. .50¢	Sgt Jones J	Admonished	3-9-41	MajJ Maunders	F.1dy PY FRI
Petawawa	11-9-41			AWL fr.0615hrs 11-9-41 till rept.himself at 1815hrs 19-9-41(8 dys 12 hrs	Sgt Hamilton, Sgt Hamilton	Documentary 5 days CB 5 days Ord Py	20-9-41	ColAV Tremane	9 days py FRI
Petawawa	26Sep41			(1)Desert-AWL fr.0615hrs 26Sep41 till app in civ clths at 1235hrs 6May42 cost of app $6.54	Documentary	9 mos imp withHL for both chgs	16Jun42	DCM	Stop pay to make good cost of app $6.54 & defic $33.26

87236-8-2-Apr-41

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	26 Sep 41	Gnr		(2) Losing by neg.clothing & reg necess on 15May42 was def.in kit to amt of $33.26	Documentary				
Petawawa	26Mar43			AWL fr.0600hrs 26Mar43 to surr.at 0710 hrs 10 Oct 43 Cost of app $14.86	Documentary	1 yrs detn	25Oct43	DCM	For 381 dy py stop in amt of $14.86
Petawawa	4Nov43			Convicted by civ.power at Carleton Place Ont for an off under Sec 285(3)CCC		1 month imp	4Nov43	Magistrate Fred S Doyle	
Petawawa	31Oct43			(1)Escaping confin.AA22 (2) AWL fr.1930hrs 31Oct43 till app.at 0408 hrs 1Nov43	Documentary	6 mos detn	22 Dec 43	DCM	For.183 dypay 149(1)b 52 dys pay 149(1)(c)I
Field	26Sep44	Pte		15(1)AWL fr.1400hrs 26Sep44 till 1400Hr 16 Oct (20 days)	Documentary	28 days pay	6 Nov 44	LtCol J Bibeau	20 dy py 148(1)
				Certified true copy of MFM 6 in my possession "M A Cooke" Lt Admin Offr 1 Cdn Disciplinary Centre					

4P-18

Pte. Desjardins J. M.

Pre-Record-50

RECEIVED JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160. 4P-18

Correspondence to be [illegible]

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this seventh day of December, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Parachute Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint :-~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :-]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.E. Combe, MC.	Herefordshire

Members.

Rank.	Name.	Regiment.
A Capt	To be detailed by OC 1(Cdn) Para ~~Brg Sig Bn~~	
A Subaltern	To be detailed by OC 3 Para Bn	

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed

Brigadier,

Commanding 3 Parachute Brigade.

Convening Officer.

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

29 Jan

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
S-15811L. Pte BENJAMINS J.H. 1(Cdn) Para Trg Coy	AA Sec 9(1) WOAS disobeying in such a manner as to show a wilful defiance of authority a lawful command given personally by his superior officer in the execution of his office.	G	G 6 months detention for 63 days	Confirmed 17.12.44 J.L.M. BRIGADIER, COMD. 3 PARACHUTE BRIGADE.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (*to be recorded on separate sheet if necessary*) "No"

(Signed) ..... (Signed) R.S. Combe Major

Brigadier,

Commanding 3 Parachute Brigade. The Northamptonshire R

Convening Officer (*e*) *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 14 day of Dec, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

*Omit if not applicable.

~~*(3. The Interpreter)~~

*(4. The officers under instruction)

were duly sworn.

Signed this 14 day of Dec 1944.

R.S. Combe Major

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ N

Signed this 17 day of December 1944.

J.L.M. Brigadier

Cmd 3 Parachute Brigade *Confirming Officer.*

Promulgated and extracts taken in the case of 3.15811 Pte Benjamins J.H.

(a) (Dated) 18 Dec 44 (Signed) H.Hawkins Maj

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W1.4677 (20) 110,000 8/44 F.F.S. & S.Ltd. G.498

A. McCombe Maj

CHARGE SHEET

The accused B 158114 Pte DESJARDINS, J.M., 1st Cdn Para Trg Unit, Canadian Army Overseas, a soldier of the Canadian Army Overseas placed on Active Service is charged with:

Charge
AA Sec 9(1)

When on Active Service
Disobeying in such a manner as to show a wilful defiance of authority a lawful command given personally by his superior officer in the execution of his office

in that he

On 8 Nov 44 at Tatton Park did not jump from the balloon when ordered to do so by Sgt CHEW, G., No 1 PTS RAF Station, Ringway.

D.J. Wilkins
Maj

18 Nov 44
Carter Barracks
Bulford, Wilts.

(D.J.WILKINS) Maj
Commanding Officer
1st Cdn Para Trg Unit

To be tried by FGCM.

7 Dec 44

Brig,
Comd 3 Para Bde.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL

Held in the Field on the 14 day of Dec 1944

- - - - - - - - - - - - - - - - -

The members detailed are :-

	Rank	Name	Regt	Detailed by
1.	Captain	R.E. Harrison	1. Can. Para Bn.	O.C. Can. Para Bn
2.	Lieut	R.D. Blair	9. Bn. Para Bn	O.C. 9. Bn. Para R

(NB - See RP 100(c). These names must not be written by President on Page 1 of AF A3)

Trial of :- No. B.158114 ..... Name Pt. Desjardin JM Unit 1. Can. Para Tng Coy

x Prosecutor Lt. R.B. Grant ..... Defending Offr. 4 AC Hencks .....

Offrs under Instruction:- None/see list marked " I "

1. The accused answers to his name and number
2. The convening order is read in his presence
3. The accused is asked whether he objects to trial by the President or any members and he answers .....no.....
4. The President and members are sworn.
5. ~~The Judge Advocate~~, the Officers under instruction, ~~the Shorthand Writer, The Interpreter~~ are sworn.
6. The Charge Sheet annexed to the Convening Order is signed by the President Marked 'A' and attached to the proceedings
7. The accused is arraigned on the charge(s) in Exhibit 'A'
8. The accused having pleaded guilty to the .....1.....Charge(s) RP 35(b) is complied with
9. ~~The accused's answer to the question at the foot of page 2 of AF A3~~ is .....
10. The prosecutor makes no/the attached opening address marked " "
11. The evidence for the prosecution is recorded on sheets marked " " att.
12. The prosecution is closed
13. The accused is informed of his rights in accordance with RP 40(a) and Note 2 on page 664 of the Manual of Military Law.
14. The accused makes the following answers to the following questions :-
    (a) Do you wish to give evidence as a witness on oath? Ans.....
    (b) Do you intend to call any witnesses in your defence? Ans.....
    (c) Are they witnesses as to character only ? .....
15. The Defending offr makes the opening address recorded on sheet " "
(He is only entitled to make an opening address if the answers to the questions in 14 are yes - yes - no).
16. The evidence for the defence is recorded on sheets " " attached.
17. The Defence is closed
18. Speeches. prosecutor marked " ". Defending Officer marked " ".
(Here record the closing speeches of the prosecutor and the defending offr in the order indicated in RP 40(c). Having been recorded they should be attached in that order.)
19. The Court is closed to consider the Findings which is entered on page 2 of AF A3.
20. ~~The Court is re-opened and the Findings of Not Guilty are read in open court.~~
x 21. The provisions of RP 37(b) and (c) are complied with
x 22. The accused is found guilty of the charges mentioned in 8 above and the Finding is entered on page 2 of AF A3.
x 23. The Summary of Evidence is read marked " B " signed by the President and attached to the proceedings.

x Insert rank, name, unit and "Barrister" or "Solicitor" if such be the case.

x If the accused pleads guilty to all charges, numbers 8, 21, 22 & 23 only are used before the finding
If the accused pleads Not Guilty to all charges, all paras except 8, 21, 22 and 23 are used
If the accused pleads Guilty to one or more and Not Guilty to one or more charges all the paragraphs are used.

/To sheet 2.

Sheet 2

AFTER FINDING

(If there is a finding of guilty the President announces that the findings of the Court on charges .....1.....will be promulgated in due course and asks the prosecutor if he has any evidence as to character)

EVIDENCE OF CHARACTER

24. Lieut. R. B. Grant, 1 Can Pan Tng Unit sworn states :-

I produce a certified copy of ~~AF B296~~ MFM 6 marked " X " and attached and ~~AF B296~~ marked " X , " and attached relating to the accused whom I recognise.

25. The accused is asked the following questions :-
"Do you wish to call witnesses as to character or to address the Court in mitigation of sentence ?" Answer ....yes.....

26. The accused calls witnesses to character recorded on sheet marked " "

27. The accused's/Defending Officer's statement in mitigation is recorded on sheet marked " "

The Court is closed to consider sentence.

[illegible]

MEDICAL OFFICER'S REPORT

I certify that No. B[illegible]114 Pte Desjardins J.M.

of 1st Cdn Para Trg Unit in a good state of health,

and is fit to undergo Trial by Court martial.

[illegible]
Medical Officer

Station Carter Pks Dalford

Date 14/12/44

M. F. B. 246
25M—6-41 (792)
H.Q. 1772-39 480

Officers under instruction.

Lt. D. A. Weible.
Lt M. Chagnon.
Lt R. Curtin.

B. R.E. Combe Major

SUMMARY OF EVIDENCE

In the case of

B158114 Pte Desjardines, J.M., 1 Cdn Para Trg Unit a soldier of the Canadian Army Overseas, placed on Active Service.

While on Active Service, disobeying in such manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office.

THE COMMANDING OFFICER DIRECTS THE EVIDENCE BE TAKEN ON OATH

First Witness:- Lieut R.B. Firlotte, 1 Cdn Para Trg Unit, CAO having been duly sworn states:-

I am Lieut R.B. Firlotte, 1 Cdn Para Trg Unit. I was present at the balloon site at Tatton Park on 8 Nov 44 when B158114 Pte. Desjardines, J.M. refused to go up in the balloon for the purpose of making a parachute descent. I ordered him to go up and jump, saying, "Now Desjardines, go up and jump." There could be no doubt in Pte Desjardines mind as to the meaning of this order. Pte. Desjardines then went up in the balloon but refused to jump and came down in the balloon.

I immediately placed him under close arrest and had him put in the Guard Room upon return to the aerodrome.

R.B. Firlotte Lieut.
(R.B. FIRLOTTE) LIEUT
1 Cdn Para Trg Unit, CAO.

The accused declines to cross-examine the witness.

Second Witness:- Sgt. Chew, G., No. 1 PTS. RAF. Station Lingway.

A statement purporting to be signed by this witness has been read to the accused and is attached to this summary marked Exhibit "A"

In my opinion the attendance of this witness cannot readily be procured.

R B Grant

(R.B. GRANT) LIEUT

1 Aln Para Trg Unit. CAD.

The accused does not demand the ~~presence~~ attendance of this witness for cross-examination.

Third Witness:- S/Ldr. A. Goldberg, Medical Officer, RAF Station, Lingway

A Medical Inspection Report (RAF Form 624) purporting to be signed by this witness has been read to the accused and is attached to this summary marked "Exhibit "B"

In my opinion the attendance of this witness cannot readily be procured.

R B Grant

(R.B. GRANT) LIEUT

1 Aln Para Trg Unit, CAD.

The accused does not demand the attendance of this witness for cross-examination.

Question to the accused :-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer :- The accused declines to make any statement at this time.

I certify that rules 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused at Carter Barracks, Bulford Camp, this 16th day of November 1944

R B Grant

(R B GRANT) LIEUT

1 Cdn Para Fd Regt, CAO.

The Commanding Officer EXHIBIT "A"
Canadian Parachute Battalion.

Sir,

On the 8th November 1944 whilst acting as dispatcher I was asked to dispatch Pte Desjardins from the balloon. He appeared slightly nervous but continued conversation during the ascent. When we reached height, the green light was shown, I instructed him to be prepared to jump. He could not bring himself to put his feet in the aperture and cried with apparent mortification. In spite of my efforts, he refused to jump so I gave the signal for the balloon to be grounded.

I have the honour to be Sir,
Your obedient Servant
G. Chew (Sgt)
No. 1. P.T.S
R.A.F. STATION
RINGWAY.

(6)

LIST OF EXHIBITS IN THE CASE OF

B-158114 Pte Desjardins J.M.

EXHIBIT "A" Statement purporting to be signed by Sgt Chew, G., P.T.S., RAF Station, Ringway.

EXHIBIT "B" Medical Inspection Report purporting to be signed by S/Ldr A Goldberg, RAF Medical Officer, Ringway.

29 Nov 44,
Carter Barracks,
Bulford, Wilts.

(J.E. Palmer) Lt.,
Asst Adjt 1st Can Para Trg Unit.

STATEMENT BY THE ACCUSED

I, B-156114 Pte Desjardins, J.M., desire to have an officer assigned to defend me in my trial by Court Martial.

J M Desjardins.

29 Nov 44,
Carter Barracks,
Bulford Wilts.

B-156114 Pte Desjardins, J.M.
1st Cdn Para Trg Unit.

Y

Evidence to Character

B 59740 Sgt G. J. Hunt. 1st Can Pare

Tay unit sworn states:-

accused served with me before going to Ring way for 2 months. He was as good a soldier as you could expect, & gave no trouble at all.

At no time did he show defiance of nerve or insubordination

no question

2

D.O. plea in Mitigation

accused is 19.
11 mths in army with only one entry of
abs. & admonished.
served 36 days awaiting trial.
Extenuating circumstances according
to Sgt Chew.

X, Allowance

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or as the case may be)
R-152114	Pte	DESJARDINS, J.M.	1st Cdn Para Trg Unit.

1. The following is a fair and true summary of the entries in the regimental and squadron battery or company conduct sheets of the accused, exclusive of convictions by a court-martial or a civil court, of summary awards, under section 47 of the Army Act, and of cases in which trial has been dispensed with:

For	A.W.L.	1		1
For				
For				
For				

2. The accused has not been previously convicted by a court-martial or by a civil court, [illegible]

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial for ... days, for which no credit is given.

5. The accused has been in confinement awaiting trial for ... days in military custody, making a total of ... days, of which ... days were spent in hospital.

6. The date of the [illegible] is ... 17 Jan 44 ...

7. [illegible]

8. [illegible]

9. The present age of the accused according to his own statement is ... 19 yrs. 8 mos. ...

10. The accused is in possession of, or entitled to wear, the following decoration or military efficiency medal: [illegible]

11. [illegible]

36 — 36

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

I hereby certify that the foregoing schedule of convictions and disposition is a true copy from the Regimental Documents in my custody. Signed this 14 day of Dec. 1944.

J.M. Palmer Lt.
(J.M. Palmer) Lt.,
Asst Adjt 1st Cdn Para Trg Unit.

4N-78

Pte. Desjardins J. P.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-139335 Pte J.P. Desjardins R de Chaud

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec 15(3)	Guilty	Guilty	
2nd A.A. Sec 15(3)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to Findings for lesser offences see AA 56, RP 44; Findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which N/A days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 1 year. 6 months

(Sgd) ..... Judge-Advocate, if any. 21 Dec 44 Date awarded. (Sgd) J.A. Roberts Maj. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I ADMIT THAT THE PERSON BY THE SENTENCE OF THE COURT SHOULD SUFFER DEATH~~ J.A.R.

(1. AA 57A. Delete if not used.)

(Sgd) J.A. Roberts Brig

Date 22 Dec 44 Commanding 8 Cdn Inf Bde Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
	14 Dec 44	W Trasbenzen Lt Col R de Chaud

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD [illegible] CMHQ Ltr No 160- 4N-78.

RECEIVED 11 JAN 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CPA98 (In lieu of AFA3) 40 P A C 1668 (2864)

Convened by Order of Brig J.A. Roberts Com 8 Cdn Inf Bde dated 20 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D139335	Pte	Jos Paul	DESJARDINS R de Chaud	

PROCEEDINGS REVIEWED

3 Jan 45 [illegible] PRESIDING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS REVIEWED Date 2 Jan 45 J.A. Roberts Brig Cdn Inf Bde 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 21 December 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18/16

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for certn instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(C). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~ and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Roberts	N SHORE R.
Member	Capt	J.D. McLean	O.O.R. of C.
Member	Capt	F.C. Cunell	R de Chaud
Judge-Advocate			
Prosecutor	Lieut	J.A.J. Hunter	R de Chaud
Defending Offr	Capt	L.A. Bégin	R de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment makes(s) (no) (~~no~~) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B ~~1~~ E

Exhibit II

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

11

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(C). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N/O (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on both charge(s). The accused is ~~(are)~~ so informed, ~~and he (they)~~ ~~changes (their) plea(s) on charge(s)~~. Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D6.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N/O
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Y E S (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 94(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 64, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 309, 330, 503-544, *Overseas BO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 170. *When accused already under sentence of imprisonment or detention see AA* 64(3), 68(1), *KR Con* 544. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D139335 Pte Jos Paul DESJARDINS of Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas is charged with:-

1st Charge
A.A. Sec 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

In that he:-

In the Field, at 1700 hrs on the 11th Nov 44, absented himself without leave, until he surrendered himself to Military Police at 1315 hrs on the 22nd Nov 44. Total absence, 10 days, 20 hrs, 15 mins.

2nd Charge
A.A. Sec 15 (1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

In that he:-

In the Field, at 0635 hrs 28 Nov 44, absented himself without leave by escaping from the Guard Room while in confinement at 42 Coy CBRB until apprehended by the Military Police in PARIS on the 1st Dec 44 at 1045 hrs. Total absence, 3 days, 4 hrs, 10 mins.

In the Field,
this 10 day of Dec 44

W Taschereau

(G.O.Taschereau) Lt-Col.,
Commanding,
Le Regiment de la Chaudiere.

TO BE TRIED BY F.G.C.M.

Jas A Roberts

In the Field,
this 10 day of Dec 44.

(J.A.Roberts) ~~Lt-Col.~~ Brig.,
Commanding,
8th Cdn Inf Bde.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-139335	Pte		Jos Paul[illegible]	DESJARDINS	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Dec 44 endorsed by me, ~~(or by an offr of my staff for me)~~ "To be tried by Field General Court-Martial". Jah

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ Jah
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. Jah

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ Jah
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ Jah
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.A. Currie	N Shore R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.D. McLean	QOR of C
Capt	F. Ansell	R de Chaud

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	R. Rochon	R de Chaud

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.) — Jas A Roberts (Signed personally. RP 105 fn 2.) — Brig (Rank.)

Date 20 Dec 44 — Commanding 8 Cdn Inf Bde, Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In lieu of APA 3) 40/P & S/1607 (8143) — *(See overleaf for oaths and notes for use on trial.)*

LE REGIMENT DE LA CHAUDIERE

Medical Report

21 Dec. 44

I certify that I have this morning examined No. D-139335

Rank. Pte. Name. Desjardins, J.P.

and in my opinion he is fit to undergo trial by court-martial.

P Gauthier

Capt. Gauthier, P. RCAMC
M.O. R. de Chaud.

Statement in Mitigation of Punishment

Pte Desjardins is a D' day man & always has done a good job in the unit up & the time he went AWL. He was ever promoted & the rank of acting corporal. He often had & do hard fighting & is only during the rest we had that he, not realizing the rest was finished, went AWL. He has a good conduct sheet.

I would ask the Court & take these points into consideration when passing sentence.

Ex A

SUMMARY OF EVIDENCE

In the case of D-13[illegible]35 Pte Jos Paul Desjardins Le Regiment de la Chaudiere a Soldier of the Canadian Army overseas.

The C.O. directs that evidence be taken on Oath.

1st Witness — B-10007 Sgt Beulieu P. of Le Regiment de la Chaudiere having been duly sworn states:
I am B-10007 Sgt Beaulieu P. of Le Regiment de la Chaudiere and at 1700hrs on 11 Nov 44 as PI Sgt I noticed that D-1[illegible] Pte J... Desjardins was not on parade. he was A.W.L. He was not in our Coy lines at any time from then until after he was apprehended.

B-10007 Sgt Beulieu P.
Le Regiment de la Chaudiere.

2nd Witness — L-26264 Cpl Wilk M.
A document purporting to be a signed statement of this w[illegible] is read over to the accused and marked exhibit "A"

I certify that in my opinion owing to the exigencies of the service the attendance of this witness is not readily procurable

R. Rochon Capt
Le Regiment de la Chaudiere

I do not wish to have L-26264 Cpl Wilk M. for cross examination.

D-1[illegible] Pte Desjardins J.P.
Le Regiment de la Chaudiere

3rd Witness — Capt R.L. Boulanger Le Regiment de la Chaudiere having been duly sworn states
I am Capt R.L. Boulanger Adjutant and officer i-c of records Le Regiment de la Chaudiere.
I produce certificates of apprehension relating to the accused (Admitted as exhibits "B and C"

Capt R.L. Boulanger Adj
Le Regiment de la Chaudiere.

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence you are not obliged to say or give any evidence, but whatever you say or evidence you give will be taken down in writing and may be give as evidence.

ANSWER FROM THE ACCUSED

No Sir I reserve my defence.

Paul Desjardins

D-139[illegible] Pte Desjardins J.P
Le Regiment de la Chaudiere

I certify that the summary of evidence have been taken downby me in the presence and hearing of the accused and the rules of procedure 4-C-D-E-F-G have been complied with.

Signed in the Field
this 10 of Dec 44

R. Rochon Capt.

R.Rochon Capt
Le Regiment de la Chaudiere

Exhibit "C".

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT

SECTION 1-3 (i) (jj) (A.C.I. 2253 of 1942)

I certify that (No)...D 139335..... (Rank) ..~~Cpl.~~ Pte.

(Name) ...DESJARDINS, J.P..... (Unit) CHAUDIERE REGIMENT

was arrested at (place) .....PARIS .....

at (hour) .....1045..... on (date) ...1st. DECEMBER 1944

He was dressed in military uniform * (strike out whichever inapplicable)
XXXXXXXXXXXXXX

Signature of Provost Marshal's A.P.M. or other officer into whose custody the above - named person was taken after arrest

.....Cap.....

.....

Assistant Provost Marshal's Office
British Army Staff PARIS.

CERTIFICATE IN ACCORDANCE WITH A.A. SECTION (1)(1) 163

I, Capt. E. Vernon certify that No. B/139335 Rank Cpl. Pte

Name DESJARDINS, P. Unit Chaudier Regt. 3rd Cdn. Division.

surrendered himself to No. 5730425 Rank Cpl. Name Abbott, A.

C.M. POLICE at Rouen at 1315 hrs. on 22nd November 1944

as an absentee/deserter. He was wearing Military Uniform

Exhibit "B"

Date 22nd November 1944

Signed [signature] Capt.

(E. Vernon) Commanding.

243 H.Q. Provost Coy. C.M. Police.

10 CANADIAN BASE REINFORCEMENT BATTALION

Exhibit "A"

42 Company

STATEMENT OF L 26564 Cpl. Wilk, M.

IN THE CASE OF: D 139335 ~~Cpl.~~ Pte Desjardins P.

Sir: I am L 26564 Cpl. Wilk, M. on the 28 Nov. 44. I was acting Coy. Orderly Sgt. of 42 Coy. 10 CBRBn.

At 0635 hrs. on the 28 Nov. 44 I proceeded to the room used as a Guard Room by 42 Coy. 10 CBRBn.

Upon arriving at the Guard Room I found that the door had been forced.

I immediately paraded the confined personnel and called the roll.

I found the accused soldier D 139335 ~~Cpl.~~ Pte Desjardins P. absent.

~~Cpl.~~ Pte Desjardins P. had escaped from custody. I reported the occurrance with full particulars to the C.S.M.

L 26564 Cpl. Wilk, M.

Ex "13"

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-139335	Pte	Jos Paul Desgardins	Le Regiment de la Chaudiere

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL	One	times. times.
For	times.	times.
For	times.	times.
For	times.	times.
For	times.	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for n/a beginning on the ..... day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for ..... days in civil custody, and 19 days in military custody, making a total of 20 days, of which n/a days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 Years 9 Months 19 Days

6. The date of his attestation specified in his attestation paper is n/a

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 Year 19 Days

8. The accused is entitled to deferred pay or gratuity in respect of n/a service.

9. The accused is entitled to reckon n/a service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of n/a

12. (*In the case of an officer.*) The accused holds in the army the rank of n/a dated ..... and in his regiment (*or* corps *or* department) the rank of n/a dated .....

(1st 50,000) W1.34000/1750 50,000 10/42 A.A.F.W.1.12. Gp.698
(2nd 50,000) W1.35015/1689 12,000 2.43 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description or court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under Act, 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

RR

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ..... day of .....

R. Boulanger Capt. A.D.C.
Officer i/c Records
Richard

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... , years, ...

In the rank of ..... , years .....

In the rank of ..... , years, ...

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Ex "C"

No. G-39335 Name DESJARDINS J.F. Sqn, Battery, or Company SUPPORT Corps C.I.C. Date of enlistment 9 FEB GC Badges N/A Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 122) 40/P&S/136 (5413)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A COI Period not reckoning towards freedom from extra fine N/A Sheet No. 43 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 Mar 44	Pte		Sheet destroyed 9 Aug 43 Last entry 16 Feb 43 A.B. Sec 150 (1) NCOS 4116 Aug 43 [illegible] 5 Mar 44 Fd [illegible] on 6 Mar 44 (Total [illegible])	Sgt Ingram A	3 Days C.B.	6 Mar 44	Bt. [illegible]	[illegible]

Cas [illegible] N.B. [illegible] Capt [illegible] Officer [illegible] Pte Chaudière

JAC

(PTO)

872 36-8-5 [illegible]

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-139335 Pte J.P. Desjardins R de Chaud

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which NIL days were spent in hospital.(2)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) year, six (6) months

(Sgd) Judge-Advocate, if any. 21 Dec 44 Date awarded. (Sgd) J.A. Currie, Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) Jas A. Roberts, Brig
Commanding 8 Can Inf Bde
Confirming Officer.

Date 22 Dec 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
	24 Dec 44	G.O. Tascherean, Lt-Col., R de Chaud

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4N-76

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AF B213) C.F.P.N. B/1606 (3864)

Convened by Order of Brig J.A. Roberts Comd 8 Cdn Inf Bde dated 20 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-139335	Pte	Jos Paul	Desjardins	R de Chaud

Certified true copy
J.H. Haught Major

PROCEEDINGS REVIEWED
DJA
Dec 24
Cdn Sec GHQ 2 Echs, 21 Army Gp

D.J.A.
Cdn Sec G.H.Q. 2 Echs 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 21 December 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18/6

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML ~ 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Currie	R Shore R
Member	Capt	J.D. McLean	Q O R of C
Member	Capt	P. Ansell	R de Chaud
Judge-Advocate			
Prosecutor	Lieut	J.A.J. Guérin	R de Chaud
Defending Offr	Capt	L.V. Legiu	R de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment unless RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused before arraignment make(s) (no) (a) plea (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB read and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A94 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form E and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Europe II. page 71

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A)*.) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc., offence.* (*RP 44(H)*.) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38*.) *As to plea when evidence may be death see RP 35(D). As to refusing to plead or not pleading intelligibly see RP 35(A).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are* GUILTY, *use Record Form B below.*

II. *If pleas to all charges are* NOT GUILTY, *use Record Form D on p* 3.

III. *If pleas to some charges are* GUILTY *and to other charges are* NOT GUILTY *and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, see Record Form C below.* (*RP 37(A)*.)

(b) *Such mixed pleas occur as a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instructions as may be appropriate to result of its decision. See MML p 744 Indrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 63-85; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 17(E) fn 6; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with *RP 35(B)* by explaining to the accused the nature and meaning of the charge(s)(*f*), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(*f*)

(*f*. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(*f*) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(*f*), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(*f*), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea to Not Guilty. In affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(*f*)

President to accused: Do you wish to make a statement? Ans ~~G~~ C. 4. *See para E3 of Record Form E.*

(*f*. *RP 37(B)* 2. *RP 35(B) fn 5 para 2, MML p 54 para 47.*)

B3. The Court considers the accused's statement.(*f*) The Court decides (not) to advise accused to change his plea(s) of Guilty to Not Guilty on ~~both~~ charge(s). The accused is (are) so informed, ~~and has changed his plea(s) accordingly~~.

(*f*. ~~Court may be closed to consider the statement.~~ *Delete whole or part not used.*)

B4. On ~~re-arraignment~~ to which the plea(s) of Guilty is (are) not changed the President records findings(*f*) of Guilty in accordance with *Record Form C or D as appropriate.*)

(*f*. ~~Court may be closed to consider the sentence.~~ *Delete whole or part not used.*)

Exhibit ~~A~~ is marked Ex ~~A~~ initialled and read aloud by the President.(*f*)

Statement(s) is (are) charged, see *Record Form C or D as appropriate.*

Accused is arraigned on charge(s) and ~~A~~ initialled and read aloud by the President.(*f*) If there is any evidence accompanying plea see para C3 of Record Form E on p 3. If there is no evidence accompanying plea and accused is charged with *RP 37(B)*, or changed to Not Guilty, try such charge(s) in one of the ways set out on p 2. *RP 37(D).*)

B5. Finding of Guilty on one or more of the charges, the proceedings are concluded by using

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. The accused having been found Guilty on ~~one~~ (three) charge(s), and the trial is continued by using Record Form E on p 3.

C2. The accused having been found Guilty on ~~one~~ (three) charge(s), and the trial is continued by using Record Form E on p 3 and proceeding with under C1. *If you prefer to proceed with under C2, delete Record Form D on p 3 and proceed as follows:*

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY.

D1. President to accused: Do you wish to apply for an adjournment on the ground that you have not been complied with, and that you have been prejudiced in replying to procedure before trial have not been complied with, and that you have not had sufficient opportunity to prepare your defence? As to the ground that you have not had sufficient opportunity to prepare your defence ? As (*f*. *If "yes", see RP 39(A) for procedure.* *Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(*f*) *Record address per Notes, subject to RP 95(C).*)

(*f*. *RP 39(B), 60(A) (B), 92, 92(C) (D).* *Record evidence per Notes.* *As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D3. The evidence for the Prosecution is taken.(*f*)

(*f*. *RP 39(C), 114, 88 Con 555.*)

D4. The Prosecution is closed.(*f*) The Defending Offr submits that the evidence for the charge(s).(*f*) The Court establish a prima facie case against the accused on the ~~charge(s)~~, and allowed on the ~~charge(s)~~, and the President announces that the submission is closed, and considers the submission.(*f*) The Court is re-opened, and the President announces that the submission is disallowed on the ~~charge(s)~~, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on charge(s), and that, accordingly, the trial will proceed on the ~~former~~, but the accused is (are) found Not Guilty on the latter charge(s).(*f*)

(*f*. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *See MML P 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used.* *If accused acquitted on all charges, see second alternative in para D6.*)

D5. President to accused: You will now proceed with your defence.(*f*) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(*f*) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(*f*) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(*f*) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither ?

(*f*. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 8.*)

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ~~G~~ C. 1. Do you intend to call witnesses on your behalf ? Ans ~~G~~ C.

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(*f*) Arraignment on the answers recorded in para D5 the appropriate procedure for the defence is followed.(*f*) character sheet, *if in his interest, as given before the finding.* *See Notes on back of Convening Order, CF 495. Evidence for accused as to his* of Record Form E. *Record per Notes addresses, statement, evidence and any summing up by the pl. under RP 42, 104(e).*)

(*f*. *RP 114, 115, 116.* *For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his*

D7. The Court is closed to consider the finding(s).(*f*) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(*f*)

(*f*. *RP 42, 117(A).* *See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(*f*) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith. and that the Proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(*f*)

(*f*. *AA 54(3), RP 45, 120(A).* 2. *AA 54(3) (b), RP 45, 120(A).*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(*f*)

Ans ~~G~~ C.

(*f*. *If evidence has already been given by accused or his witnesses as to his character, delete this para.* *RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn.* *Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(*f*), and certified true copy (~~extract~~) of Conduct Sheet(*f*), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to refer to the accused, which he submits to the Court for admission in evidence. The Court is satisfied that these documents refer to refer to (a) soldier(*f*) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ~~E~~ and Ex ~~C~~ respectively.(*f*)

(*f*. *MML 355 or MML 394.* 2. *MML p 54 para 47.* 3. *RP 46, 83 Con 558. If witness' documents not produced, see RP 46 fn 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment.(*f*) Ans ~~Yes~~ No.

(*f*. *RP 37(C), 44(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment.* *RP 37(C) fn 7.*)

E4. The President states that the Court is closed to consider the sentence.(*f*) The President records the sentence in Part I of the Schedule, by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and that the sentence to be announced proceedings in open court are accordingly terminated.(*f*)

(*f*. *AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(*f*) The President records the sentence in Part I of the Schedule, and is dated and signed by him and the J.A. if any.(*f*)

(*f*. *When several accused tried separately, as to be sentenced to terms of imprisonment or penal servitude, see AA 47, 48 and its proviso, 3 to be sentenced to terms of discharge with ignominy or with infamy, see AA 44 (1),

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ~~NO~~ .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on both charge(s). The accused is (are) so informed, ~~and has (have) changed(s) his (their) plea(s) to ... charge(s).~~ Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any pleas standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras ~~B7~~ to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by applying such paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see BCK(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans NO
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier of having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 2.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes .(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accuseds tried separately see RP 240b. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its breaks, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566. Overseas RO 309; 2323. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

J.A.C.
Pres

CHARGE SHEET

The accused D-139335 Pte Jos Paul Desjardins of Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE — WHILE ON ACTIVE SERVICE, ABSENTING
A.A. Sec 15(1) — HIMSELF WITHOUT LEAVE.

In that he:-

In the Field, at 1700 hrs on the 11th Nov 44, absented himself without leave, until he surrendered himself to military police at 1315 hrs on the 22nd Nov 44.
Total absence, 10 days, 20 hrs, 15 mins.

SECOND CHARGE — WHILE ON ACTIVE SERVICE, ABSENTING
A.A. Sec 15(1) — HIMSELF WITHOUT LEAVE.

In that he:-

In the Field, at 0635 hrs 28 Nov 44, absented himself without leave by escaping from the Guard Room while in confinement at 42 Cov CPRE until apprehended by the Military Police in Paris on the 1st Dec 44 at 1045 hrs.
Total absence, 3 days, 4 hrs, 10 mins.

In the Field
this 10 day of Dec 44

(sgd) G.O. Taschereau, Lt-Col
Commanding,
Le Regiment de la Chaudiere.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field,
this 20 day of Dec 44

(sgd) J.A.Roberts, Brig
Commanding
8th Cdn Inf Bde.

J.A.C.
Pres

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-139335	Pte		Jos Paul	Desjardins	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 Dec 44 endorsed by me, ~~(or by an offr of my staff for me),~~ " To be tried by Field General Court-Martial ", J.A.R.

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ J.A.R.
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. J.A.R.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ J.A.R.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ J.A.R.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J.A. Currie		R Shore R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.D. McLean		Q O R of C
Capt	F. Ansell		R de Chaud

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	R. Rochon		R de Chaud

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in (Country.)		(Signed personally. RP 105 fn 2.)	(Rank.)
Holland	J.A.Roberts		Brig

Date 20 Dec 44 Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use at trial.)

J.A.C
Pres

LE REGIMENT DE LA CHAUDIERE

21 Dec 44

Medical Report

I certify that I have this morning examined No. D-139335

Rank Pte Name Desjardins J.P.

and in my opinion he is Fit to undergo trial by court-martial

(sgd) P.Gauthier, Capt. RCAMC
M.O. R de Chaud

J.A.C.
Pres

Statement in mitigation of punihment

Pte Desjardin is a D Day man and always has done a good job in the Unit up to the time he went AWL. He was even promoted to the rank of acting corporal. He often had to do hard fighting and is only during the rest we had that he, not realizing the rest was finished went AWL. He has a good conduct sheet.

I would ask the Court to take these points into consideration when passing sentence.

J.A.C.
Pres

SUMMARY OF EVIDENCE

In the case of D-139335 Pte Jos Paul Desjardins Le Regiment de la Chaudiere a soldier of the Canadian Army Overseas.

The C.O. directs that the evidence be taken on oath.

1st Witness B-10007 Sgt Beulieu, P. of Le Regiment de la Chaudiere having been duly sworn states:-

I am B-10007 Sgt Bealieu P. of Le Regiment de la Chaudiere and at 1700 hrs on 11 Nov 44 as Pl Sgt I noticed that D-139335 Pte J.P. Desjardins was not on parade. He was AWL He was not in our Coy Line at any time from then until after he was apprehended.

(sgd) P.Beaulieu, Sgt
B-10007

2nd Witness L-26564 Cpl Wilk, M. A document purporting to be a signed statement of this witness is read over to the accused and marked exhibit "A"

I certify that in my opinion owing to the exigencies of the service the attendance of this witness is not readily procurable.

(sgd) R.Rochon, Capt
Le Regiment de la Chaudiere

I do not wish to have L-26564 Cpl Wilk M for Cross-examination

(sgd) P.Desjardins, Pte
D-19335

3rd Witness Capt R.L. Boulanger, Adjutant and Officer i/c of records Le Regiment de la Chaudiere.

I produce certificates of apprehension relating to the accused (Admitted as exhibit "B" and "C".

(sgd) R.L. Boulanger, Capt.,
Adjt
Le Regiment de la Chaudiere

J.A.C.
Pres

Question to the accused

Do you wish to make any statement or to give evidence
You are not obliged to say or give any evidence, but whatever
you say or evidence you give will be taken down in writing
and may be given as evidence.

Answer From The Accused

No Sir I reserve my defence.

(sgd) J.P. Desjardins, Pte
D-139335

I certify that the summary of evidence have been taken down
by me in the presence and hearing of the accused and the
rules of procedure 4-C-D-E-F-G have been complied with.

Signed in the Field
this 20 of Dec 44

(sgd) R.Rochon, Capt.,
Le Regiment de la Chaudiere

Exhibit "C"
J.A.C.
Pres

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT
SECTION 163 (1) (jj) (A.C.I. 2253 of 1942)

I certify that (NO) D-139335 Rank Pte
(NAME) Desjardins, J.P. Unit Chaudiere Regiment
was arrested at (place) Paris
at (hour) 1045 on (date) 1 st December, 1944

He was dressed in military uniform

(sgd) ??????? Capt.,
Assistant Provost Marshal
office British Army Staff Paris

Exhibit #__ J.A.C. Pres

CERTIFICATE IN ACCORDANCE WITH A.A. SECTION (1)(j) 143

I Capt E. Vernon Certify that No. D-139335 Rank Pte
Name Desjardins,P. Unit Chaudiere Regt 3rd Cdn Division
surrendered himself to No 5730425 Rank Cpl Name Abbott, A.
C.M. Police at Rouen at 1315 hrs on 22nd November 1944
as an absentee/deserter. he was wearing Military uniform

Date 22nd November 1944 Signed E. Vernon Capt
Commanding
243 H.Q. Provost Coy
C.M.Police

Exhibit "A" J.A.C. Pres

10 CANADIAN BASE REINFORCEMENT BATTALION

42 Company

STATEMENT OF L-26564 Cpl Wilk, W.

IN THE CASE OF: D-139335 Pte Desjardins, P.

Sir: I am L-26564 Cpl. Wilk, W. on the 28 Nov 44 I was acting Coy Orderly Sgt. of 42 COy. 10 CBRBn.

At 0635 hrs. on the 28 Nov 44. I proceeded to the room used as a guard room by 42 Coy 10 CBRBn.

Upon arriving at the Guard Room I found that the door had been forced.

I immediately paraded the confined personnel and called the roll.

I found the accused soldier D-139335 Pte Desjardins P. absent.

Pte Desjardins P. had escaped from custody. I reported the occurance with full particulars to the C.S.M.

(s d) Cpl Wilk, W.
L-26564

Exhibit "F" J.A.C. Pres

M.F.B. 355
22M—5-41 (379-3)
H.Q. 1773-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-139335	Pte	Jos Paul Desjardins	~~ex Le Regiment de la~~ Chaudiere

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	one times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been in confinement awaiting trial on the present charges, for MIL days in civil custody, and 19 days in military Air Force custody, making a total of 20 days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 years 9 months 19dys

6. The date of his ~~birth as stated~~ attestation specified in his ~~record of service~~ attestation paper is

7. The service which the accused is allowed to reckon towards discharge is 2 1 year 10 mon 11 dys

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward.

military C.V.S.M. and Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit
N/A dated N/A, and in his regiment (or corps), the rank of
dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit
Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of (sgd) R.P. Boulanger,
Capt & Adjt CIC Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

(sgd) J.A.Currie, Major
Pres.

S72 36

Exh "C" J.A.C.
MFM 6 Pres
(AFB 122)
40/P&S/136 (3438)

No 139335 Name Desjardins, J.P. Sqn. Battery or Company Support Coy Corps C.I.C. Date of enlistment 9 Feb 43 OC Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No one Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 March 44	Pte		Sbe et destroyed 9 Aug 43 Last Entry 16 Feb 43 A.A. Sec 15(1) R.Q.A.S. AWL from Sgt Gagnon A. 2230 hrs 5 Mar 44 to 0630 hrs on 6 mar 44(Total abs 8 hrs)		3 days C.B.	6 Mar 44	R.L. Boulanger	Forfeits 1 days pay FRI 149(1)(a)

Certified true copy
(sgd) R.L. Boulanger, Capt., and Adjt
Officer i/c Records
Le Regiment de la Chaudiere

(PTO)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-139335 Pte J.P. Desjardins R de Chaud

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 15(1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) year, six (6) months

(Sgd) _____ 21 Dec 44 (Sgd) J.A. Currie, Major
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 33(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) Jas A. Roberts, Brig

Date 22 Dec 44 Commanding 8 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (AP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
	24 Dec 44	G.O. Taschereau, Lt-Col., R de Chaud

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4N.78

FIELD GENERAL COURT-MARTIAL (CFAR 106 (In lieu of AFAR) A1-1 P.R.S. 1868 (2/2004))

Convened by Order of Brig J.A. Roberts Comd 8Cdn Inf Bde dated 20 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-139335	Pte	Jos Paul	Desjardins R de Chaud	

certified true copy
[illegible]

D J A,
Cdn Sec GHQ 2 Ech 21 Army Gp,

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 21 December 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oath and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 131.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. (1)c The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and (1)c each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1145 hours trial commences. (1)c

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ (1)c

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge-Advocate~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Currie	M Shore R
Member	Capt	J.D. McLean	Q O R of C
Member	Capt	F. Ansell	R de Chaud
Judge-Advocate			
Prosecutor	Lieut	J.A.J. Guérin	R de Chaud
Defending Offr	Capt	L.W. Begin	R de Chaud

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 3.)

A8. The accused before arraignment makes(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the (1)c plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If alteration, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B and E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Europe II page 71

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO (5)
(*1. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(three)~~ plea(s) of Guilty to Not Guilty on both charge(s). The accused is ~~sorry~~ so informed, ~~and he (three) R~~.
~~charge(s). The (three) plea(s) of~~ ~~charge(s).~~ Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A/A initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are tried ~~by him (them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can.* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 4. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier of having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex C respectively.(3)
(*1. MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. YES (2)
(*1. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6), *RP* 1 20(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP* 98(*b*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 120, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 306, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 120. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

J.A.C.
Pres

CHARGE SHEET

The accused D-139335 Pte Jos Paul Desjardins of Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
A.A. Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

In that he:-

In the Field, at 1700 hrs on the 11th Nov 44, absented himself without leave, until he surrendered himself to military police at 1315 hrs on the 22nd Nov 44.
Total absence, 10 days, 20 hrs, 15 mins.

SECOND CHARGE
A.A. Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE.

In that he:-

In the field, at 0635 hrs 28 Nov 44, absented himself without leave by escaping from the Guard Room while in confinement at 42 Coy CRRE until apprehended by the Military Police in Paris on the 1st Dec 44 at 1045 hrs.
Total absence, 3 days, 4 hrs, 10 mins.

In the Field
this 10 day of Dec 44

(sgd) G.O. Taschereau, Lt-Col
Commanding,
Le Regiment de la Chaudiere.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

In the Field,
this 20 day of Dec 44

(sgd) J.A.Roberts, Brig
Commanding
8th Cdn Inf Bde.

J.A.C.
Pres

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-139335	Pte		Jos Paul	Desjardins	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on 20 Dec 44 (date) endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J.A. Currie		N Shore R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.D. McLean		Q O R of C
Capt	F. Ansell		R de Chaud

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	R. Rochon		R de Chaud

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

(Country.)		(Signed personally. RP 105 fn 2.)	(Rank.)
in Holland	J.A.Roberts		Brig

Date 20 Dec 44 Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAMO (To Secs of AFAG; SD, F & S, 1001 (4001))

(See overleaf for oaths and notes for use on trial.)

J.A.C
Pres

LE REGIMENT DE LA CHAUDIERE

Medical Report

21 Dec 44

I certify that I have this morning examined No. D-139335

Rank Pte Name Desjardins J.P.

and in my opinion he is Fit to undergo trial by court-martial

(sgd) P.Gauthier, Capt. RCAMC
M.O. R de Chaud

J.A.C.
Pres

Statement in mitigation of punihment

Pte Desjardin is a D day man and always has done a good job in the Unit up to the time he went AWL. He was even promoted to the rank of acting corporal. He often had to do hard fighting and is only during the rest we had that he, not realizing the rest was finished went AWL. He has a good conduct sheet.

I would ask the Court to take these points into consideration when passing sentence.

Ex "A" J.A.C. Pres

SUMMARY OF EVIDENCE

In the case of D-139335 Pte Jos Paul Desjardins Le Regiment de la Chaudiere a soldier of the Canadian Army Overseas.

The C.O. directs that the evidence be taken on oath.

1st Witness E-10007 Sgt Beulieu, P. of Le Regiment de la Chaudiere having been duly sworn states:-

I am E-10007 Sgt Bealieu P. of Le Regiment de la Chaudiere and at 1700 hrs on 11 Nov 44 as Pl Sgt I noticed that D-139335 Pte J.P. Desjardins was not on parade. He was AWL He was not in our Coy Line at any time from then until after he was apprehended.

(sgd) P.Beaulieu, Sgt
E-10007

2nd Witness L-26564 Cpl Wilk, M. A document purporting to be a signed statement of this witness is read over to the accused and marked exhibit "A"

I certify that in my opinion owing to the exigencies of the service the attendance of this witness is not readily procurable.

(sgd) R.Rochon, Capt
Le Regiment de la Chaudiere

I do not wish to have L-26564 Cpl Wilk M for Cross-examination

(sgd) P.Desjardins, Pte
D-19335

3rd Witness Capt R.L. Boulanger, Adjutant and Officer i/c of records Le Regiment de la Chaudiere.

I produce certificates of apprehension relating to the accused (Admitted as exhibit "B" and "C".

(sgd) R.L. Boulanger, Capt.,
Adjt
Le Regiment de la Chaudiere

J.A.C.
Pres

Question to the accused

Do you wish to make any statement or to give evidence You are not obliged to say or give any evidence, but whatever you say or evidence you give will be taken down in writing and may be given as evidence.

Answer From The Accused

No Sir I reserve my defence.

(sgd) J.P. Desjardins, Pte
D-139335

I certify that the summary of evidence have been taken down by me in the presence and hearing of the accused and the rules of procedure 4-C-D-E-F-G have been complied with.

Signed in the Field
this 20 of Dec 44

(sgd) R.Rochon, Capt.,
Le Regiment de la Chaudiere

Exhibit "C"
J.A.C.
Pres

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT
SECTION 163 (1) (jj) (A.C.I. 2253 of 1942)

I certify that (NO) D-139335 Rank Pte
(NAME) Desjardins, J.P. Unit Chaudiere Regiment
was arrested at (place) Paris
at (hour) 1045 ~~or (date)~~ 1 st December, 1944

He was dressed in military uniform

(sgd) ????????? Capt.,
Assistant Provost Marshals
office British Army Staff Paris

Exhibit "B" J.A.C. Pres

CERTIFICATE IN ACCORDANCE WITH A.A. SECTION (1)(j) 163

I Capt E. Vernon Certify that No. D-139335 Rank Pte Name Desjardins,P. Unit Chaudiere Regt 3rd Cdn Division surrendered himself to No 5730425 Rank Cpl Name Abbott, A. C.M. Police at Rouen at 1315 hrs on 22nd November 1944 as an absentee/deserter. he was wearing Military uniform

Date 22nd November 1944 Signed E. Vernon Capt
Commanding
243 H.Q. Provost Coy
C.M.Police

Exhibit"A" J.A.C.
Pres

10 CANADIAN BASE REINFORCEMENT BATTALION

42 Company

STATEMENT OF L-26564 Cpl Wilk, M.

IN THE CASE OF: D-139335 Pte Desjardins, P.

Sir: I am L-26564 Cpl. Wilk, M. on the 28 Nov 44 I was acting Coy Orderly Sgt. of 42 COy. 10 CBRBn.

At 0635 hrs. on the 28 Nov 44. I proceeded to the room used as a guard room by 42 Coy 10 CBRBn.

Upon arriving at the Guard Room I found that the door had been forced.

I immediately paraded the confined personnel and called the roll.

I found the accused soldier D-139335 Pte Desjardins P. absent.

Pte Desjardins P. had escaped from custody. I reported the occurr ance with full particulars to the C.S.M.

(sgd) Cpl Wilk, M.
L-26564

Exhibit "B" J.A.C. Pres

M.F.B. 355
22M—5-41 (573-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-139335	Pte	Jos Paul Desjardinsex Le	Regiment de la Chaudiere

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	one times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for M/A beginning on the M/A day of M/A

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 19 days in military Air Force custody, making a total of 20 days in custody, of which M/A days were spent in hospital.

5. The present age of the accused according to his attestation paper is 28 years 9 months 19dys

6. The date of his attestation specified in his attestation paper

7. The service which the accused is allowed to reckon towards discharge is 1 year 10 mon 11 dys

8. The accused is entitled to reckon M/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military possession of or entitled to). State any air force decoration or reward. military

C.V.S.M. and Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of M/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit
N/A dated N/A, and in his regiment (or corps), the rank of
dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Air Force Rank
Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of (sgd) R.P. Boulanger,
Capt & Adjt OIC Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

(sgd) J.A.Currie, Major
Pres.

Exh "C" J.A.C. Pres

MFM 6 (AFB 122) 40/Pads/136 (3438)

No D139335 Name Desjardins, J.P. Sqn. Battery or Company Support Coy Corps C.I.C. Date of enlistment 9 Feb 43 GC Badges N/A Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No one | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5 March 44	Pte		She et destroyed 9 Aug 43 Last Entry 16 Feb 43 A.A. Sec 15(1) W.A.A.S. AWL from 2230 hrs 5 Mar 44 to 0630 hrs on 6 mar 44(Total abs 8 hrs) Certified true copy (sgd) R.L. Boulanger, Capt., and Adjt Officer i/c Records Le Regiment de la Chaudiere	Sgt Gagnon A.	3 days C.B.	6 Mar 44	R.L. Boulanger	Forfeits 1 days pay FRI 149(1)(a)

(PTO)

COUNTER NUMBER 547330

HOUR 0938

OPERATOR'S INITIALS JR

RELIEVING OPERATOR

COUNTER NUMBER 547330

HOUR 0938

OPERATOR'S INITIALS JR

RELIEVING OPERATOR AD

48 R.

Re Desjardins, J. P.

O. H. M. S.

M. P. B. 270

E-4489 Pte. Jean Paul DESJARDINS
R.22e R. 1 C.D.I.R.U.
48,R.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 4th day of NOVEMBER, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "A" GROUP CANADIAN REINFORCEMENT UNITS, C.A.(O), on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~I am unable to appoint~~

*(1. ~~Three Officers to form the Court.~~

*(2. ~~A Field Officer as President.~~

~~for the following reasons, namely~~

PROCEEDINGS REVIEWED

Martin Capt
Reviewing Officer (JAG) Branch CMHQ
21 Nov 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	J.M. BOWMAN (48 Highrs.)	1 C.D.I.R.U.

Members.

Rank.	Name.	Regiment.
Captain	R.T. Bonnell (C.B. Highrs.)	5 C.I.R.U.(Arm'd Div.)
Lieutenant	J.C. Mahoney (Fus.M.R.)	2 C.D.I.R.U.
Waiting Member Lieutenant	P.A. Mayer (R.Regt.C.)	2 C.D.I.R.U.

*Signed J. Stewart Lough Colonel,
Commanding "A" Group Cdn. Reinf. Units, C.A.(O).
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E-4489 Pte. Jean Paul DESJARDINS R.22e R. 1 C.D.I.R.U.	First Charge A.A. Sec. 15(1)	Guilty JWB	To undergo Detention for a period of eighteen (18) months and to make good the cost of apprehension in the amount of £2-2-10 Nov. 6-1942 JWB	Findings & sentence confirmed J.R. Stewart Lough Col.
	Second Charge A.A. Sec. 40	Guilty JWB		
	Third Charge A.A. Sec. 40	Guilty JWB		
	SEE CHARGE SHEET ATTACHED.			

"I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge (charges) before this Court Martial".

J.M. Bowman Major
President of the Court.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) J.R. Stewart Lough Colonel (Signed) J.M. Bowman Major
Commanding 2nd Gp. Cdn. Reinf. Units, Convening Officer C.A. (O). #1 C.D.I.R.U. President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

J.M.B.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 6 day of NOV. 1942, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 6 day of NOV 1942.

J.M. Bowman Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

J.M.B.
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 6th day of November 1942.

J.R. Stewart Lough Col.
Confirming Officer.

Promulgated and extracts taken in the case of E-4489 Pte. Desjardins, J.P. (R22eR)
Promulgated in Part II D.O. 271 dated 9 Nov 42. Lt.-Col.
(a) (Dated) 7 November 1942 (Signed) (C.C. Ferrie) A/Commander, #1 CDIRU

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] Wt. [illegible] Nov. 1/41 W. & Co., Ltd. Gp. 745-3

CHARGE SHEET

The accused E.4469 Private Jean Paul DESJARDINS of the Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit as a reinforcement, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
Sec. 15 (1)
ARMY ACT

When on Active Service absenting himself without leave,

in that he,

at Algonquin Camp, Witley, Surrey, absented himself without leave from 2200 hours on the 26th day of September 1942 until being apprehended by the Corps of Military Police at Birmingham at 2250 hours on the 30th day of October 1942, thereby incurring expenses to the public for the costs of his apprehension in the amount of £2-2-10.

Total absence:- 34 days 1 hour and 50 minutes.

SECOND CHARGE
Sec. 40
ARMY ACT

When on Active Service conduct to the prejudice of good order and military discipline,

in that he,

at Birmingham on the 30th day of October 1942 was wearing the rank badges of a Sergeant well knowing that he was not entitled to wear said rank badges.

THIRD CHARGE
Sec. 40
ARMY ACT

When on Active Service an act to the prejudice of good order and military discipline,

in that he,

at Birmingham on the 30th day of October 1942 was in possession of a document purporting to be a genuine leave pass well knowing that it was not a genuine pass.

.....Lt.-Col.
(C.C. Ferrie) A/Commander,
No. 1 Cdn. Div. Inf. Reinf. Unit.

Algonquin Camp,
Witley, Surrey,

4th day of November 1942.

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Colonel,
Commanding,
"A" Group Cdn. Reinf. Units,
C.A.(O).

Convening Officer.

Witley, Surrey,
4 Nov. 42.

MEDICAL CERTIFICATE

(Can) Para. 557

I certify that I have this morning examined No. E-4469

Pte Desjardins J.P. (R22eR)

No. 1 Cdn. Div. Inf. Reinf. Unit, and in my opinion

he is fit / unfit to undergo trial by Court-Martial.

Algonquin Camp,
Witley Surrey,
6 Nov. 42.

JMO

(Medical Officer) RCAMC

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT ALGONQUIN CAMP ON THE 6 DAY OF NOV 1942

TRIAL OF:-No. [illegible] Unit [illegible]

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) [illegible] (Unit) [illegible]

Defending Officer:- (Name) [illegible] (Unit) [illegible]

At hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 -

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President. [illegible] (Unit) [illegible]

Members [illegible] (Unit) [illegible]

[illegible] (Unit) [illegible]

~~The officers under instruction are duly sworn.~~

Q2 Do you object to [illegible] acting as shorthand writer? A2 - No Sir.

The shorthand writer is duly sworn.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name. [illegible] (Unit) [illegible] sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes Sir

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - NO Sir.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Defending Officer States he wanted a transfer to the [illegible] but was refused and so went A.W.L.

[illegible]

SUMMARY OF EVIDENCE

In the case of E-44g9 Private Jean Paul DESJARDINS, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

FIRST WITNESS for the PROSECUTION — Lieut. H.F. Atkingson, (Carlt. & York) Assistant Records Officer, No. 1 C.D.I.R.U. having been duly sworn, states:-

I am Lieut. H.F. Atkinson, Ass't Records Officer, No. 1 C.D.I.R.U. I produce A.F.B. 115 Certified Copy of the Declaration of a Court of Inquiry which relates to the accused whom I now recognize. This document is marked Exhibit "A".
I produce expense voucher showing cost of apprehension of the accused and purporting to be signed by the officer issuing railway warrant and expense monies for the return of the accused and his escort. This voucher is marked Exhibit "B".
I produce certificate in accordance with the Army Act Section 163 (1) (jj) relating to the accused and purporting to be signed by O.C. Birmingham Detachment C.M.P. This document is marked Exhibit "C".

The accused declines to cross-examine this witness.

H.F. Atkinson .....Lieut.

SECOND WITNESS for the PROSECUTION — L/Cpl. A. Miles, Corps Military Police, Birmingham, states:- In the case of E-44g9 Pte. J.P. Desjardins, Royal 22e Regt. No. 1 C.D.I.R.U.

At Birmingham on Oct 30 1942 about 2350 hours I was on duty in the "Services CLUB" St. Phillips Place, where I saw the above named soldier, he was wearing the chevrons of a Sergeant which I have attached. I asked him if he was on leave and he replied "Yes I'm on fourteen days " I was not satisfied with his pass, and asked him for his paybook and he stated it was in the company office. I informed him he would have to accompany me to the Central LOCK-UP STEELHOUSE LANE for the purpose of making further inquiries. Inquiries were made by telephone and I was informed that the particulars on the attached pass were false. I later interviewed Pte DESJARDINS, who after further questioning admitted his previous statement was false, that he was an absentee, he was only a private and had made the pass out himself. I charged him with the five named offences administered the usual caution and obtained his particulars for report. He was detained to await escort.

(Signed) A. Miles, L/Cpl. C.M. Police

A statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence. Due to the loss of time involved the attendance of this witness cannot in my opinion be readily procured. The accused does not demand the presence of this witness for cross-examination.

J.R. Turner .....Lieut.
(Officer taking Summary)

JRT/B

SUMMARY OF EVIDENCE

In the case of E-4469 Private Jean Paul DESJARDINS, Royal 22e Regiment, on the strength of No. 1 Canadian Division Infantry Reinforcement Unit.

THIRD WITNESS for the PROSECUTION

L/Cpl. T. Hindle, Canadian Military Police, Birmingham, states:- In the case of E-4469 Private J.P. Desjardins, Royal 22e Regt. No. 1 C.D.I.R.U.

I have read over and corroborate the above statement.

(Signed) T. Hindle, L/Cpl. C.M. Police.

A statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence. Due to the loss of time involved the attendance of this witness cannot in my opinion be readily procured. The accused does not demand the presence of this witness for cross-examination.

.....Lieut.
(Officer taking Summary)

The accused having been duly warned in accordance with Rule of Procedure 4 (E) and C.A.M.C. 142A elects to make a statement.

The accused, E-4469 Pte. Jean Paul DESJARDINS, states:-

I can only say that everything is true.

.....

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused at Algonquin Camp, Witley, Surrey, on the 4th day of November 1942, and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

.....Lieut.
(Officer taking Summary)

Algonquin Camp,
Witley, Surrey,

4th day of November 1942.

EXA.

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at 1 C.D.I.R.U. on the 23rd day of October 1942, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. E-4489 Pte. DESJARDINS, J.P. R22eR. Coy No. 1 C.D.I.R.U. By authority of Part 1 No. 2500 d/21 Oct. 42.

DECLARATION.

The Court declare, that E-4489 Pte Desjardins J.P. R22eR. illegally absented himself without leave from 2200 hours at 1 C.D.I.R.U. on the 26th day of September 1942 and that on the 27th September 1942 he was deficient and that he is still deficient of the following articles:-

		Vocabulary Value £	s.	d.	Appraised Value £	s.	d.
Battle dress Blouse prs.	1	1	7	8	1	0	9
Battle dress Trousers prs.	1	1	7	11	1	0	11½
Boots ankle prs.	1	1	1	6		16	3½
Braces prs.	1		1	3½			11½/8
Brushes boot polishing	1			9			6½
Brushes Button	1			8			6
Brushes tooth	1			4½			3½
Cap Comforter	1		1	8		1	3
Cap Field Service	1		3	8		2	5
Comb Hair	1			2			1½
Dressing 1st Field	1		1	1			9½
Jacket sweater	1		6	9			3
Knife clasp	1		5	2½		3	9 1/16
Razor	1		1	10½		1	6½
Drawers Cello	2		4	1		3	3
		8 5 -	5 -	8½	8 3 -	19 -	8 5/16

Names of President and Members Capt. P.De L. Boudreau, R22eR. No. 1 C.D.I.R.U. Pres.
Lieut. M. Parisseault R22eR. No. 1 C.D.I.R.U. Member
Lieut. C. Benoit R22eR. No. 1 C.D.I.R.U. Member

Signature of Commanding Officer C.C. Ferris, Lt-Col. (No. 1 C.D.I.R.U.)

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(12281) Wt.34218/1422 75,000 10/39 A.& E.W.Ltd. Gp.498
(13443) Wt.42725/700 225,000 1/40 " " Forms/B115/16

Statement of Evidence in the case of.
No. E.4489. PRIVATE. J. P. DESJARDINES.
THE ROYAL 22nd REGT.
NO.1. CANADIAN DIVISION INFANTRY REINFORCEMENT UNIT.
101. WHITLEY CAMP
NR. GODALMING
SURREY

Sir

at BIRMINGHAM on OCT 30. 1942 about 2350 hrs; I was on duty in the SERVICES CLUB ST PHILLIPS PLACE where I saw the above named soldier who was wearing the chevrons of a Sergeant, which I have attached. I asked him if he was on leave and he replied "yes Sir on fourteen day". I was not satisfied with his pass, and asked him for his paybook and he stated it was in Company office. I informed him he would have to accompany me to the Central LOCK-UP STEELHOUSE LANE for the purpose of making further inquiries. Inquiries were made by telephone and I was informed that the particulars on the attached pass were false. I later interviewed Private DESTARDINES who after further questioning admitted his previous statement was false, that he was an absentee, he was only a Private and had made the pass out himself. I charged him with the fine named offence, administered the usual caution, and obtained his particulars for report. He was detained to await escort.

BIRMINGHAM.
OCT 31. 1942.

H.H.Miles Capt.
C. M. POLICE.

Sir I have read over and corroborate the above statement

BIRMINGHAM.
OCT 31. 1942.

T.R. Hinds Capt.
C. M. POLICE.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. E4489 Rank Pte. Name Desjardins, J.P. Unit 1 CDIRU

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Birmingham

Date	Particulars	Amount		
2 Nov. 42	Escorts return fare from LONDON To Birmingham		17	0
	Prisoners single fare to LONDON From Birmingham		8	6
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		17	4
	Total £	2	2	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

[illegible]M.H.Q. 1000:55
[illegible]/P & S/483

Ex C



Certificate in accordance with the Army

I certify that No. E 44 89 ..... Rank Pte ..... N

Unit The Royal 22nd Regt No 1 Canadian Div
Infantry Re-Enforcement

..... at 2350 ..... hrs. on ... 30

Station Birmingham

Signature of Provost Mar
or other officer into whe
the a/n person was taken

Date 31/10/42 .....

JMB

Ex D

Calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 177 Regiment F.M.R.

PASS

Army Form B 200
(In pads of 100)

No. D 126047 (Rank) Sgt (Name) Martin J.

has permission to be absent from his †quarters/duty, from

12 hrs 27 OCT 1942 to 12 hrs 11 NOV 1942

for the purpose of proceeding to* Liverpool.

(Station) in the field

(Date) 25 Oct 42

P. Magna Jr
Commanding

* Destination not required unless alternative to exceed 24 hours, unless notification is desirable owing to local conditions or necessary to enable purchase of a rail ticket at reduced rate.
† Delete whichever is not practicable.

[P.T.O.

CROWN COPYRIGHT RESERVED

JMB

(1) I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my court-martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to court-martial.

Dated at Witley, Surrey, this 1st day of Nov, 1942. ...J.S. Duggan.....

(2) I hereby acknowledge that I have been served with a true copy of an additional summary of evidence taken at Algonquin Camp, Witley, Surrey, preliminary to my court-martial.

Dated at Witley, Surrey, this ____ day of _____, 1942 .....

(3) I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of _____ if he is available.

Dated at Witley, Surrey, this 1st day of Nov, 1942 ...J.S. Duggan.....

No. E4489 Name Desjardins J.P. Sqn., Battery, or Company } Corps R22eR Date of enlistment } 2-11-39 G.C. Badges } Service or Proficiency Pay }

M.F.M. 6 (A.F.B. 122) 27556—7-41 (215-30) H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet } No. and date of last drunk } Period not reckoning towards freedom from extra fine } Sheet No. 1 Signature G.C. Company, etc. } Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On the 2-5-40 this soldier completed 6 months service and in accordance with apps. to R.O. (d) 319 his previous sheet was destroyed on the 20-8-42									
Field	30-7-40	Pte		WOAS. AWL 4 days 2 hrs when on C.B. AA Sec 15(1) 2) AWL 10 hrs AA Sec 15(1)	Cpl Michaud Lang as Sgt Archambault	14 days Detention	5-8-40	Major Blais	5 days fox of Pay
Louisburg	24-8-40	"		AWL 3 days 5 hrs 15 mins AA Sec 15(1)	Sgt Richard	14 days C.B.	27-8-40	LCL Matthews	4 days pay
"	31-8-40	"		AWL when on C.B. 8 days 23 hrs 45 mins AA Sec 15(1)	Sgt Couture Sgt Lebel	14 days Pay	12-9-40	LCL Matthews	4 days pay
Witley	14-12-40	"		AWL 3 days 21 hrs 30 mins AA Sec 15(1)	Cpl Nadeau	10 days Pay	20-12-40	LCL Matthews	4 days pay

Certified True Copy

George Auckland

Officer having custody of original document

JMB

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Wiley	9-1-41	Pl.		AWL 10 days AA Sec 15(1)	Documentary	28 days pay	22-1-41	Lt Col Matthews	10 days Pay
Wiley	4-2-41	"		1) Breaking out of Bks when on CB (10(1)) 2) AWL 1 hr 30 Mins AA 15(1) 3) Breaking out of Bks when CB - AA 10(1) 4) AWL 13 days 11 hrs 30 Mins AA 15(1)	Sgt. Howard Cpl Johnson L/C Durant	28 days Detention	20/2/41	Major P.E. Belanger	Fay. 15 days pay
	5-6-42	"		Civil Offence		4 Months Imprisonment	D.O. 27	17/6/42	

Certified True Copy consisting of one sheet

George Truckshaw Jr.
Officer taking custody of original document

JMB

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4469	Pte	DESJARDINS J.P.	Royal 22e Regiment,

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provided being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec. 15(1)	0 times	6 times.
For A.A. Sec. 10 (4)	0 times	2 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

~~There are no entries in the conduct sheets of the accused~~

~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~

beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for 96 days in civil custody, and 0 days in military custody, making a total of 96 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 2 Nov. 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2yrs 131 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 131 days service.

9. The accused is entitled to reckon 2 yrs 131 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~he is in possession of or entitled to (state any military decoration or reward).~~

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated

(1) [illegible] WILLIAMS, 1/44 325,000 8/41 A.A.F.W.Ltd. Gp.999

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-4459 Rank PTE Name J.P. DESJARDINS of R 22e Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
CIVIL COURT	5-6-42	Civil Offence.	4 Months Imprisonment. D.O. 27 d/ 17-6-42 No Documentation as to the date of his release from Civil Prison.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10 day of November 1942

George [illegible] Capt.

(Officer having custody of Original documents)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of years.

In the rank of years.

In the rank of years.

Instruction.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by full general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.

MMM-92
PTE DESJARDINS J.P.

Correspondence to be PINNED here.

CERTIFIED TRUE COPY

R Cordeau CAPT
(R. CORDEAU)

MMM-92

Army Form A.3.

10/DESJARDINS, JP/1

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ "TGG"

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[~~I am unable to appoint:—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~ "TGG"

~~for the following reasons, namely:—~~]

NOTE.—The President must be named. The members and [illegible] members [illegible] may be mentioned by [illegible], or the [illegible] and the [illegible] to which [illegible] belong may [illegible] be named. [illegible] the latter [illegible], the ranks, [illegible], &c., of the members of the [illegible], as constituted, will be [illegible] on the [illegible].

[illegible] must be [illegible] personally [illegible] Officer [illegible] in [illegible] at the [illegible] and all [illegible] in [illegible] Court to [illegible].

President.

Rank.	Name.	Regiment.
Major	R.J. Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	J.M. Bursey	Carlt & York R
Captain	Y. Dube	R 22e R
Lieut	A Fortin	R 22e R

*Signed "T G Gibson" Brigadier

Commanding 3 Cdn Inf Bde

"R.J.C"

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E4409 Pte Jean-Paul DESJARDINS, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty	
			To undergo imprisonment for a period of two (2) years with hard labour	Confirmed "TGG"
	Second Charge Sec 24(2) AA	Not Guilty	Not guilty	
			"R.J.C."	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer *(to be recorded on separate sheet if necessary)* :—

(Signed) "T G Gibson" Brigadier (Signed) "R.J.Orr" Major

Commanding 3 Cdn Inf Bde *Convening Officer* (*c*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

"R.J.C." *(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

Signed this 21st day of March 1944.

"R. J. Orr Major"
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

"R.J.C.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.) "TGG"

Signed this 22 day of Mar 1944.

"T G Gibson Brig"
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 24 Mar 44 (Signed) "Fernand Trudeau Maj"

Promulgated and extracts taken in the case of E-4409 Pte. Desjardins J.B.

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[84] 9th 28000 3/44 Thos. Cook & Son (Canada) Ltd. Cat. No. 72-0-2

"B 2"

CHARGE SHEET

The accused E.4489 Private Jean-Paul DESJARDINS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service, is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 12 December 1943 at 0730 hrs, absented himself without leave until surrendering himself to Military Police at or about 2045 hrs on 27 Jan 1944.

Total absence: 47 days, 2 hrs, 30 mins.

2nd Charge
AA Sec 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, on 12 December 1943, was deficient of:

		75%
Cap F.S.	£	0. 2. 9
Vest, woollen		0. 3. 10
Drawers, woollen		0. 2. 9
Socks		0. 1. 3
Shirts		0. 0. 10
Blouses, BD		1. 0. 9
Trousers, BD		1. 0. 11
Boots, ankle		0.16. 1½
Laces, boots		0. 0. 1
Total	£	5.14.11½

"J.G. Charlebois"
(J.G. CHARLEBOIS) Major
T/Commanding Royal 22e Regiment

In the Field
16 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Mar 44

"T G Gibson"
(T G Gibson), Brigadier,
Commanding 3 Can Inf Bde

"R.J. Orr, Major"

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. E.4489.....

Rank..Pte.....Name...DESJARDINS, J.P.....of..Royal 22e Regiment....

and in my opinion he is fit to undergo trial by Court Martial.

Station....In the Field.

Date .....21 Mars 1944.

"(Undecipherable) Capt"
Medical Officer.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 21st day of March 1944 by order of Brigadier T. G. Gibson Commanding 3 Cdn Inf Bde dated the 18th day of March 1944

President.

Major R J Orr Carlt & York R.

Members.

Capt J M Bursey Carlt & York R.

Capt Y Dube R 22e R

Trial of* E4489 Pte Jean-Paul Desjardins R 22e R

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~waiting member takes the place as a member of the Court.~~

"R.J.O." The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. P.A. Tremblay R 22e R

Counsel‡ or defending officer† Lt. F.R. de Saint Victor R 22e R

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer.

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R.J.O."

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are also sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Not Guilty

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

N/A

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

N/A

Answer.

The accused having pleaded Guilty to the first charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Instruction.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No sir.

The prosecutor makes an opening address (hands in a written address which is read, marked , signed by the President, and attached to the proceedings.)

The prosecutor proceeds to call witnesses.

First witness for prosecution.

D-51078 C.S.M. Drapeau, J.R. D.C.M.

being duly sworn, is examined by the prosecutor.

I am D-51078 C.S.M. Drapeau, J.R. of "B" Coy R 22e R and was formerly A/C.Q.M.S. of "D" Coy R 22e R.

Q1 - Will you tell the Court what you know in the case of Desjardin J.P.

A1 - On the 12th of December 1943, acting as C.Q.M.S., C.S.M. reported to me the absence without leave of Pte. Desjardin, I inspected his kit or what was left of it, and found him deficient of the articles listed below.

	75%
Cap F.S.	0. 2. 9
Vest Woollen	0. 3.10
Drawers "	0. 2. 5
Socks	0. 1. 3
Shirts	0. 6.10
Blouses B.D.	1. 0. 9
Trousers B.D.	1. 0.11
Boots, ankle	0.16. 1½
Laces, boots	0. 0. 8
Total	5.14.11½

Cross-examination by Defending Officer

Q1 - Have you inspected Pte Desjardin's kit on his return from A.W.L.

A1 - No, Sir.

Q 2- Is Pte Desjardin now in possession of those articles.

A2 - Yes, he is now wearing them.

"R.J.O."

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. No sir.

Question. Do you intend to call any other witness in your defence ?

Answer. No sir

Question. Is he a witness as to character only ? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ? No sir

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

"R.J.O."

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E4489 Pte Jean-Paul Desjardins
is found guilty of the first charge as laid

†The summary [illegible] of evidence is read, marked E signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

"R.J.O."

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

B

The President, members [redacted] are duly sworn.

[redacted].

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

N/A

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

R40

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

Proceedings of a Field General Court-Martial held at Field on the 21st day of March 1944 by order of Brigadier T. G. Gibson Commanding 3 Cdn Inf Bde dated the 18th day of March 1944

President.

Major R J Orr Carlt & York R.

Members.

Capt J M Bursey Carlt & York R.

Capt Y Dube R 22e R

Trial of* Z4489 Pte Jean-Paul Desjardins R 22e R

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

"R.J.O."

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. P.A. Tremblay R 22e R

Counsel‡ or defending officer† Lt. F.R. de Saint Victor R 22e R

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R.J.O."

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

C

Proceedings on Plea of Not Guilty.

*Instruction (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No sir.

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution.

D-51078 C.S.M. Drapeau, J.R. D.C.M.

being duly sworn, is examined by the prosecutor.

I am D-51078 C.S.M. Drapeau, J.R. of "B" Coy R 22e R and was formerly A/C.Q.M.S. of "D" Coy R 22e R.

Q1 - Will you tell the Court what you know in the case of Desjardin J.P.

A1 - On the 12th of December 1943, acting as C.Q.M.S., C.S.M. reported to me the absence without leave of Pte. Desjardin, I inspected his kit or what was left of it, and found him deficient of the articles listed below.

	75%
Cap F.S.	0. 2. 9
Vest Woollen	0. 3.10
Drawers "	0. 2. 5
Socks	0. 1. 3
Shirts	0. 6.10
Blouses B.D.	1. 0. 9
Trousers B.D.	1. 0.11
Boots, ankle	0.16. 1½
Laces, boots	0. 0. ½
Total	5.14.11½

Cross-examination by Defending Officer

Q1 - Have you inspected Pte Desjardin's kit on his return from A.W.L.

A1 - No, Sir.

Q 2- Is Pte Desjardin now in possession of those articles.

A2 - Yes, he is now wearing them.

"R.T.O."

C2

"RJO"

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness ?

Answer. No sir.

Question. Do you intend to call any other witness in your defence ?

Answer. No sir

Question. Is he a witness as to character only ? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence ? No sir

Answer. The accused in his defence says†

[hands in a written address which is read, marked and signed by the President and attached to the proceedings.]

"R.J.O."

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E4489 Pte Jean-Paul Desjardins
is found guilty of the first charge as laid

†The summary xxxxxxx) of evidence is read, marked E signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says :—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

"R.J.O."

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

No

Answer.

Evidence as to character.

"R.J.O"

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E4489 Pte Jean Paul Desjardins not guilty of the second charge. 10

"R.J.O."

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lt. P.A. Tremblay R 22e R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

No

Question to the accused.

Do you wish to address the Court? *Answer.* No

"R.J.O."

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused #4489 Pte Jean Paul DESJARDINS to undergo imprisonment for a period of two (2) years with hard labour. *Sentence*

"R.J.O."

"R.J.O."

SUMMARY OF EVIDENCE E

In the case of E.4482 Private DESJARDINS Jean-Paul, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is Taken under oath.

1st Witness For Prosecution

E.23301 CSM Roy, I. Royal 22e Regiment, having been duly sworn states:

" I am and was at all times material hereto CSM of Royal 22e Regiment, posted to "D" Coy.
On the morning of the 12 December 1943, at or about 0730 hrs, I checked "D" Coy personnel and I found that E.4489 Pte Desjardins J.P. was absent from "D" Coy lines., I have not seen him since.

The accused declined to cross examine the witness.

"I. Roy" CSM

2nd Witness For Prosecution

E.6128 L/Cpl Audet A. Royal 22e Regiment, having been duly sworn states:-

" I am and was at all times material hereto a soldier of the Royal 22e Regiment, posted to "D" Coy.
On the 12 December 1943 at or about 0730 hrs, I checked my section and I found that E.4489 Pte Desjardins J.P. was absent and I have not seen him since.

The accused declined to cross examine the witness.

"A. Audit" L/CPL

3rd Witness For Prosecution

D.51078 CSM Drapeau L.R. Royal 22e Regiment, having been duly sworn states:

" I am and was at all times material hereto CSM of R.22e.R. posted to "D" Coy.

On the 12 December 1943, I was acting as quarter-master sergeant of "D" Coy. I made an inventory of kit and found that E.4489 Pte Desjardins J.P. was deficient of the articles listed below:

	85%	100%
Cap F.S.	0. 2. 9	0. 3. 0
Vest, woollen	0. 3. 10	0. 5. 1
Drawer, woollen	0. 2. 5	0. 3. 3
Socks	0. 1. 3	0. 1. 6
Shirts	0. 6. 10	0. 9. 2
Blouses, BD	1. 0. 9	1. 7. 8
Trousers BD	1. 0. 18	1. 7. 11
Boots, ankle	0.16. 14	1. 1. 6
Laces, boots	0.0. 1	0. 0. 0½
Total	5.14. 11½	5. 0. 0½

The accused declined to cross examine the witness.

"L.R. Drapeau" CSM

4th Witness For Prosecution

Capt. J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

I, Capt. J.B. Rousseau, of R.22e.R. posted as adjutant, hereby produce certificate of arrest in the case of E.4489 Pte Desjardins J.P. whom I now recognize. This certificate is marked Exhibit "A" and signed by O.C. 231 Provost Coy.

"J B Rousseau" Capt.

"R.J. Orr Major"

In view of the loss of time and expenses involved, it is not necessary in my opinion, to have the presence of O.C. 231 pro coy in the taking of this Summary of Evidence.

"P.A. Tremblay" Lieut

The accused does not request the presence of O.C. 231 Pro Coy.

"J.P. Desjardins" Pte

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

"L. Cannon Capt" Lieut
Officer taking Summary

In the Field
16 Mar 1944

"R.J. Orr Major"

RECEIVED 5 JUN 1944 JAG BRANCH C.M.H.Q.
Correspondence to be PINNED here.
RECORDED AT CMHQ IN AB 160 MAN-92
CANADIAN SECTION DISCIPLINE & PAY SECTION 8 APR 1944 G.H.Q. 2nd ECHELON

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighteenth day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

PROCEEDINGS REVIEWED 6 Jun 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R J Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	J M Bursey	Carlt & York R
Captain	Y Dube	R 22e R
Lieut	A Fortin	R 22e R

Waiting

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible] Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

F94

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
4489 Pte Jean-Paul ESJARDINS, R 22e R	First Charge Sec 15(1) AA	guilty	guilty to undergo imprisonment for a period of two (2) years with hard labour	Confirmed
	Second Charge Sec 24(2) AA	not guilty	not guilty R.J.Dr.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [signature] Brigadier (Signed) [signature] Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

R.J.Dr.

Signed this 21st day of March 1944.

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

R.J.Dr.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 22 day of Mar 19 44

[signature] Brig
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 24 Mar 44 (Signed) Fernand Jundy Maj.

Promulgated and extracts taken in the case of E. 4489 Pte Desjardins J.B.

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 21st day of March 1944 by order of

Brigadier L. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 18th day of March 1944

President.

Major R J Orr Carlt & York R

Members.

Capt J M Bursey Carlt & York R.

Capt Y Dube, R 22 e R

, ~~Judge Advocate.~~

Trial of* 6489 Pte Jean Paul Desjardins R 22 e R

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The~~ Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. P. A. Tremblay R 22 e R

Counsel‡ or defending officer† Lt F. R de Saint Victor R 22 e R

At 1050 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

"B2"

CHARGE SHEET

The accused E.4489 Private Jean-Paul DESJARDINS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service, is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 12 December 1943 at 0730 hrs, absented himself without leave until surrendering himself to Military Police at or about 2045 hrs on 27 Jan 1944.

Total absence: 47 days, 2 hrs, 30 mins.

2nd Charge
AA Sec 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, on 12 December 1943, was deficient of:

	75 %
	£ 0. 2. 9
Cap F.S.	0. 3. 10
Vest, woollen	0; 2. 5
Drawers, woollen	0. 1. 3
Socks	0. 6. 10
Shirts	1. 0. 9
Blouses, BD	1. 0. 11
Trousers, BD	0.16. 1½
Boots, ankle	0. 0. 1
Laces, boots	
Total	£ 3.14. 11½

J.G. Charlebois

J.G. CHARLEBOIS) Major,
Commanding Royal 22e Regiment

In the Field
16 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Mar 44

(T G Gibson), Brig-dier,
Commanding 3 Cdn Inf Bde.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 21st day of March 1944 by order of Brigadier T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 18th day of March 1944

President.

Major R J Orr Carlt & York R

Members.

Capt J M Bursey Carlt & York R

Capt Y Dube, R 22 e R

Trial of* L 4489 Pte Jean-Paul Desjardins, ~~Judge Advocate~~ R 22 e R

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. P. A. Tremblay R 22 e R

Counsel‡ or defending officer† Lt. F. R. de Saint Victor R 22 e R

At 1050 clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

20057 GA[illegible] 12/[illegible] 12/41. K. & H., Ltd. [illegible] Form [illegible]

B

The President, members ~~and judge-advocate~~ are duly sworn.

The ~~following officers under instruction are duly sworn~~.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

N/A *Answer.*

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

"B2"

CHARGE SHEET

The accused E.4489 Private Jean-paul DESJARDINS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service, is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 12 December 1943 at 0730 hrs, absented himself without leave until surrendering himself to Military police at or about 2045 hrs on 27 Jan 1944.

Total absence: 47 days, 2 hrs, 30 mins.

2nd Charge
AA Sec 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, on 12 December 1943, was deficient of:

		75 %
	£	
Cap F.S.		0. 2. 9
Vest, woollen		0. 3. 10
Drawers, woollen		0; 2. 5
Socks		0. 1. 3
Shirts		0. 6. 10
Blouses, BD		1. 0. 9
Trousers, BD		1. 0. 11
Boots, ankle		0.16. 1½
Laces, boots		0. 0. 1
Total	£	3.14. 11½

J.G. Charlebois

(J.G. CHARLEBOIS) Major,
Commanding Royal 22e Regiment

In the Field
16 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Mar 44

T.G. Gibson

(T G Gibson), Brigadier,
Commanding 3 Cdn Inf Bde.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. E 4489

Rank Pte. Name Desjardins R. of Royal 22c Régiment

and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

Station In the Field

Date 24 Mars 1944

[signature] Major

[signature] Capt

Medical Officer.

C

*Instruction. (See R. P. 39 (A)) Question.

Proceedings on Plea of Not Guilty.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No sir

The prosecutor makes an opening address [hands in a written address which is read, marked , signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. D-51078 C.S.M. Dragean L.R. D.C.M.

being duly sworn, is examined by the prosecutor.

I am D-51078 C.S.M. Dragean J.R. of "B" Coy R22-R. And was formerly a/C.Q.M.S. of "D" Coy R22-R.

Q1- Will you tell the court what you know in the case of Desjardin J.P.

A1- On the 12th of December 1943, acting as C.Q.M.S. C.S.M. reported to me the absence without leave of Pte Desjardin. I inspected his kit or what was left of it, and found him deficient of the articles listed below.

	75%		75%
Sap F.S.	£ 0.2.9	Trousers B.D.	£ 1.0.11
Vest Woollen	0.3.10	Boots, ankle	0.16.1½
Drawers "	0.2.5	Laces, boots	0.0.1
Socks	0.1.3		
Shirts	0.6.10		
Blouses B.D.	1.0.9	Total	£ 3.14.11½

Cross-examination by Defending Officer.

Q1- Have you inspected Pte Desjardin's kit on his return from A.W.L.

A1- No sir.

Q2- Do Pte Desjardin now in possession of those articles.

A2- Yes, he is now wearing them

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No sir

Question. Do you intend to call any other witness in your defence?

Answer. No sir

Question. Is he a witness as to character only? *Answer.* N/A.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page *(see overleaf)*.

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence? No sir

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

N.J.B.

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused is found guilty of E 44489 Pte Jean-Paul Desjardins the first charge as laid

†The summary (or abstract) of evidence is read, marked E signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No

The accused in mitigation of punishment says:—

[*or* hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused 2 4489 Pte Jean Paul Desjardins not guilty of the second charge E.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lt. A. Tremblay R22eR is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused. No

[Instructions.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any additional punishment or disability to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must enquire into the nature and amount of that additional punishment.]

Question to the accused. Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused E 4489 Pte Jean Paul Desjardins to undergo imprisonment for a period of two (2) years with hard labour.

Sentence

R.J.Dr.

R.J.Dr.

C.M.P. 184.

CHARGE A

Bedfordshire Army Form B 252

C 278

(See King's Regulations)

Royal 22nd H.Q. 52 D.A.P. AREA

Regiment

~~Battery~~
~~Squadron~~
Troop or
Company

CHARGE against No. E4489 Rank Gnr.

Name DESJARDINS.J.P.

Place Date of Offence

OFFENCE WOAS. Absent from until..? surrendering himself to the Military Police, at the C.M.POLICE HQ, on the 27th Jan 1944, about 2045 hrs

3

Names of Witnesses :—

7691627. CPL. J. JONES. 231 Provost Coy C.M.POLICE.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

CERTIFICATE UNDER ARMY ACT SECTION 163 (1)(j).

I, Capt P.L. BIRCH, M.C., certify that No E4489 Gnr DESJARDINS, J.P. of the Royal 22nd Regt, R.C.A. Canadian Armed Forces, surrendered himself to No 7091627 CPL. J. JONES, 231 Provost Coy, C.M. Police, at TARANTO, on the 27th day of January 1944 as a deserter (or absentee without leave).

28th January 1944

Capt.
OFFICER COMMANDING.
231 Provost Coy.
C.M. POLICE.

LIST OF WITNESSES FOR THE PROSECUTION

in the case of

E.4489 Private DESJARDINS Jean-Paul, Royal 22e Regt.

FOR THE PROSECUTION

E.23301 CSM Roy I.
E.6128 L/Cpl Audet A.
D.51078 CSM Drapeau L.R.
Capt. J.B. Rousseau

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

Exhibit "A" Certificate under AA Sec 163 (1) (j) signed by O.C. 231 provost Coy, C.M. Police

---

I hereby acknowledge the receipt of a true copy of the Summary of Evidence taken prior to my trial by FGCM. I furthermore acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial.

I desire the services of an Officer to represent me at my trial.

I desire the services of [illegible] if he is available.

J.P. Desjardins Pte

In the Field
16 Mar 1944

SUMMARY OF EVIDENCE

E

In the case of H.4482 private DESJARDINS Jean-Paul, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CWF, On Active Service.

By direction of the Commanding officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution

H.23301 CSM Roy, I. Royal 22e Regiment, having been duly sworn states:

" I am and was at all times material hereto CSM of Royal 22e Regiment, posted to "D" Coy.
On the morning of the 12 December 1943, at or about 0730 hrs, I checked "D" Coy personnel and I found that H.4489 Pte Desjardins J.P. was absent from "D" Coy lines, I have not seen him since.

The accused declined to cross examine the witness.

I. Roy CSM

2nd Witness For Prosecution

H.6128 L/Cpl Audet A. Royal 22e Regiment, having been duly sworn states:-

" I am and was at all times material hereto a soldier of the Royal 22e Regiment, posted to "D" Coy.
On the 12 December 1943 at or about 0730 hrs, I checked my section and I found that H.4489 Pte Desjardins J.P. was absent and I have not seen him since.

The accused declined to cross examine the witness. "

A. Audet L/Cpl

3rd Witness For Prosecution

H.51073 CSM Dupeau L.N. Royal 22e Regiment, having been duly sworn states,

" I am and was at all times material hereto CSM of R.22e.R. posted to "D" Coy.
On the 12 December 1943, I was acting as quarter-master sergeant of "D" Coy. I made an inventory of kit and found that H.4489 Pte Desjardins J.P. was deficient of the articles listed below.

	75%	100%
Cap F.S.	0. 2. 9	0. 3. 8
Vest, Woollen	0. 3. 10	0. 5. 1
Drawer, Woollen	0. 2. 5	0. 3. 3
Socks	0. 1. 3	0. 1. 8
Shirts	0. 6. 10	0. 9. 2
Blouses, BD	1. 0. 9	1. 7. 3
Trousers BD	1. 0. 11	1. 7. 11
Boots, ankle	0.16. 1½	1. 1. 6
Laces, boots	0. 0. 1	0. 0. 1½
Total	5.14. 11½	9. 0. 0½

The accused declined to cross examine the witness.

L.R. Dufour CSM

4th Witness For Prosecution

Capt. J.E. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

I, Capt. J.E. Rousseau, of R.22e.R. posted as adjutant, hereby produce certificate of arrest in the case of H.4489 Pte Desjardins J.P. whom I now recognise. This certificate is marked Exhibit "A" and signed by O.C. 231 provost Coy.

J.E. Rousseau Capt.

In view of the loss of time and expenses involved, it is not necessary in my opinion, to have the presence of O.C. 231 pro coy in the taking of this Summary of Evidence.

P. A. Tremblay Lieut.

The accused does not request the presence of O.C. 231 pro Coy.

P. Desjardins pte.

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

L. Carrau Capt.
Officer Taking Summary Lieut.

In the Field
16 Mar 1944

R. J. [illegible] Major

"C"

No. E44489 Name Desjardins J.P. Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 46/P & /S136 (2965)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Temporary				Sheet 17 Mar 44					

Major

(P.T.O.)

"B"

...EMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

Number	Rank	Name	Regiment
84489	PTE	DESJARDINS-J.P.	R.22 R.

The following is a fair and true summary of the entries of the ...imental and squadron, battery or company conduct sheets of the ...used, exclusive of convictions by a court martial or a civil court ...summary awards under section 47 of the Army Act, and of cases in ...ch trial has been dispensed with:-

	Within last 12 months		Since Enlistment	
FOR	N/A	Times		Times
FOR	N/A	Times		Times
FOR	N/A	Times	N/A	Times
FOR	N/A	Times		Times

No M F M 6 Drawn

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

The accused has not been previously convicted, or,

...vious convictions of the accused by a court martial or a civil ...mary awards under section 47 of the Army Act, and dispensations ...th trial under section 73 of the Army Act, are set out in the ...hedule annexed to this statement.

3. The accused is not under sentence at the present time, or The accused at the present time is under sentence for

N/A (7) beginning on the N/A day of December

. The accused has been in confinement, awaiting trial on the present charges for, 28 Jan 44 days in civil custody and _____ days in military custody, making a total of _____ days of which _____ days were spent in hospital.

. The present age of the accused according to his record of serv...

. The date of his attestation specified in his record of service is _____

. The service which the accused is allowed to reckon towards discharge or transfer to the service is N/A.

. The accused is entitled to deferred pay or gratuity in respect ... service.

. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

0. The accused is possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to state any military decoration or award).

1. (If the accused is a warrant officer. The accused before he was ... a warrant officer last held the regimental rank of ....

2. (In the case of an officer) The accused holds in the army the rank of _____ dated N/A and is his regiment (or corps or department) the rank of _____ dated _____

R.G. [illegible] Major

Certified true extract from Records
20 MAR 44. P. Dispenbley, Lt Adj. Adjt.

Correspondence to be PINNED here.

CERTIFIED TRUE COPY
Rondeau CAPT
(R. GORDEAU)

RECORDED AT CMHQ IN AB 160:
MMM-92
F. 94

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Eighteenth day of March, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer~~ "TGG"

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~[I am unable to appoint :—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~ "TGG"

~~for the following reasons, namely :—]~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.J. Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Captain	J.M. Bursey	Carlt & York R
Captain	Y. Dube	R 22e R
Lieut	A Fortin	R 22e R

Waiting Member to be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T G Gibson" Brigadier

Commanding 3 Cdn Inf Bde

"R.J.O"

Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B4489 Pte Jean-Paul DESJARDINS, R 22e R	First Charge Sec 15(1) AA	Guilty	Guilty To undergo imprisonment for a period of two (2) years with hard labour	Confirmed "TGG"
	Second Charge Sec 24(2) AA	Not Guilty	Not guilty "R.J.O."	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(*Signed*) "T G Gibson" Brigadier (*Signed*) "R.J.Orr" Major

Commanding 3 Cdn Inf Bde *Convening Officer* (*e*) *President*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses

* Omit if not applicable.

"R.J.O." ~~(3.—The interpreter~~
~~(4.—The officers under instruction~~)

were duly sworn.

Signed this 21st day of March 1944.

"R. J. Orr Major"
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

"R.J.O.

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.) "TGG"

Signed this 22 day of Mar 1944.

"T G Gibson Brig"
Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) 24 Mar 44 (Signed) "Fernand Trudeau Maj"

Promulgated and extracts taken in the case of B-4489 Pte. Desjardins J.B.

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(84) Wt. 36092/1359 20m 1/41 W. & Co., Ltd. Gp. 340.2

XI.

Space for further Review (continued from page 2).

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, date of release. No. of marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks

XII.—Remarks and recommendations of C.O. on Second Trial.

Date	Signature

XIII.—Remarks and recommendations of Confirming Officer on Second Trial.

Date	Signature

CERTIFIED TRUE COPY
R. Cordeau CAPT
(R. CORDEAU)

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. E.4489 Pte Jean Paul DESJARDINS Unit R.22e R.
Sentenced to Two years imprisonment-hard labour on 21 Mar 44
Age on, and date of enlistment 17 years, 3 Nov 1939 Term of service Duration

FIRST TRIAL.

For details of offences, see paragraph VII
For C.O.'s remarks, see paragraph IX.

II.—To .....
Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....

Date .....
Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....)
(of which I remit .....) (1) (2) (be suspended) (be put into execution)
(1) and be reviewed on ..... (3).

Place .....

Date .....
Superior Military Authority (4).
(For action on review, see paragraph VI.)

SECOND TRIAL.

For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....
Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....

Date .....
Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....)
(of which I remit .....) (1) (2) (be suspended) (be put into execution)
and that it run (concurrently) (consecutively) (1) with the previous (6) sentence
of ..... and be reviewed on ..... (3).

Place .....

Date .....
Superior Military Authority (4).

(1) Erase words not required, and initial erasures.

(2) A sentence of penal servitude or imprisonment, combined with Dischargo with ignominy, cannot be suspended unless the Dischargo with ignominy is remitted.

(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed in not more than six months.

(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.

(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.

(6) A previous sentence of imprisonment or detention in a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

[illegible] 91-40/7/43 30,000 2/45 A.& E.W.,Ltd. Gp.698 Forms/A3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks

(Continued on page 4.)

If recommendations, etc., considered upon review, should be pasted here.

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA Sec 15(1) WOAS: AWL, In the Field, from 0730 hrs, 12 Dec 43 until surrendering at about 2045 hrs, 27 Jan 44. Total absence: 47 days, 2 hrs, 30 mins. "R.A. Trembley" Lieut Signature of Officer making entry.	12 Dec 43	21 Mar 44

VIII.—Second Trial.

Signature of Officer making entry.

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
26 Mar 44 In the Field	I have no recommendation to make in order mitigate, remit, commute or suspend the sentence.	"J.G. Charlebois" Major T/Comd R.22 Regt

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
30 Mar 44	I recommend that the sentence be served in full.	"T G Gibson" Brig

"B 2"

CHARGE SHEET

The accused K.4489 Private Jean-Paul DESJARDINS, a Soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service, is charged with:-

1st Charge
AA Sec 15 (1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 12 December 1943 at 0730 hrs, absented himself without leave until surrendering himself to Military Police at or about 2045 hrs on 27 Jan 1944.

Total absence: 47 days, 2 hrs, 30 mins.

2nd Charge
AA Sec 24 (2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field, on 12 December 1943, was deficient of:

		75%
Cap F.S.	£	0. 2. 9
Vest, woollen		0. 3. 10
Drawers, woollen		0. 2. 5
Socks		0. 1. 5
Shirts		0. 6. 10
Blouses, BD		1. 0. 9
Trousers, BD		1. 0. 11
Boots, ankle		0.16. 1½
Laces, boots		0. 0. 1
Total	£	3.14.11½

"J.C. Charlebois"
(J.C. CHARLEBOIS) Major
T/Commanding Royal 22e Regiment

In the Field
16 Mar 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Mar 44

"T G Gibson"
(T G Gibson), Brigadier,
Commanding 5 Can Inf Bde

"R.J. Orr, Major"

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. E.4489.....

Rank..Pte.....Name...DESJARDINS...J.P.....of..Royal 22e Regiment....

and in my opinion he is fit to undergo trial by Court Martial.

Station....In the Field.

Date .....21 Mars 1944.

"(Undecipherable) Capt"
Medical Officer.

A

Army Form A 9

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 21st day of March 1944 by order of

Brigadier T. G. Gibson

Commanding 3 Cdn Inf Bde

dated the 18th day of March 1944

President.

Major R J Orr Carlt & York R.

Members.

Capt J M Bursey Carlt & York R.

Capt Y Dube R 22e R

[redacted]

Trial of* E4489 Pte Jean-Paul Desjardins R 22e R

The order convening the Court, the charge-sheet and the summary [redacted] of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~[illegible]~~ ~~to serve owing to~~

"R.J.O." , ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. P.A. Tremblay R 22e R

Counsel‡ or defending officer† Lt. F.R. de Saint Victor R 22e R

At 1030 o'clock the Trial commences.

The order convening the Court is read, and is marked , signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R.J.O."

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible]

B

The President, members [redacted] are duly sworn.

[redacted].

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

Question to the accused.

Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read ?

Question.

Not Guilty

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read ?

Question.

Answer.

N/A

Are you guilty or not guilty of the fourth charge against you, which you have heard read ?

Question.

N/A

Answer.

"R10"

The accused having pleaded Guilty to **the first** charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. **No sir.**

The prosecutor makes an opening address hands in a written address which is read, marked , signed by the President, and attached to the proceedings.

The prosecutor proceeds to call witnesses.

First witness for prosecution. **D-51078 C.S.M. Drapeau, J.R. D.C.M.**

being duly sworn, is examined by the prosecutor.

I am D-51078 C.S.M. Drapeau, J.R. of "B" Coy R 22e R and was formerly A/C.Q.M.S. of "D" Coy R 22e R.

Q1 - Will you tell the Court what you know in the case of Desjardin J.P.

A1 - On the 12th of December 1943, acting as C.Q.M.S., C.S.M. reported to me the absence without leave of Pte. Desjardin, I inspected his kit or what was left of it, and found him deficient of the articles listed below.

	75%
Cap F.S.	0. 2. 9
Vest Woollen	0. 3.10
Drawers "	0. 2. 5
Socks	0. 1. 3
Shirts	0. 6.10
Blouses B.D.	1. 0. 9
Trousers B.D.	1. 0.11
Boots, ankle	0.16. 1½
Laces, boots	0. 0. 8
Total	5.14.11½

Cross-examination by Defending Officer

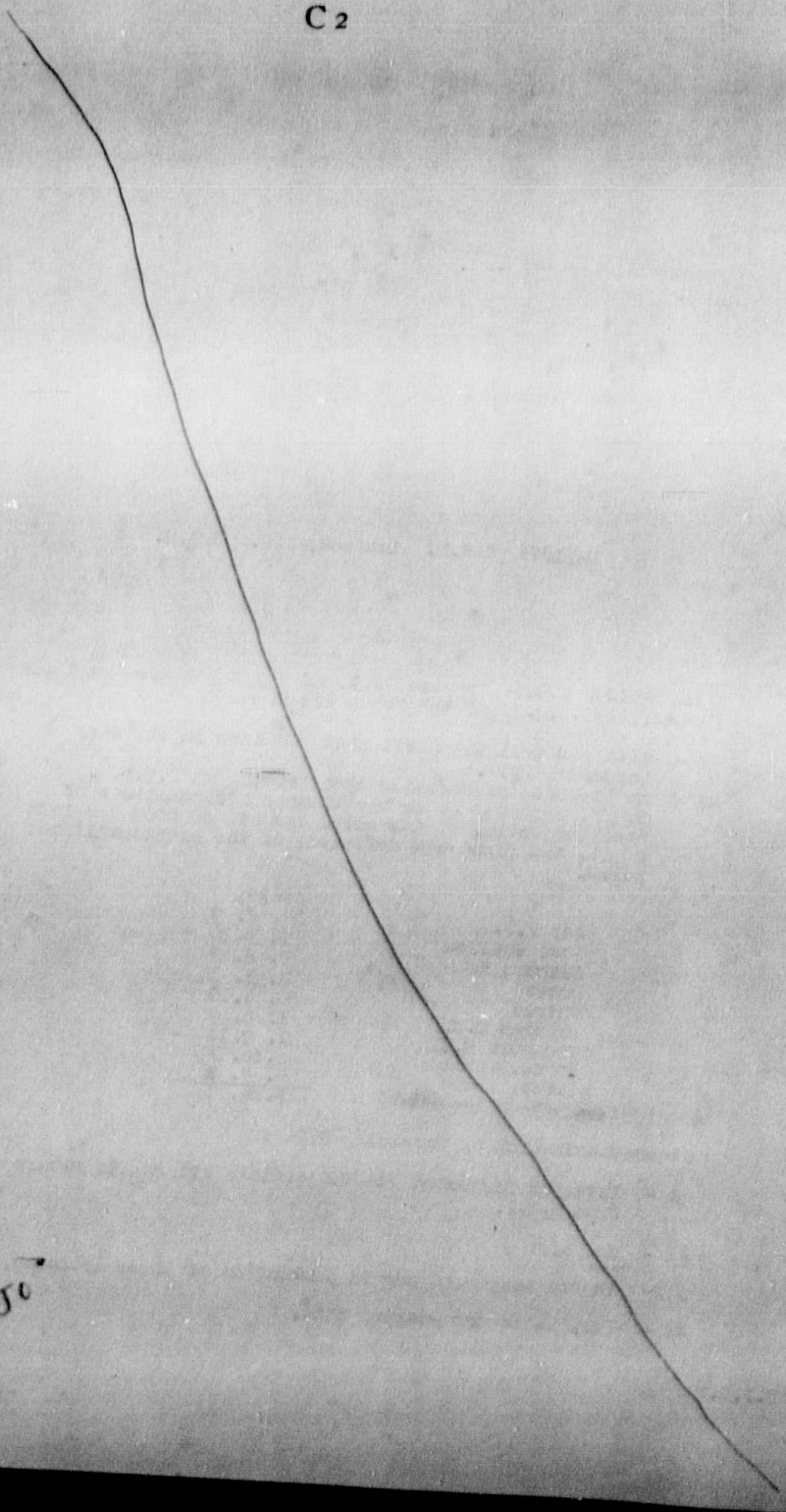
Q1 - Have you inspected Pte Desjardin's kit on his return from A.W.L.

A1 - No, Sir.

Q 2- Is Pte Desjardin now in possession of those articles.

A2 - Yes, he is now wearing them.

"R.J.O."



D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. **No sir.**

Question. Do you intend to call any other witness in your defence?

Answer. **No sir**

Question. Is he a witness as to character only? *Answer.* **N/A**

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (ii) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. **No sir**

The accused in his defence says† [hands in a written address which is read, marked and signed by the President and attached to the proceedings.]

"E.J.O."

Signature.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E4489 Pte Jean-Paul Desjardins
is found guilty of the first charge as laid

†The summary [xxxxxxx] of evidence is read, marked E, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says :—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

"R.J.O."

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

RJO

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E4489 Pte Jean Paul Desjardins not guilty of the second charge.

"R.J.O."

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

Evidence of character, &c.

*The Court being re-opened, the accused is again brought before it.

Lt. P.A. Tremblay R 22e R is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Cross-examined by the accused.

No

Question to the accused.

Do you wish to address the Court? *Answer.* No

"R.J.O."

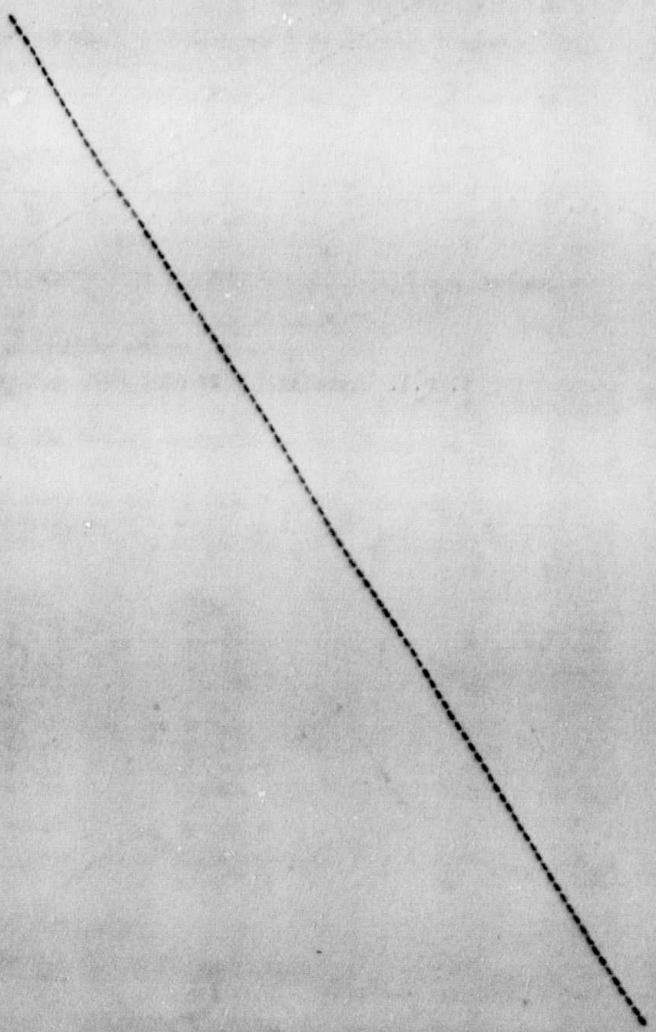
The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused **J4489 Pte Jean Paul DESJARDINS to undergo imprisonment for a period of two (2) years with hard labour.** *Sentence*

"R.J.O."



"R.J.O."

SUMMARY OF EVIDENCE R

In the case of R.4482 Private DESJARDINS Jean-Paul, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness for Prosecution — R.23301 CSM Roy, I. Royal 22e Regiment, having been duly sworn states:

" I am and was at all times material hereto CSM of Royal 22e Regiment, posted to "D" Coy.
On the morning of the 12 December 1943, at or about 0730 hrs, I checked "D" Coy personnel and I found that R.4489 Pte Desjardins J.P. was absent from "D" Coy lines., I have not seen him since.

The accused declined to cross examine the witness.

"I. Roy" CSM

2nd Witness for Prosecution — R.6128 L/Cpl Audet A. Royal 22e Regiment, having been duly sworn states:-

" I am and was at all times material hereto a soldier of the Royal 22e Regiment, posted to "D" Coy.
On the 12 December 1943 at or about 0730 hrs, I checked my section and I found that R.4489 Pte Desjardins J.P. was absent and I have not seen him since.

The accused declined to cross examine the witness.

"A. Audit" L/CPL

3rd Witness for Prosecution — D.51078 CSM Drapeau L.R. Royal 22e Regiment, having been duly sworn states:

" I am and was at all times material hereto CSM of R.22e.R. posted to "D" Coy.

On the 12 December 1943, I was acting as quarter-master sergeant of "D" Coy. I made an inventory of kit and found that R.4489 Pte Desjardins J.P. was deficient of the articles listed below:

	85%	100%
Cap F.S.	c. 2. 9	c. 3. 8
Vest, woollen	0. 3. 10	0. 5. 1
Drawer, woollen	0. 2. 5	0. 3. 3
Socks	0. 1. 3	0. 1. 8
Shirts	0. 6. 10	0. 9. 2
Blouses, BD	1. 0. 9	1. 7. 8
Trousers BD	1. 0. 10	1. 7. 11
Boots, ankle	0.16. 1½	1. 1. 6
Laces, boots	0.0. 1	0. 0. 0½
Total	3.14. 11½	5. 0. 0½

The accused declined to cross examine the witness.

"L.R. Drapeau" CSM

4th Witness for Prosecution — Capt. J.R. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

I, Capt. J.R. Rousseau, of R.22e.R. posted as adjutant, hereby produce certificate of arrest in the case of R.4489 Pte Desjardins J.P. whom I now recognize. This certificate is marked Exhibit "A" and signed by O.C. 231 Provost Coy.

"R.S. Orr" Major

"J.R. Rousseau Capt.

In view of the loss of time and expenses involved, it is not necessary in my opinion, to have the presence of O.C. 231 Pro Coy in the taking of this Summary of Evidence.

"P.A. Tremblay" Lieut

The accused does not request the presence of O.C. 231 Pro Coy.

"J.P. Desjardins" Pte

The accused having been duly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

"L. Cannon Capt" Lieut
Officer taking Summary

In the Field
16 Mar 1944

"R.J. Orr Major"

SE-80

Kfn. Desjardins, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B40375 Rfn Desjardins GOR of C

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15 (c)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present ~~under sentence~~ for ~~imprisonment~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 85 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To Undergo Detention for a period of One hundred & twenty Days (120).

(Sgd) _____ Judge-Advocate, if any. 17 March 45 Date awarded. (Sgd) Fred Mason Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 56. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1) (J. AA 57A. Delete if not used.)

Date 27 March 45 (Sgd) A.W.L. Stuart Lt Col
Commanding 8 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B40375 Rfn Desjardins, L. GOR of C.	26 MAR 45	W.A. Gillespie Lt. GORC.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160, 5E-80

INTD 26 APR 1945 Secretary

FIELD GENERAL COURT-MARTIAL CFAAS (In lieu of AFAAS) 40/1 & 8/1606 (8/44) 4/38B

Convened by Order of Brigadier J.A. Roberts Comd 8 Cdn Inf Bde dated 16 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-40375	Rfn	Lawrence	DESJARDINS	GOR of C

PROCEEDINGS REVIEWED 27 APR 45 JAG BRANCH CMHQ

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 17 March 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 26/115.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused~~: ~~Do~~ Is you object to ~~an interpreter~~? Ans

~~The Interpreter is sworn.~~(1) Do you object to ~~a shorthand~~ writer? Ans

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Fred Mason	R Hse R.
Member	Capt	R Normandeau	R de Chaud
Member	Capt	J.L.M. le Blanc	R Hse R.
Judge-Advocate			
Prosecutor	Lt.	B.N. Hackney	8 D.R.
Defending Offr	Lt.	M.I. Jackson	8 D.R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 23.)

A8. The accused ~~Rfn~~ Lawrence Desjardins before arraignment makes(s) (no) (a) plea(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 26, 112. See para 1 of instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP, 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides [not] to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fig here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 80(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)*

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes I Witness as to Character.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted as evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Through my Defending Offr
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 47 as to sentences see AA 44, 136, 182, RP 46-50, 69, 108, 119(A), KR Con 308, 330, 563-566, Overseas 80, 309, 2322, 2323, 2327-2329. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Major

CHARGE SHEET

The accused, B40377 Rfn Lawrence [redacted],
1st Bn The Queen's Own Rifles of Canada (AF),
a soldier of the Canadian Army Overseas, is
charged with:-

FIRST CHARGE
SEC 15 (1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave
from 2130 hrs 30 Jan 45 until 1730 hrs 19 Feb 45.
(Total time absent - 19 days 20 hrs)

In the Field
14 Mar 45

(S M LETT) Lt-col
Comd 1st Bn The Q O R of C

To be tried by Field General Court Martial.

16 Mar 45

(J.A. Roberts) Brigadier
Commanding 8 Cdn Inf Bde

Trudeau
Major

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-40375	Rfn		Lawrence	DESJARDINS	QOR of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Mar 45 endorsed by me, (or by an offr of my staff for me) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a 3rd Offr as President, for the reasons I have given on attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	F. F. Moar	N Shore R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	J.E.H. Leblanc	N Shore R
Capt	R Normandeau	R de Chaud

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A/Capt	M.G. McIver	QOR of C

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd
in Germany (Country.)

Jacobuts (Signed personally. RP 105 fn 2.)
Brigadier (Rank.)
Commanding 6 Cdn Inf Bde
Convening Officer.

Dat: 16 Mar 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 96 (1st Rev. of AFA 3) 40/P & E/1867 (1942)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(E)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (on *matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D).* *Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 5 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to submitting an sentence a certified copy in lieu of original see KR Can 566. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(8), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

1st Bn The Queen's Own Rifles of Canada (NF)

17 Mar 45

MEDICAL CERTIFICATE

This is to certify that B40375 Rfn DESJARDINS, L. has been medically examined by me this date and found physically # to undergo trial by Field General Court Martial.

R D Oatway, Capt.
(R D OATWAY), CAPT
M.O. R.C.A.M.C.

Note: # - Insert 'fit' or 'unfit'

Fred Moore
Major

E-1.

Statement as to Character in the Case of B 40375 Rfn Desjardin L. B Coy of the Q.O.R. of C.

B. 135772 Sgt Baker A.T. of the Q.O.R. of C. having been duly sworn states: I have been Pl Sgt for 3½ mths, of 12 Pl, B Coy, Q O R of C, since that time Rfn Desjardin has carried out all my orders and has never refused any orders whatsoever. He was unable to carry his load that the average Rfn was suppose to carry. He was always the first man to volunteer in any attack or any job given to him.

(R.P. 836 Complied With)

Chairman

Major

Plea of Mitigation by the Defence.

Pte Desjardin came to France with the understanding of being a driver Batman. He came into France on the 17th Aug 44 and arrived to the Unit on the 27 Aug 44. Pte Desjardins fought it out all this time. However being self conscious he seem to have taken it in his own hands to help his section, due to the fact that he is very small and he couldn't do what other Ptes did. Such as carrying the loads etc. He worked well, he wasn't yellow or coward should we say. Due to the fact his platoon Sgt states that he was the first to volunteer for any job whether in battle or otherwise. He weighs 104 lbs, he was Category, his age is 21 yrs. he is single and his understanding was to be a driver batman rather than an ordinary Pte in a Coy. His recorded showed that he tried, and I would wish the Court to take these facts in Consideration, of the Pte Desjardin, got discouraged and tried to help his platoon by

Fred Moore
Major

going a.w.l. I'm sure from what the Platoon feelings are, that he really did not realize what seriousness it meant when he took this way out; to help the platoon.

(R.P 83b Complied with)

EXHIBIT "R"

Summary of evidence in the case of No B 40375 Rfn Desjardins L., B Coy, Queens own Rifles of Canada, charged with being absent without leave (AA sec 15 (1))

First Witness. Jam B 135772 Sgt Baker A. J. 'B' Coy, Q.O.R. of C. at 2130 hrs. 30 Jan 45, Rfn Desjardins, whom I now recognize + point out, failed to answer his name on daily roll call. I then reported him absent. Sgt A.J. Baker

The accused declines to cross-examine this witness

Second Witness. Jam B 139432 Cpl Robson D. of B Coy Q.O.R. of C. On 19 Jan 45 at approximately 1730 hours I was with Cpl Deaness W. when Rfn Desjardins whom I recognize + point out reported back from A.W.L. Cpl Deaness has since been killed in action + cannot give this evidence. Cpl Robson D.

The accused was cautioned as follows:-

Q. Do you wish to make any statement + give evidence on oath? You are not obliged to say anything + give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

A I want to make a statement.

Q. On oath or not on oath?

A. On oath

The accused, sworn states:-

On 12 May 1943 I volunteered for the engineers and was accepted. While with the engineers in Canada I was a batman and I liked the work and the unit. I wanted to serve overseas with the unit + finally I was told I would be going with them. Just before this I could have had my discharge because I had two small but I liked my work + finally was allowed to stay Just before going to England I was transfered to the infantry. When I arrived in England I was told I would

Fred Moore
Major

going a.w.l. I'm sure from what the Platoon feelings are, that he really did not realize what seriousness it meant when he took this way out, to help the platoon.

(R.P 83b Complied with)

What kind of check did you make? How long after the attack?

EXHIBIT "A"

Summary of evidence in the case of No B 40375 Rfn Desjardins L., B Coy, Queens own Rifles of Canada, charged with being absent without leave (AA sec 15 (a))

First Witness. Jam B 135772 Sgt Baker A. J. "B" Coy, Q.O.R. of C. at 2130 hrs. 30 Jan 45, Rfn Desjardins, whom I now recognize & point out, failed to answer his name on daily roll call. I then reported him absent. Sgt A.J. Baker

The accused declines to cross-examine this witness.

Second Witness. Jam B 139432 Cpl Robson J. of B Coy Q.O.R. of C. — On 19 Feb 45 at approximately 1730 hours I was with Cpl Dearness W. when Rfn Desjardins whom I recognize & point out reported back from A.W.L. Cpl Dearness has since been killed in action & cannot give this evidence. Cpl Robson J.

The accused was cautioned as follows:-

Q. Do you wish to make any statement & to give evidence on oath? You are not obliged to say anything & give evidence unless you wish to do so, but whatever you say & any evidence you give will be taken down in writing and may be given in evidence

A. I want to make a statement.

Q. On oath or not on oath?

A. On oath

The accused, sworn states:-

On 12 may 1942 I volunteered for the engineers and was accepted. While with the engineers in Canada I was a batman and I liked the work and the unit. I wanted to come overseas with the unit & finally I was told I would be going with them. Just before this I could have had my discharge because I was too small but I liked my work & finally was allowed to stay. Just before going to England I was transferred to the infantry. When I arrived in England I was told I would

EXHIBIT "N"

Deanesse — Major

Summary of evidence in the case of No B 40375 Rfn Desjardins L., B Coy, Queens own Rifles of Canada, charged with being absent without leave (AA sec 15 (a))

First Witness. I am B 135772 Sgt Baker A. J. B Coy, Q.O.R. of C. On parade at 2130 hrs. 30 Jan 45, Rfn Desjardins, whom I now recognize + point out, failed to answer his name on daily roll call. I then reported him absent. Sgt A.J. Baker

The accused declines to cross-examine this witness.

Second Witness. I am B 139432 Cpl Robson D. of B Coy Q.O.R. of C. On 19 Feb 45 at approximately 1730 hours I was with Cpl Deaness W. when Rfn Desjardins whom I recognize + point out reported back from A.W.L. Cpl Deaness has since been killed in action + cannot give this evidence. Cpl Robson D.

The accused was cautioned as follows:-

Q. Do you wish to make any statement + to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

A I want to make a statement.

Q. On oath or not on oath?

A. On oath

The accused, sworn states:-

On 12 may 1943 I volunteered for the engineers and was accepted. While with the engineers in Canada I was a batman and I liked the work and the unit. I wanted to come overseas with the unit + finally I was told I would be going with them. Just before this, I could have had my discharge because I was too small but I liked my work + finally was allowed to stay. Just before going to England I was transfered to the infantry. When I arrived in England I was told I would

be a batman drivers I was sent a drivers course. When I was in England I was a batman. My category at that time was B1 because of my size. I was anxious to get overseas & finally had my category raised & proceeded overseas. When I came up to the R.C.R. they were making an attack & I was put right into a section. I am small and unable to carry full equipment for any great distance. Others in the platoon have to carry part of my equipment. This sort of thing made me discouraged & caused me to go A.W.L. L. Desjardins

The accused does not call any witnesses

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that R.P. 41(C), (D), (E), (F) and 76(2) have been complied with

In the field
12 Nov 45

J.G. Walsh Lt, B Coy
Q.O.R. of C.

Encl. of Exh A

SUMMARY OF EVIDENCE

in the case of

B40375 Rfn DESJARDINS, L, 1st Bn The Queen's Own Rifles of Canada, Canadian Army Overseas, (AF)

The Commanding Officer directs that the evidence be taken on oath:

First Witness B135772 Sjt BAKER, A J, 1st Bn The Queen's Own Rifles of Canada, after being duly sworn states:-

I am B135772 Sjt Baker, A J, "B" Coy, 1st Bn The QOR of C. At 2130 hrs 30 Jan 45, Rfn Desjardins, whom I now recognize and point out, failed to answer his name on roll call. I then reported him absent.

The accused declines to cross-examine this witness.

Sjt A.J. Baker

Second Witness B139432 Cpl ROBSON S, 1st Bn The Queen's Own Rifles of Canada, after being duly sworn states:-

I am B139432 Cpl ROBSON, S, of "B" Coy, 1st Bn The QOR of C. On 19 Feb 45 at approximately 1730 hrs I was with Cpl DEARNESS, W, when Rfn DESJARDINS whom I recognize and point out reported back from A.W.L. Cpl DEARNESS has since been killed in action and cannot give this evidence.

The accused declines to cross-examine this witness.

L cpl Robson, S

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I want to make a statement.

have been complied with

In the Field
12 Mar 45

I.G. Wahn, Lt,
"B" Coy, 1st Bn The QOR of C

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B40375	Rfn	DESJARDINS, Lawrence	1st Bn The QOR of C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 40 Gambling One times.

For AA 15 (1) AWL (9 dys 1 hr) One times.

For ---------- times.

For ---------- times.

Date of first entry in Field Conduct Sheet 7 Aug 44

Date of last entry in Field Conduct Sheet 15 Nov 44

2.—Previous convictions of the accused by a court-martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3.—The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 23 days in military custody, *i.e.*, 22 days in open arrest, 1 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation ~~enlistment~~ is 12 May 1942

7. The service which the accused is allowed to reckon is N/A

†State the military decoration (if any) held by accused.

8. The accused is in possession of† CVSM & Clasp

~~9. (If the accused is a warrant officer or N.C.O.): The accused has served continuously without reduction, to the present date—~~

~~Date of promotion~~

~~In the substantive rank of ----------~~

~~In the war substantive rank of ----------~~

~~In the acting rank of ----------~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(B7833) W1 24998/2404 24,000 7/44 A. & E. W. Ltd. Gp. 698 Forms/B.296(War)/3

Exh: A

SUMMARY OF EVIDENCE

in the case of

B40375 Rfn DESJARDINS, L, 1st Bn The Queen's Own Rifles of Canada, Canadian Army Overseas, (AF)

The Commanding Officer directs that the evidence be taken on oath:

First Witness B135772 Sjt BAKER, A J, 1st Bn The Queen's Own Rifles of Canada, after being duly sworn states:-

I am B135772 Sjt Baker, A J, "B" Coy, 1st Bn The QOR of C. At 2130 hrs 30 Jan 45, Rfn Desjardins, whom I now recognize and point out, failed to answer his name on roll call. I then reported him absent.

The accused declines to cross-examine this witness.

Sjt A.J. Baker

Second Witness B139432 Cpl ROBSON S, 1st Bn The Queen's Own Rifles of Canada, after being duly sworn states:-

I am B139432 Cpl ROBSON, S, of "B" Coy, 1st Bn The QOR of C. On 19 Feb 45 at approximately 1730 hrs I was with Cpl DEARNESS, W, when Rfn DESJARDINS whom I recognize and point out reported back from A.W.L. Cpl DEARNESS has since been killed in action and cannot give this evidence.

The accused declines to cross-examine this witness.

L cpl Robson, S

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I want to make a statement.

(Continued)

Question: On oath or not on oath?

Answer: On oath.

The accused having been duly sworn states-

On 12 May 1942 I volunteered for the engineers, and was accepted. While with the engineers in Canada I was a batman and I liked the work and the unit. I wanted to come overseas with the unit and finally I was told I would be going with them. Just before this, I could have had my discharge because I was too small but I liked my work and finally was allowed to stay. Just before going to England I was transferred to the infantry. When I arrived in England I was told I would be a batman driver and was given a driver's course. While I was in England I was a batman. My category at that time was B1 because of my size. I was anxious to get overseas and finally had my category raised and proceeded overseas. When I came up to the QOR of C, they were making an attack and I was put right into a section. I am small and unable to carry full equipment for any great distance. Others in the platoon have to carry part of my equipment. This sort of thing made me discouraged and caused me to go AWL.

J. Desjardins

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused and that RP 4 (c), (d), (e), (f) and (g) (13) have been complied with

In the Field
12 Mar 45

I.G. Mahn, Lt,
"B" Coy, 1st Bn The QOR of C

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B40375	Rfn	DESJARDINS, Lawrence	1st Bn The QOR of C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 40 Gambling One times.

For AA 15 (1) AWL (9 dys 1 hr) One times.

For ---------- times.

For ---------- times.

Date of first entry in Field Conduct Sheet 7 Aug 44

Date of last entry in Field Conduct Sheet 15 Nov 44

2.—Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3.—The accused at the present time is under sentence for ---------- beginning on the ---------- day of ----------

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 23 days in military custody, *i.e.*, 22 days in open arrest, 1 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 21

6. The date of his attestation ~~calling up for military service~~ is 12 May 1942

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of: CVSM & Clasp

‡State the military decorations (if any) held by accused.

9.—(*If the accused is a warrant officer or N.C.O.*): The accused has served continuously without reduction, to the present date.

Date of Promotion

In the substantive rank of ----------

In the war substantive rank of ----------

In the acting rank of ----------

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Ex. B. Declaration major

(27083) Wt.24209/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 14 day of Mar 45

(S E Lamb) Lt-col

Comd 1st Bn The Q O R of C

MFM 6
(AFB 122)
40/PAS/128 (3438)

No B40375 Name DESJARDINS Sqn, Battery, or Company B Corps CIC Date of enlistment 2-5-42 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Lawrence No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No Signature OC Company, etc F.S. Crinkel Lt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				NO ENTRIES 1 -6-42					
Lethbridge Lethbridge Alberta.	Alta	Spr		VERIFIED: 12 Nov 42..... Granted furlough from 19 Dec 42 to 5 Jan 43 from Lethbridge, Alta, to Penetanguishene, T.W. #A302620.			J H Clarence, Capt		
		Spr							
Kiska, Alaska		Spr		VERIFIED: 12 Nov 43.....J H Clarence, Capt.					
In the Fd	7 Aug	44	Fus	Neglect to prejudice etc, found gambling lines	RSM Humphries, WJ	3 dys CB	F C KORN, Capt.		
In the Fd	15 Nov	44	Rfn	AA 15(1) AWL from 1500 hrs 15 Nov 44 until 1600 hrs 24 Nov 44 (Total time absent 9 dys 1 hr)	Lt AM DEANS CSM WEBB HS	28 dys pay	27 Nov44	S.M. LETT Lt-col	Forf 9 dys pay under FR&I 149(1)(a) Total forf of 37 days pay

CERTIFIED A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

W P Grasside Lt Asst Adj
(J P SECORD) CAPT
Adjt 1st Bn The QOR of C

(OVER)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						Ex: C ← Drill Major			

136R.

PE DESJARDINS C

O. H. M. S.

M. F. B. 270

136R

Pres.

Correspondence to be PINNED here.

Army Form A.3.

ROYAL 22nd REGT. C.A.O. 1 DNOV 1942 ARMY FORM, PRINTING DEPARTMENT

1934

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Sixth day of November, 1942.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*and that it is not practicable to delay the trial for reference to a superior qualified officer.~~]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

~~*I am unable to appoint:—~~

~~*(1) Three Officers to form the Court.~~

~~*(2) A Field Officer as President.~~

~~for the following reasons, namely:—~~]

Proceedings Reviewed

Reviewing Officer

25 Nov 42

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.M. Clark	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	E.M. Crouse	West N.S.R.
Lieut	H.M. Eisenhauer	West N.S.R.
(Waiting) Lieut	E.R. Tweedie	Carlt & York R

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Charles Lumbert Brigadier.

Commanding S Cdn Inf Bde

Convening Officer.

R.M. Clark Major Pres.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E4386 Private DESJARDINS, Laurier. R 22e R	1st Charge:- Sec 15 (1) A.A.	Guilty	Guilty R.M.Clark Major 9-11-42	
	2nd Charge:- Sec 40 A.A.	Guilty	Guilty R.M.Clark Major 9-11-42	
	See charge sheet attached		Four Months detention Stoppage of 33 1/3 R.M.Clark Major 9-11-42	Confirmed. Carls Smith Brigadier Comd. 3 Cdn. Inf. Bde. 10 November 1942

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) Carls Smith Brigadier. (Signed) R.M.Clark Major
Commanding 3 Cdn Inf Bde *Convening Officer* (*e*) Carlt & York R *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 9th day of November, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*3. ~~The interpreter~~
*4. ~~The officers under instruction~~

were duly sworn.

* Omit if not applicable.

Signed this 9th day of November 1942.

R.M.Clark Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (h) on page 782 M.M.L. 1929

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 10th day of November 1942

Carls Smith Brigadier.
Confirming Officer Comd 3 Cdn Inf Bde

Promulgated and extracts taken in the case of No 4386 Private Desjardins L. Regt 22e Regt

(*a*) (Dated) 11th of November 1942 (Signed) [illegible] for —

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Ser. No. 3604-1316 Thos. Law & Co., Ltd. Gp. 748-2

R. McAlach Major Pres.

MEDICAL CERTIFICATE

I certify that I have seen this morning No. E4386 P/E Desjardins L. of D Coy, Royal 22e Regiment, and in my opinion he is fit to undergo trial by Court Martial.

R. Achenbach
Medical Officer

In the Field

9-Nov 1942

R.M. Clark Major Pen.

CHARGE SHEET

The accused, E 4386 Private Laurier DESJARDINS, Royal 22e Regiment, a soldier of the Canadian Army, Overseas, is charged with:-

FIRST CHARGE WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,
A.A.Sec. 15(1)

in that he,

In the Field, at about 1500 hours on the 24th of October, 1942, absented himself without leave until he was apprehended in London, at about 1915 hours on the 3rd day of November, 1942, thereby incurring expenses for his apprehension and his return to his unit in the amount of five shillings and one penny.

SECOND CHARGE WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,
A.A.Sec. 40

in that he,

In London, at about 1915 hours on the 3rd of November, 1942, when arrested by L/Cpl Thompson and L/Cpl Elliott of the Canadian Provost Corps, was in possession of a document purporting to be a genuine leave pass, knowing it not to be genuine.

In the Field,
This 5th day of November, 1942.

(J.P.E.BERNATCHEZ) Lieut-Col.
COMMANDING
Royal 22e Regiment, Cdn. Army, O.

In The Field
6 Nov 42

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(C. Foulkes) Brigadier.
Comd 3 Cdn Inf Bde.

11-9-42

The Member of the Court were as follows

Pres. Major R.M. Clark Carlt. York Regd.

Member Capt. E. M. Crouse W. N. S. R.

Lieut H. M. Eisenhauer W. N. S. R.

R.M. Clark Major Pres.

B. McClash Major Pres.

FORM A

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD IN THE FIELD

Trial of No. E. 4386 Pte. Desjardins Laurier R. 22 Regt

Prosecutor. Lieut. B. J. Grimmond R. 22 R.

defending Officer. Lieut. J. Roy R. 22 R.

Officers under Instruction. Nil

1 The order convening the Court is read in the presence of the accused

2. The accused is asked the following questions:-

Do you object to being tried by the President or any Members of the Court, whose names you have heard read over?

Answer. No Sir

3 The President, Members, ~~Judge Advocate, Officers under instruction Shorthand writer, and interpreter~~ Duly are duly sworn.

4 The accused having pleaded guilty to the First and the Second charges P.P. 35 (E) is complied with.

5 ~~The accused is asked the question at the foot of page 2 of A.F.A. 3 and his answer is recorded beneath the question.~~ Duly

6 The Prosecutor makes (no) ~~(the following)~~ Duly opening

I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matter forming the subject of the charges before this Court Martial.

Field General Court Martial of G 4386 Pte Desjardins Lawrence R22R
9-11-42

Lieut B.J. Guimond R22R was sworn and presented exhibits D-1, D-2, D-3 as evidence and the Accused was identified by the witness as the person referred to therein. The summary of evidence is read marked B & signed by Pres and attached to the Proceedings.

Recall

After finding the Prosecutor presented ~~Certificate of apprehension, Certificate of arrest and~~ a Short Statement as to particulars of service of the Accused.

A.M. Melach Major Pres.

R. McClark Major Pres.

Lieut B. J. Guimond R 22 R

Exhibit "A"

No Sir

Attached

Lieut J. Roi, Royal 22nd Regt, defending officer, makes the following statement in mitigation of punishment.

The accused had proceeded on leave when he met a French Canadian of the F. M. R's and this chap is the one that remitted the pass to him: the accused admits having overstayed his leave and frankly confesses that he had no intentions of doing so. He went for a period of a week in Scotland with his girl-friend. I presume that would not have happened if he would have been on his own. His conduct can not be considered a bad one because all his entries are of a very small importance. The accused has made application for a transfer to the F. M. R's where his two elder brothers are serving, and I feel that a big change will take place then. I ask the court to be as lenient as possible.

D. McLeod Major Pres.

R.M. Black Major Pres.

B2

SUMMARY OF EVIDENCE

in the case of

E 4386 Private Laurier DESJARDINS, Royal 22e Regiment, a soldier of the Canadian Army, Overseas.

Evidence taken on oath by order of the Commanding Officer.

- -

FIRST WITNESS FOR PROSECUTION

E 4548 L/Sergeant LACELLE, E., Royal 22e Regiment, having been duly sworn states:-

" I am a Sergeant of the Royal 22e Regiment posted to "D" Company. On the 24th of October, 1942, I was acting as Company Orderly Sergeant for my Company. Private Desjardins, who was on leave until 1500 hours that date, failed to report to me. I reported his absence to the C.S.M.. Pte Desjardins was still absent on the following days while I was acting as C.O.S..

..E. Lacelle..... L/Sgt

The accused declines to cross-examine this witness.

SECOND WITNESS FOR PROSECUTION

P 48710 Company Sergeant Major MIVILLE, P., Royal 22e Regiment, having been duly sworn states:-

" I am a C.S.M. of the Royal 22e Regiment posted to "D" Company. On the 24th of October, 1942, L/Sgt. Lacelle reported to me that Private Desjardins had failed to report from leave. Private Desjardins was on leave until 1500 hours that date. He was still absent the following days and was not heard of until he was reported as having been apprehended in London on the 3rd of November, 1942.

.....CSM

The accused declines to cross-examine this witness.

THIRD WITNESS FOR PROSECUTION

Lieutenant B.J.GUIMOND, prosecuting officer, Royal 22e Regiment, who will be called as a witness to produce in evidence the following documents in accordance with A.A.163.

a) Certificate of apprehension in accordance with P.C.2797 of 10 Apr.42, showing the apprehension of the accused as having taken place at about 1915 hours on the 3rd of November, 1942.

...ry re:
...jardins
(CONT'D)

...ird Witness
CONT'D

b) Certificate of expenses in accordance with K.R.& O.(Can) para.539 dated the 4th of November, 1942, showing the expenses incurred in returning the accused to have been of five shillings and one penny.

The accused declines to cross-examine this witness at this point.

FOURTH WITNESS FOR PROSECUTION — G 3094 L/Corporal THOMPSON.J., Canadian Provost Corps who will be called as a witness in pursuance to R.P. 76 to give evidence on the following point:

i) That when he arrested the accused on the 3rd of Nov. 1942. he, the accused was in possession of a document purporting to be a genuine leave pass, which document he presented as a genuine leave pass. L/Cpl Thompson will produce EXH D.

FIFTH WITNESS FOR PROSECUTION — M110792 L/Corporal ELLIOTT. J., Canadian Provost Corps who will be called as a witness in pursuance to R.P. 76 to give evidemne on the following ppint:-

i) That he was in company with L/Cpl Thompson when Private Desjardins was arrested and that he saw him, Private Desjardins, produce a document purporting to be a genuine leave pass, while he knew that such document was not genuine.

The accused was duly warned in accordance with R.P. 4(E) . but declines to make a statement and reserves his defence.

The evidence was taken in the presence and within the hearing of the accused, in the Field, on the 5th of Nov. 1942, by the undersigned.

Compliance with R.P.4(C),(D),(E) and (F) certified.

(B.J.GUIMOND) Lieutenant.
Officer detailed to take Summary by Commanding Officer.

In the Field.

This 5th day of November, 1942.

P.M. Clark Major Pres.

LIST OF WITNESSES

in the case of

E 4386 Private Laurier DESJARDINS. Royal 22e Regiment, a soldier of the Canadian Army. Overseas.

PROSECUTION

E 4548	L/Sergeant	LACELLE.	E.	Royal 22e Regiment.
P 48710	C.S.M.	MIVILLE.	P.	Royal 22e Regiment,
	Lieutenant	GUIMOND,	B.J.	Royal 22e Regiment,
G 3095	L/Corporal	THOMPSON,	J.	Cdn Provost Corps,
M 10792	L/Corporal	ELLIOTT,	J.	Cdn Provost Corps.

DEFENCE

N-----I-----L

- -

LIST OF EXHIBITS

Exh. D-1 Certificate of apprehension in acc. with P.C. 2797 of 10 Apr. 1942.

Exh. D-2 Certificate of expenses in acc. with K.R.& O.(CAN) para 539.

Exh. D-3 False leave pass.

- -

STATEMENT BY THE ACCUSED

I, E 4386 Private Desjardins L., Royal 22e Regiment, desire to have an officer assigned to represent me at my trial by Field General Court Martial.

I desire the services of Lieut. J.ROY, Royal 22e Regiment. if he is available.

This is to certify that I have been given free of charge copy of the documents. proceedings, etc., relating to my trial by Field General Court Martial.

.....Desjardins L. Pte

In the Field,

This 5th day of Nov. 1942.

D1 • B M Cloch Major Bus.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I CERTIFY that No E-4388.... Rank Pte., Name .Desjardins, L.....

Unit ..."B" Coy. R.22.R..... was arrested at London.....(Place)

By the Cdn. Provost Corps.

at 1915...(Hour) on 3-Nov-42.....(Date) and that at the time of his arrest he was wearing (Military Uniform) or (~~[illegible]~~) Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest.

(Strike out part inapplicable)'

[signature].....Lieut.

Officer i/c Detention Room,

No. 6 Cdn. Provost Coy.

D2 Expense Voucher Re—: R McLeod Major Pres.

Ref: K.R. & O. (Can) 539

Reg. No. E4386 Rank Pt. Name Desjardins, L Unit R 220 R

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount		
4/11/42	Escorts return fare from LONDON (1/3 portion) To Lewes		5	1
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Lewes	Own ticket		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		5	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Lieut.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/F & S/493

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 171 Regiment F.M.R. D3

R.M. Clark Major
Pres.

PASS

Army Form B295
(In pads of 100)

No. E1865 (Rank) Pte (Name) Desjardins L.

has permission to be absent from his †quarters/duty, from

13.00 - 25 oct 42 to 13.00 - 3 nov 42

for the purpose of proceeding to* Liverpool

(Station) in the field

(Date) 22 oct 42

P. Wagner Lt
Commanding

[P.T.O.

* Destination not required unless absence is to exceed 24 hours, unless notification is desirable owing to local conditions or is necessary to enable purchase of a rail ticket at reduced rate.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

Wt. 29424/909 250m. 10/41. D.P.W. 51-7863

R. M. Alach Major Pres.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED.

E4386 Private DESJARDINS Laurier, Lac. R.

(a) The accused has been in confinement awaiting trial on the present charge (s) for Nil days in civil Custody and 6 days in military custody maing a total of 6 days of which Nil days were spent in hosptial

(b) The present age of the accused according to his own statement is 26 years.

(c) The date of his attestation specified in his attestation paper is 20th October, 1939

(d) The accused is in possession of, or entitled to no military decoration or military award, (or is in possession of or entitled to No military decoration

I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

[signature] Adjutant.
[illegible] REGIMENT, C.A.S.F.

Date 9 Nov. 1942

R.M. Black Major Pres.

SHORT STATEMENT AS TO PARTICULARS OF SERVICE OF THE ACCUSED.

E4386 Private DESJARDINS Laurier, Lez. R.

(a) The accused has been in confinement awaiting trial on the present charge (s) for Nil days in civil Custody and 6 days in military custody maing a total of 6 days of which Nil days were spent in hosptial.

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I hereby certify that the foregoing particulars are true extracts from the Regimental Books in my custody.

[signature] Adjutant,
[illegible] REGIMENT, C.A.S.F.

Date 9 Nov. 1942

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. 171 Regiment F.M.R. D3

Army Form 1[illegible]
(In pads of 100)

PASS

No. E1365 (Rank) Pte (Name) Desjardins L.

has permission to be absent from his †quarters/duty, from

13.00 - 25 oct 42 to 13.00 - 3 nov 42

for the purpose of proceeding to* Liverpool

(Station) in the field

(Date) 22 oct 42

P. Wagner Lt
Commanding

[P.T.O.

* Destination not required unless absence is to be [illegible] 24 hours, unless notification is desirable owing to local conditions or is necessary to obtain purchase of a rail ticket at reduced fare.

† Delete whichever is not practicable.

CROWN COPYRIGHT RESERVED

A Soldier on pass who requires medical aid must apply for it, personally if possible, to the nearest Military, R. Naval or R. Air Force hospital or other Medical formation, showing this pass. If, however, he resides more than two miles from such hospital, etc., he may apply to a civilian doctor, to whom he will show this pass, and the doctor will then be allowed the following rates for medical attendance on the soldier at the latter's residence.

VISIT AND MEDICINE	If not more than 2 miles away	Greater distances
Day	4s. 0d.	An addition of 6d. for each mile or part of a mile with a limit of £1 a visit.
Night 22·00 to 07·00 hrs.	6s. 0d.	

When the soldier visits the surgery of a civilian doctor, the fee payable in respect of such visits will be :—6s. per visit.

The Soldier will at once report the employment of the civilian doctor by a letter addressed to his Commanding Officer to whom the civilian doctor will submit his claim on Army Form O. 1667 for payment.

If hospital treatment is necessary, the soldier will at once report the fact, if possible, to the nearest Military, R. Naval or R. Air Force hospital, Military Research Station or Medical Inspection Room for Troops, and failing that to his Commanding Officer, when arrangements will be made, wherever possible, for any necessary treatment to be given from military sources. If a soldier is admitted to a R. Naval or R. Air Force hospital, he will report the fact immediately to his Commanding Officer. If, in the event of emergency, a soldier is admitted to a civil hospital, he will report the fact immediately to his Commanding Officer, who will at once notify the Assistant Director of Medical Services concerned.

When a soldier on pass is prevented by sickness, which must be properly certified, or by other unavoidable causes, from rejoining his Corps by the date on which his pass expires, he is to report himself before that date—

To the nearest General or other Officer on the staff of the Army or to the Commanding Officer of any unit or detachment of the Regular Army; or (if none of these be within convenient distance) to a Justice of the Peace.

If in Eire, he is to furnish the medical certificate to his C.O.

A Soldier on leave or furlough who requires emergency dental treatment must apply for it to the nearest military, Royal Naval or Royal Air Force Hospital or Dental Centre.

If he resides more than two miles from such hospital or dental centre, he may apply to a civilian dental practitioner to whom he will show this pass; the dental practitioner will be paid only for strictly emergency treatment and at the rates admissible under the National Health Insurance Act (Dental Benefit Regulations).

The soldier will at once report the employment of the civilian dental practitioner to his Commanding Officer, and the practitioner will submit his claim for payment on Army Form O 1667, and forward it to the Deputy Director of Medical Services at the headquarters of the Command in which the soldier is temporarily residing.

These instructions, where applicable, will also be held to refer to a member (other than an officer) of the Auxiliary Territorial Service or of a Voluntary Aid Detachment called out for service.

If his pass exceeds 24 hours a soldier is to leave his address with the Captain of his company, and he must at all times be prepared to return on the shortest notice, if ordered to do so.

Note.—The above instructions are not applicable to a soldier on Field Service [illegible]

Exhibit "A"

M.F.M. 6 (A.F.B. 122) 500M—8-39 (1701) H.Q. 1772-43-18

Pte. D.M. Clark Major Pres.

No. 54386 Name Derjardins Sqn., Battery, or Company "D" Corps R.22.R C.A.(C) Date of enlistment [illegible] 37 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 3 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the Field	31-12-40	Pte		AWL 3 days 21 ch hrs	Cpl Mouille	14 days C.B.	6-1-41	Maj [illegible]	forfeit 7 days [illegible]
" " "	10-1-41	"		AWL 12 days 0140 hrs AA 15	Cpl Roy	28 days C.B.	28-1-41	Lt Col Mattanson	forfeit 13 days pay
"	10								
" " "	7-2-41	"		AWL 17 days 1130 hrs 2 Breaking out of barracks AA 512-15	Cpl Ruard Cpl Ferron	28 days Det	24-2-41	Maj [illegible]	forfeit 2 days pay
" " "	14-5-41	"		AWL 0826 hrs Till 0945 hrs	Cpl Rousseau	7 days F.P.	16-5-41	Maj. [illegible]	forfeit 7 days pay
38 " "	18-5-42	"		1- Failing to appear at the place of parade appointed by his superior Officer					
				2. AWL from 2200 hrs 13-5-42 till 0865 hrs 25-5-42 total 6 days 8 hrs	Documentary	21 days F.P.	4-6-42	Major Mallette	forfeit 6 days pay
" " "	2-5-42	"		1- Disobedient language towards a superior Officer	O.S.M. Mouille Cpl Bardin	7 days C.B.		Lt Pagette	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On the 20-10-41 this soldier completed two years service. In accordance with R.O. 11 C.A.O. the above right entries were transferred from previous sheet which was then destroyed.									
In the field	13-8-42	Pte		A.W.L. from 1810 hrs 13-8-42 till 1200 hrs 21-8-42 Total 7 days 18 hrs	Cpl Lacelle Documentary	21 days F.P.	25-8-42	H Col Benatchez	Forfeit 8 days pay to 21 days pay
" " "	14-9-42	"		Neglect to obey an order given by a superior officer	Cpl Lalonde	7 days C.B.	16-8-42	Major Morrow	
" " "	24-9-42	"		N.O.A.S. Insubordination to a superior Officer	Sgt St Marie Cpl Pelotte	7 days C.B.	24-9-42	Lieut Arquet	

Certified True Copy

[signature]

Dir. of Corporal Ale. Regiment C.A.S.F.

5 NOV 1942

EEE-16

PTE DESJARDINS P

Correspondence to be PINNED here

666 16

D75

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Thirty-first day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

for the following reasons, namely:—

PROCEEDINGS REVIEWED

[signature] Capt
21 March 1944

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.W. Rogers	Best NSR

Members.

Rank.	Name.	Regiment.
Captain	J.M. Bursey	Carlt & York R
Captain	G.L. Bestedo	3 Cdn Inf Bde Sp Op (Sask LI)
Lieut	R.L. Dennison	Best NSR

Waiting

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brigadier,
Commanding 3 Cdn Inf Bde
Convening Officer.

(A) [signature] Major

D75

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D61369 Pte Paul DESJARLAIS, R 22e R	First Charge AA Sec 9 (2)	Guilty	Guilty two years imprisonment with hard labour 1 Feb 44 O.W.R.	Confirmed [signature]

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) [signature] Brigadier (Signed) [signature] Major

Commanding 3 Cdn Inf Bde — Convening Officer (e)

[signature] West N.S.R. — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be FINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of February, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(~~4. The officers under instruction~~) O.W.R.

were duly sworn.

* Omit if not applicable.

Signed this 1st day of February 1944.

[signature] Major
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 762 M.M.L. 1929.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 3 day of Feb 1944

[signature] Brig
Confirming Officer.

Promulgated and extracts taken in the case of D61369, Pte Desjarlais, R 22e R.

(a) (Dated) 5 Feb 1944 (Signed) [signature] Lieut R22e R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Army Form A 9.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 1st day of February 1944 by order of Brigadier General F. G. Gibson

Commanding 3rd Canadian Infantry Brigade dated the 31 day of January 1944

C.W.R. President

Major A. W. Rogers West N.S.R.

Members.

Captain J. M. Bursey Carlt. & Yrk R.
Captain G. L. Bastedo Sask L.I.

Trial of* D-61369 Pte Paul Desjarlais R22aR , ~~Judge Advocate~~

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~ C.W.R.

, ~~waiting member takes his place as a member of the Court.~~ C.W.R.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J. A. Girolami R22aR.

Counsel‡ or defending officer† Lieut J.P.T. Charette R22aR.

At 1530 hrs. o'clock the Trial commences.

The order convening the Court is read, and is marked (A) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

30057 W.L.W4182021 10,000 pts. 12/41 K. & M., Ltd. 6607/11. Form 8838.

B

The President, members and ~~judge-advocate~~ O.W.R. are duly sworn.

~~The following officers under instruction are duly sworn.~~ O.W.R.

Q - Do you object to E-4427 Pte Lamoureux A. R22eR acting as interpreter?

A - No, sir

The interpreter is duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? Guilty

Question to the accused.

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ O.W.R.

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ O.W.R.

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ O.W.R.

Question.

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the trial will not proceed upon the record of a plea of "Guilty," until after the finding on another charge.

Instruction.

CHARGE SHEET

The accused D.61369 Private Paul DESJARLAIS, a soldier of the Royal 22eRegimt, Canadian Army Overseas, On active Service is charged with:-

1st Charge: WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,
A.A.Sec.9(2)

in that he,

B2.

In the Field, at about 1730 hours on the 20 December 1943, did not proceed to his company on the front line when ordered to do so by Captain Jalbert, Royal 22e Regiment.

(J.V. Allard), Lt-Col.,
Commanding Royal 22e Regiment.

In the Field
6th January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(T.G. Gibson), Brigadier,
Commanding 3 Can Inf Bde.

In the Field
31 Jan 44

A.W. Rogers
Major

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No. D61364

Rank Pte. Name Dufaclaur P. of Royal 22nd Regt.

and in my opinion he is lt/~~unfit~~ to undergo Trial by Court Martial.

A.

Station N. The Field

Date 1/2/44

A. W. Rogers
Major

Richard S. Dickes Capt.
Medical Officer.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused D-61369 Pte. Paul Desjarlais R22eR.
is found guilty of the charge

†The summary (~~or abstract~~) of evidence is read, marked (B) signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?
yes

Answer. The accused in mitigation of punishment ~~says~~ G.W.R.:—

G.W.R. [~~or~~ hands in a written statement, which is read, marked ~~B~~ (C) G.W.R., signed by the President, and attached to the proceedings.]

Instruction. † If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. No

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding~~

~~The Court find that the accused~~ — C.W.R.

*When the Court is already open this sentence will be struck out.

Proceedings on Conviction *before* Sentence.

Evidence of character, &c.

~~*The Court being re-opened, the accused is again brought before it.~~

Lieut J.A. Girolami Rrsk is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked (D), signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. yes

Cross-examined by the accused.

The accused declines to cross-examine this witness.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D-61369 Pte. Paul Desjarlais R22R Sentence

To be imprisoned with hard labour for two years

O.W. Rogers Major
J.M. Bursey Capt.
G.L. Bastedo Capt.

Signed at Field this 1st day of February 1944

O.W. Rogers Major
President

Plea of Mitigation 1-2-44

~~Closing address of the Defence.~~

A.W.L. D.61369 Pte Desjarlais Paul.

This man who is 30 years old, enlisted on Sep. 39. Left Canada with his Unit, and went to Iceland on June 40. His Unit then was Fusiliers Mont Royal. He was then a Corporal in the Transport section. He is qualified as a Driver Mechanic Group C. One day, while with the F.M.R. he asked for a transfer to Regt. de Maisonneuve, where his brother was. For this he had to revert to Pte. Later while at this new Regt. he was sent on a ~~course~~ Dr. Mech. course, once this course was over, he automatically went back to a Holding Unit. At this place he was a L/Cpl and still in the Transport Sec. In Sept. 43, a draft was called, and on this draft list, Driver Mechanics were included. he immediately volunteered and gave his name. For this, he lost his stripe and his tradespay. This man was never on training as a rifleman and is naturally unfit for this work. Pte Desjarlais has a clean Crime sheet, as this is his first offence since the day he enlisted, more than 4 years ago. He is willing to go to the front line only in the capacity of Driver Mechanic.

So I ask clemency of this Court, because I know that this man is not a coward, that he ~~a~~ is ready to fulfill his duty to the limit if he has the opportunity again to do.

J.H. Chantle Lieut.
Royal 22nd Regt.

A.W. Rogers
Major

SUMMARY OF EVIDENCE

In the case of D.61369 Private Paul DESJARLAIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness for the Prosecution.

Captain J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:-

" I am Captain J.B. Jalbert, R.22e.R. On the 20th December 1943, I, Captain J.B. Jalbert was O.C. HQ Coy. of the Royal 22e Regiment, and in charge of the "B" Echelon. At about 1730 hours on the 20th December 1943 I had a parade of soldiers A.W.L. I explained them the situation that now they have had a night or two of good sleeping and a good rest they were to go back to their respective coy. I told them that their absence will be judged by their company commander but I was now giving them a definite order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to the Miliatry Law. I then called each name and gave to each one the order to get in the truck. When I called the name of the accused Pte Desjarlais P. whom I now recognize the accused answered " I don't go" or words to taht effect. After I had organized those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was did not go.
then put under close arrest.

The accused declines to cross examine the witness.

Capt.

2nd Witness for the Prosecution.

E.4286 L/Cpl Mercier P. Royal 22e Regiment, having been duly sworn states:-

" I am E.4286 L/Cpl Mercier P. R.22e.R. On 20th December 1943 I was present when Captain Jalbert O.C. "B" Echelon Royal 22e Regiment, ordered Pte Desjarlais to proceed to his company in the front line. Pte Desjarlais refused to do so, saying " I won't go " or words to that effect and I was ordered to put him in the guard room.

The accused declines to cross examine the witness.

L/Cpl.

In the case of D.61369 Private Paul DESJARLAIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness: For the Prosecution.

E.4671 L/Cpl. Beaudet, E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl. Beaudet, E. Clerk of "HQ" company of the Royal 22e Regiment, On the 20th of December 1943, at about 1730 hours, I was present when Captain J.B. Jalbert ordered Pte. Desjarlais, P. the accused, whom I now recognize, to rejoin his company on the front line. The accused refused saying "I dont go" or words to that effect. He did not go forward and after four or five minutes, time taken by Captain ~~xxxxx~~ Jalbert to organise the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

Beaudet E L/Cpl.

The accused havingbeen duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c),(d),(e), (f) and (g) were duly complied with.

Lieut.
Officer taking summary.

In the Field
6th January 1944.

M.F.M. 5
(A.F.B. 122)
375M—7-41 (1219-28)
H.Q. 1772-39-1682

No. 961369. Name Dejulais P. Sqn., Battery, or Company Corps Inf. Date of enlistment 11 Sept. 39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary Conduct Sheet [signature] Capt. Adj. NO RECORDS AVAILABLE					

D

[signature]

ARMY FORM B.200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D 61369	Pte.	Desjarlais P.	R 22e R.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :— N/A.

No documents (H.F.M. 6 on 14) available

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 477, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated

	*Within last 12 months.	*Since Enlistment.
For	times	times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, N/A

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for _____ beginning on the _____ day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 20 days in military custody, making a total of 20 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service ~~attestation paper~~ is 30 years 11.

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 14 Sept 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is _____

8. The accused is entitled to deferred pay or gratuity in respect of _____ service.

9. The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)).

11. (*If the accused is a warrant officer*.) The accused before he was made a warrant officer last held the regimental rank of _____

12. (*In the case of an officer*.) The accused holds in the army the rank of _____ dated _____ and in his regiment (or corps or department) the rank of _____ dated _____

(C.22564) W.O. 11/2565/1477 10,000 10/40 A.S.K.W. Ltd. Gp.698

W. Hogan Major

CERTIFIED TRUE COPY

H. McDougall CAPT

(H.J.McDOUGALL

EEE-16 (OL)

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Thirty-first day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~] "TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*(I am unable to appoint~~

~~*(1) Three Officers to form the Court)~~ "TTG"

~~*(2) A Field Officer as President.)~~

~~for the following reasons, namely~~

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.W. Rogers	West N.S.R.

Members.

Rank.	Name.	Regiment.
Captain	J.M. Bursey	Carlt & York R
Captain	G.L. Bastedo	3 Cdn Inf Bde Sp Gp (Sask L.I)
Lieut	R.L. Dennison	West N.S.R.

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.T. Gibson, Brigadier"

Commanding 3 Cdn Inf Bde

Convening Officer.

(A)"A.W. Rogers Major"

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D61369 Pte Paul DESJARLAIS, R 22e R	First Charge AA Sec 9 (2)	Guilty	Guilty two years imprisonment with hard labour 1 Feb 44. "A.W.R."	Confirmed "TTG"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.T. Gibson." Brigadier (Signed) "A.W. Rogers." Major.
Commanding 3 Cdn Inf Bde West N.S.B. President.
Convening Officer (a)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings

I certify that the above Court assembled on the 1st day of February, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)

~~*(4. The officers under instruction)~~ "AWR"

were duly sworn.

*Omit if not applicable.

Signed this 1st day of February 1944.

"A.W. Rogers, Major."
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (2) on page 767 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be retained to prison or detention barracks until further orders.~~

Signed this 3 day of Feb 1944

"T.T. Gibson, Brig."
Confirming Officer.

Promulgated and extracts taken in the case of D61369 Pte Desjarlais P. R 22e R

(a) (Dated) 5 Feb 1944 (Signed) "J.A. Girolami, Lieut" R22eR

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

CHARGE SHEET

The accused D.61369 Private Paul DESJARLAIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On active Service is charged with:-

1st Charge: A.A.Sec.9(2) — WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

B2 In the Field, at about 1730 hours on the 20 December 1943, did not proceed to his company on the front line when ordered to do so by Captain Jalbert, Royal 22e Regiment.

"Jeanallard"
(J.V. Allard), Lt-Col.
Commanding Royal 22e Regiment.

In the Field

6th January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
31 Jan 44

"T.C. Gibson."
(T.C. Gibson), Brigadier
Commanding 3 Cdn Inf Bde.

W. Rogers, Major"

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. D.61364 Pte Desjarlais P. Royal 22e Regt. and in my opinion he is fit/unfit to undergo Trial by Court Martial.

"Richard S. Berks. Capt"..
Medical Officer.

(A)

Station In the Field
Date 1/2/44

" A.W. Rogers, Major."

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 1st day of February 1944 by order of

Brigadier General T.G Gibson

Commanding 3rd Canadian Infantry Brigade

dated the 31 day of "AWR" January 1944

President.

Major A.W. Rogers West N.S.R.

Members.

Captain J.M. Bursey Cerlt & York R.
Captain G.L. Bastedo Sask L.I.

, ~~Judge Advocate~~

Trial of* D-61369 Pte Paul Desjarlais R 22e R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~ "AWR"

~~waiting member takes his place as a member of the Court.~~ "AWR"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J.A. Girolami, " 22e R

Counsel‡ or defending officer† Lieut J.P.T. Charette, R 22e R

At 1530 hrs o'clock the Trial commences.

The order convening the Court is read, and is marked (A) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

"AWR"

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn:~~ "AWR"

Q - Do you object to E-4437 Pte Laniaureux A. R 22e R acting as interpreter?
A - No, Sir.

The interpreter is duly sworn.

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? Guilty

Question to the accused.

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ "AWR"

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ "AWR"

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ "AWR"

Question.

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused D-61369 Pte Paul Desjarlais, R 22e R is found guilty of the Charge

†The summary (or abstract) of evidence is read, marked (B) signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes

Answer. The accused in mitigation of punishment says, — "AWE"

"AWE"

[or hands in a written statement, which is read, marked "C", signed by the President, and attached to the proceedings.] "AWE"

Instructions.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer.

no

Evidence as to character

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~ "AWR".

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

~~*The Court being reopened, the accused is again brought before it.~~

Lieut J.A. Girolami R 22e R is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked (D) signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

Cross-examined by the accused.

The accused decines to cross-examine this witness.

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D-61369 Pte Paul Desjarlais R 22e R

Sentence To be imprisoned with hard labour for two years

"A.W. Rogers, Major"
"J.E. Bursey, Capt"
"G.L. Bastedo, Capt"

Signed at Field this 1st day of February 1944

"A.W. Rogers, Major
President"

Plea of Mitigation 1-2-44

(A)
AWR"

D.61369 Pte Desjarlais Paul.

This man who is 30 years old, enlisted on Sep 39. Left Canada with his unit, and went to Iceland on June 40. His unit then was [illegible] Fusiliers Mont Royal . He was then a Corporal in the Transport section. He is Qualified as a Driver Mechanic Group "C". One day while with the F.M.R. he asked for a transfer to Regt de Maisonneuve, where his brother was. For this he had to revert to Pte. Later while at this new Regt. he was sent on a Dr. Mech. course, once this course was over, he automatically went back to a Holding Unit. At this place he was a L/Cpl and still in the Transport Sec. 2 Sep 43, a draft was called, and on this draft list, Driver Mechanics were included, he immediately volunteered and gave his name. For this, he lost his stripe and his tradespay. This man was never on training as a rifleman and is naturally unfit for this work. Pte. Desjarlais has a clean Crime sheet, as this is his first offence since the day he enlisted, more than 4 years ago. He is willing to go to the front line only in the capacity of Driver Mechanic.

So I ask the clemency of this Court, because I know that this man is not a coward, that he is ready to fulfill his duty to the limit if he has the oppotunaty again to do.

"J.P.T. Charette, Lieut."
Royal 22nd Regt

"A.W. Rogers
Major"

M.F.M. 6
(A.F.H. 127)
40/P & S/136 (2637)

No. 961369 Name Desjarlais P. Sqn., Battery, or Company — Corps Inf — Date of enlistment 14 Sep 39 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Temporary Conduct Sheet					
				"Undesipherable" Capt Adj					
(D)				No Record Available.					
"A.W. Rogers Major"									

(P.T.O.)

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-61369	Pte.	Desjarlais P.	R 22e R

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with. N/A ~~None~~ No documents (M.F.M. 6 or 14) available

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct N/A

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary~~ awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 20 days in ~~Air Force~~ military custody, making a total of 20 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 30 years old

6. The date of his ~~enrolment~~ attestation specified in his record of service is ~~attestation paper~~ 14 Sep 1939

7. The service which the accused is allowed to reckon towards discharge is .....

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. ~~The accused is in possession of an air force decoration, or air force reward (or is in~~ ~~possession of~~ or entitled to). State any air force decoration or reward. military military

10. (~~If the accused is a warrant officer.~~) The accused before he was made a warrant officer last held Air Force the regimental rank of .....

"A.W. Rogers Major"

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of Maj years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of January 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "Guildond, Capt Adj, Royal 22e Regiment." signed by the president, and annexed to the proceedings.

SUMMARY OF EVIDENCE

In the case of D.61369 Private Paul DESJARLAIS, a sodier of the RoyalX 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding officer this summary of Evidence is taken under oath.

1st Witness for the Prosecution

Captain J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:

" I am Captain J.B. Jalbert, R.22eR. On the 20th December 1943, I, Captain J.B. Jalbert was O.C. HQ Coy. of the Royal 22e Regiment, and in charge of the "B" Echelon. At about 1730 hours on the 20th December 1943 I had a parade of soldiers A.W.L. I explained them the situation that now ~~there~~ they have had a night or two of good sleeping and a good rest they were to go bach to their respective coy. I told them that their absence will be judged by their company commander but I was now giving them a definate order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to the Military Law. I then called each name and gave to each one the order to get in the truck. When I called the name of the accused Pte Desjarlais P. whom I now recognize the accused answered " I don't go" or words to that effect. After I had organized those whowere going back, i.e at least five minutes later, the accused still had not gone and did not go. He was then put under close arrest.

The accused declines to cross examine the witness.

"J.B. Jalbert Capt." Capt

2nd Witness for the Prosecution.

E.4286 L/Cpl Mercier P. Royal 22e Regiment, having been duly sworn states:

" I am E.4286 L/Cpl Mercier P R.22eR. On 20th December 1943 I was present when Captain Jalbert O.C. "B" Echelon Royal 22e Regiment, ordered Pte Desjarlais to proceed to his company in the front line. Pte Desjarlais ~~did~~ not do so. saying "I won't go" or words to that effect and I was ordered to put him in the guard room.

The accused declines to cross examine the witness.

"Mercier P." L/Cpl.

A.W.P. Rogers Major

In the case of D.61369 Private Paul DESJARLAIS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness: For the Prosecution

E.4671 L/Cpl. Beaudet, E. Royal 22e Regiment, having been duly sworn states:

" I am E.4671 L/Cpl. Beaudet, E. clerk "HQ" company of the Royal 22e Regimebt, On the 20th December 1943, at about 1730 hours, I was present when Captain J.B. Jalbert ordered Pte. Desjarlais, P. the accused, whom I now recognize, to rejoin his company on the front line. The accused refused saying " I dont go" or words to that effect. He did not go forward and after four or five minutes, time taken by Captain Jalbert to organize theones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was turned to the guard room.

"B"

The accused declines to cross examine the witness.

"Beaudet E." L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c),(d),(e), (f) and (g) were duly complied with.

In the Field

6th January 1944.

"Undesipherable" Lieut
Officer taking summary

"A.W. Rogers Major."

4B-16.

te. Desjardins V.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-55627 Pte Victor DESJARDINS, X-4 List, Lorne Scots, 9 CBR Bn

	Charge. (Insert "alternative" where applicable)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AFR 71(1) Charge	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

[illegible] "FAR"

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

nine months detention.

(Sgd) [illegible] "FAR" Judge Advocate. 23 Oct 44 Date awarded. (Sgd) "F.A.Robertson" Major President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

[illegible] "FAR"

(1. AA 57A. Delete if not used.)

Date 23 Oct 44 (Sgd) "G. Francoeur"

Commanding 2 CBRG Brig

Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
627 Pte Victor JARDINS, X4 List, ne Scots on strength Bn	24 Oct 44	"C.L.Nelson" Capt & Adjt 9 Bn, 2 C.B.R.G.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4/3-16

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3) G.P.S. 8/1668 (2604)

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 20 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55627	Pte	Victor	DESJARDINS	X-4 List Lorne Scots 9 CBR Bn

CERTIFIED TRUE COPY

PROCEEDINGS OF G.H.Q. 2 Army Gp Date

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 23 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/53

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 749 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.) "FAR"

A3. The Court is opened. The accused is (are) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial. "FAR"

[illegible] "FAR"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

[illegible] "FAR"

(1. RP 72. Delete, if none employed.) "FAR"

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F A ROBERTSON	RCA, 12 CBR Bn
Member	Capt	W R BOWKER	C&C, 9 CBR Bn
Member	Lieut	A R TRUAX	C&C, 9 CBR Bn
Judge-Advocate	----	----	---- "FAR"
Prosecutor	Lieut	A S Potter	RCCS, 9 CBR Bn
Defending Offr	Lieut	C H P SMITH	C&C, 9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 68 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B-55627 Pte DESJARDINS, V. before arraignment make(s) (no) plea. "FAR"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 24, 35(A), 112), or in bar of trial (RP 24), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposit, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "FAR"

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when accused accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2) "FAR"

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s)(1). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4) "FAR"

President to accused : Do you wish to make a statement ? Ans No.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

"FAR"

B3. [redacted] (1)

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) "FAR"

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof as a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(C), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....Do you intend to call witnesses on your behalf ?

Ans.....Are they witnesses as to character only ? Ans.....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement[redacted](1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B [redacted] "FAR"

(*1. MFB 355 or MFB 296. 2. MFW 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

"FAR"

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(2) Ans No.(3)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). Give sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 62, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"WAR"

CHARGE SHEET

The accused, B-55627 Pte Victor DESJARDINS, X-4 List Lorne Scots, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0815 hrs 2 Oct 44 until surrendering himself to U.S. Military Police at 1230 hrs, 9 Oct 44, in Paris. Total time absent, 7 days, 4 hours, 15 minutes.

In the Field
19 Oct 44

"H.W.Rick"
(H.W.Rick) Lt-Col
Commanding
9 Bn, 2 CBRG

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field
20 Oct 44

"G.Francoeur"
(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

"FAR"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number	(a) Prsnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names	Surname	Unit
B-55627	Pte		Victor	DESJARDINS	X-4 List Lorne Scots 9 CBR Bn

CONVENING ORDER.

"GF"

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 20 Oct 44 endorsed by me, "(or by an offr of my staff for me)," To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior (unidentified) offr~~ "GF"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. "GF"

4. ~~I am unable to appoint [illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) "GF"

5. ~~I also appoint [illegible]~~ "GF"

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	~~[illegible]~~ "GF"	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM "G. Francoeur" Brigadier

(Country.) (Signed personally. RP 105 fn 2.) (Rank.)

Date 20 Oct 44 (G Francoeur)

Commanding ? Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CF(AIR) (To Issue of AF(A)) 40-7-8-1947 (4621)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 86(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A.* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Con 562(a).*)

(vii) Summing up by J.A. if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A. if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Con 507.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Con 560. As to certified copies of regimental books see AA 162 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part 1 of Schedule on p 4 after minute of sentence awarded. (*AA 52(2), RP 118(C), MML p 759.*)

4. The President or J.A. if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

"FAR"

MEDICAL OFFICER'S CERTIFICATE

(KR(Can) Para 577)
CMHQ CL 173

I certify that I have this day examined B-55627 Pte Desjardins, V., and in my opinion he is fit to undergo trial by Court Martial.

In the Field
23 Oct 44

"M. Sackes" Capt, RCAMC
Medical Officer, 9 Bn, 2 C.B.R.G.

"FAR"

Exhibit "A"
"D.S.Potter" Lieut

CERTIFICATE UNDER THE ARMY ACT SECTION 163(1)(i)

I, B-28954 Cpl W.J.Chiasson, Cdn Pro Corps, certify that No. B-55627 Pte Desjardins, V, Lorne Scots, 9th Battalion, No. 2 C.B.R.G., stationed in the Field, surrendered himself to No. 32332849 Sgt LESLIE, B, of the "C" Coy, 709 U.S. C.M.P. BTN, on the 9th day of October, 1944, at 1230 hrs, at Hotel Moderne, PARIS, as an absentee without leave.

At the time of his surrender he was wearing military uniform.

"C. Beaulne" Lieut, D.A.P.M.

Exhibit "A" "FAR"

Summary of Evidence
in the case of

B-55627 Pte DESJARDINS, V., X-4 List Lorne Scots, on strength 9 Bn, 2 Canadian Base Reinforcement Gp, a soldier of the Canadian Army Overseas, who is charged with:-

(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE. AA Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS Captain E.W.J.Plunkett, 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am Captain E.W.J.Plunkett, 9 Bn, 2 C.B.R.Gp. I am Company Commander, 62 Coy. On the morning of 2 Oct 44, at approximately 1800 hrs, I mustered my Coy. I called the name of B-55627, Pte. Desjardins, V. He was absent and to my knowledge remained absent until surrendering himself."

"E.W.J.Plunkett"
(E.W.J.Plunkett) Captain

The accused declines to cross-examine the witness.

SECOND WITNESS Certificate under the Army Act, Sec 163(1)(j), produced as documentary evidence was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

"D.S.Potter"
(D.S.Potter) Lieut
Officer detailed to take
the Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be ~~xxxxxxxx~~ given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E), (F) and (G) have been complied with.

"D.S.Potter"
(D.S.Potter) Lieut.
Officer detailed to take the
Summary of Evidence

In the Field

10 Oct 44

Exhibit "B"
AFB 296

"FAR"
[redacted]

22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-55627	Pte	DESJARDINS, V X-4 List,	Lorne Scots, 9 CBR Bn

1. The following is a fair and true summary of the entries in the Regimental [redacted] Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	No MFM6 available times
For	times	times
For	times	times
For	times	times

[redacted]

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. [redacted]

or,

[redacted]

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 14 days in military custody, making a total of 14 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 20 yrs 6 mos

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 12 Sep 41

7. [redacted]

8. [redacted]

9. The accused is in possession of [redacted] C.V.S.M. & Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of October, 1944. "C.L.Nelson" (C L Nelson) Capt & Adjt

[redacted] 9 CBR Bn

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-55627 Pte Victor DESJARDINS, X-4 List, Lorne Scots, 9 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see SP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 10 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

nine months detention

(Sgd) ..... 23 Oct 44 (Sgd) .....

Judge Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) 25

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 23 Oct 44 Commanding 2 CBRG Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
B55627 Pte Victor DESJARDINS, X-4 List Lorne Scots or Strength 9 C.B.R.	24 Oct 44	CAPT. & ADJT. 9 BN. 2 C.B.R. GP.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED - 3 NOV 1944 - JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 48-16

FIELD GENERAL COURT-MARTIAL

CFA98 (In lieu of AFA3) 40/P & B/1098 (1/43) 4/388

Convened By ..... Brig G Francoeur ..... Comd 2 CBRG ..... dated 20 OCT 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55627	Pte	Victor	DESJARDINS	X-4 List, Lorne Scots, 9 CBR Bn

PROCEEDINGS REVIEWED JAG Headquarters Unit 4 NOV 44 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED D.J.A. Hq. G.H.Q. 2 Echelon 21 Army Gp 29 Dec 44 Date

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 23 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

#15 12/53

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to as interpreter ? Ans~~

~~The Interpreter is sworn(1). Do you object to as shorthand writer ? Ans~~
~~The shorthand writer is sworn(1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs compprising the Court, etc :

President	Major	F A ROBERTSON	RCA,	12 CBR Bn
Member	Capt	W.B. [illegible]	RAC	9 CBR Bn
Member	Lieut	A.L. [illegible]	RAC	9 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	D.L. Porter	RCEME	9 CBR Bn
Defending Offr	Capt	W.A. Lovitch	RAC	9 CBR Bn

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused B-55627 Pte DESJARDINS V. before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GE), or as to the jurisdiction of the Court (RP 54, 156(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 2 p 32

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesss from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your pleas. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Nil (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statements or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. Do you intend to call witnesses on your behalf ?
Ans. Are they witnesses as to character only ? Ans.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF #93. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 64(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Nil
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), ~~and certified true copy (copies) of Charge Sheet(s)~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.S. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex respectively.(3)
(1. MFB 251 or AFB 2516. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Nil (2)
(1. RP 101(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-364, Overseas RO 309, 1323, MML p 96, 737-759. As to sentences assigned for civil offences by the law of England see AA 4(2)(f), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 544. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 542. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-55627, Pte. Victor DESJARDINS, X-4 List Lorne Scots, on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself without leave from 0815 hours, 2 Oct 44, until surrendering himself to U.S. Military Police at 1230 hours, 9 Oct 44, in Paris. Total time absent, 7 days, 4 hours, 15 minutes.

(H.W. Rick), Lt.-Col.
Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field

19 Oct 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
20 OCT 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55627	Pte	Victor	DESJARDINS	X-4 List, Lorne Scots, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 OCT 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)			(Unit.)
Major	F A ROBERTSON (Must be named. RP 106.)	RCA,	12 CBR Bn

MEMBERS.

(Rank.)			(Unit.)
Capt	W B BOWKER	21 CAR, CAC,	9 CBR Bn
Lieut	A R TRUAX (Named or detailed. RP 106.)	27 CAR, CAC,	9 CBR Bn

WAITING MEMBER.

(Rank.)			(Unit.)
Capt	H H GROMBEY (Named or detailed, if any. RP 106.)	RCASC,	12 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 20 OCT 44

G Francoeur Brigadier (Rank.)

(Signed personally. RP 105 fn 2.)

(G Francoeur)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To take the place of AFA2) 60/9 & 61/1697 (4651)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order *of* procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 80(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 6-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 6 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 728.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICERS CERTIFICATE

(KR(Can)Para 557)
CMHQ CL 173

I certify that I have this day examined B55627 (Number)

Pte. DESJARDINE, V. and in my opinion he is
(Rank) (Name)

fit ~~unfit~~ to undergo trial by Court Martial

M Sheter Capt Reserve (Sgd)
Medical Officer

Station Field

(Unit) ...9 Bn. 2.C.B.R.G.

Date 28. Oct. 44.

Exhibit A

SUMMARY OF EVIDENCE

in the case of

B-55627, Pte. DESJARDINS, V., X-4 List Lorne Scots, on strength 9 Bn, 2 Canadian Base Reinforcement Gp, a soldier of the Canadian Army Overseas, who is charged with:

(1) WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE. A.A. Sec 15(1).

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: Captain E.W.J. Plunkett, 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am Captain E.W.J. Plunkett, 9 Bn, 2 C.B.R.Gp. I am Company Commander, 62 Coy. On the morning of 2 Oct-44, at approximately 0815 hrs, I mustered my Coy. I called the name of B-55627, Pte. Desjardins, V. He was absent and to my knowledge remained absent until surrendering himself."

(E.W.J. Plunkett), Captain.

The accused declines to cross examine the witness.

SECOND WITNESS: Certificate under the Army Act, Sec 163(1)(j), produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

(D.S. Potter), Lieut.,
Officer detailed to take
the Summary of Evidence.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4(C), (D), (E), (F) and (G) have been complied with.

(D.S. Potter), Lieut.,
Officer detailed to take
the Summary of Evidence.

In the Field.

18 Oct 44

EXHIBIT "A"

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1) (i)

I B-28754 Cpl. W.J.CHASSON, Can. Pro. Corps. Certify that

Reg No B-55627 Rank PTE. Name DESJARDINS, V.

REGIMENT LORNE SCOTS

UNIT 9th, BATTALION, NO. 2, C. B. R. G.

STATIONED At FINLP

Surrendered himself to No[illegible] Rank SGT. Name LESLIE, B.

Of the "C" COY. 709 U.S. C.M.P. BTN.

on the 9th, day of October 1944, at 1230 Hours, At HOTEL MODERNE

PARIS AS AN ABSENTEE WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform) or

(XXXXXXXXXXXXXXXX

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

Sgt Benjamin Leslie

R.S.M. 32331849 C.C. 709 M.P. Bn.

L. Beaudet Lieut D.A.P.M.

Exhibit E

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-55627	Pte.	DESJARDINS, V.	A Lt/Lorne Scot(9 Bn 2 CBRG)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of days and periods entered in the Field Conduct Sheet, Army Form B.213, being given to each separate entry. If the charge is for desertion or absence without leave, the entries for commencement or ending of absence as the case may be, should be stated separately. Any gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For [illegible] times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~3. The accused at the present time is under sentence for _____ beginning on the _____ day of _____~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 14 days in military custody, i.e., 14 days in open arrest, _____ days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 20 yrs, 6 mons.

6. The date of ~~his~~ attestation is 18 Sep 41

~~7. The service which the accused is allowed to reckon is _____~~

8. The accused is in possession of C.V.S.M. & Clasp

~~Date of Promotion~~

~~9. If the accused is a warrant officer or N.C.O. The accused has served continuously in that capacity since the _____ day of _____~~

~~10. In the substantive rank of _____~~

~~11. In the war substantive rank of _____~~

~~12. In the temporary rank of _____~~

*Strike out if not applicable.

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(33141) Wt.28670-5000 100,000 3/42 A.& E.W.Ltd. Gp.688 Forms/B.296/War/2
(33141) Wt.33500-5473 30,000 3/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23rd day of October, 1944.

(C.L. Nelson), Capt & Adjt,
2 Bn, 2 C.A.A.Gp.

HH-116.

Pte. Desjardins V. P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C-102091 Pte Yvan Priva DESJARDINS, RCASC, 12 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st RA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of : see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which ..... days were spent in hospital. (2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : TO UNDERGO DETENTION FOR A PERIOD OF SIX MONTHS

(Sgd) ..... Judge-Advocate, if any. 25 Nov 44 Date awarded. (Sgd) [illegible] President. (RP 45, 50(f))

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be ..... and further ordered~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) GFrancoeur

Date 25 Nov '44 Commanding 2CBRG Brig. Confirming Offr.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C102091 Pte DESJARDINS, Y.P. RCASC, 12 CBR Bn	27 NOV 44	[illegible] Lt-Col O.C., 12 Bn. 2 C.B.R. Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

RECEIVED 20 DEC 1944 BRANCH

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order Brig G Francoeur Comd 2 CBRG dated 17 NOV 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-102091	Pte		Yvan Priva	DESJARDINS	RCASC, 12 CBR Bn, 2 CBRG, 21 Army Gp.

PROCEEDINGS REVIEWED

Rut Ruliquelon Capt 21 Dec 44

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 25 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 14/55

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans

~~The interpreter is sworn.(1)~~ Do you object to ..... as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	K F GREEN	C.A.C.	9 Bty 2 CBRG
Member	CAPT	J. LAMY	RCA	12 Bn 2 CBRG
Member	LT	J.H. ACLAND	C.INF.C.	12 Bn 2 CBRG
Judge-Advocate				
Prosecutor	LT	R.N.S. SUTCLIFFE	C.INF.C.	12 Bn 2 CBRG
Defending Offr	LT	J.W. WHITELAW	R.A.S.C.	12 Bn 2 CBRG

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused C-102091 Pte DESJARDINS Y P. before arraignment make(s) (his) ~~no~~ plea (s)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A65 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol 2 p 63

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination : and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans. *Nil Sir.* [5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. (If) the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*., initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....[1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. Bic(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(b).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 42, 117(A). See Notes to Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith.
And, The President announces that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA 24(2) (d), RP 45, 120(A). 2. AA 54(2), RP 42, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans. *Nil.*
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service[1], and certified true copy (extracts) of Conduct Sheet[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *D* and Ex *C* respectively.[3]
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement of Service and Conduct Sheet, and in mitigation of punishment ?[1] Ans. *Nil.* [2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(5), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, As to sentences see AA 40(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest or already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C102091 Pte Desjardins Y.P. on strength of 12 Bn. 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

First charge
Sec. 15(1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself without leave from 1330 hrs 11 Oct 44 until surrendering himself to C11794 Sgt. Girouard T.J. at approximately 1900 hrs 8 Nov 44. Total time absent 28 days 5 hrs. 40 mins.

(A.C. Hood) Lt.Col.
Commanding
12 Bn, 2 C.B.R.G.

In the Field

14 Nov 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Cemd
2 Cdn Base Rft Gp

In the Field
17 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-102091	Pte		Yvan Frivs	DESJARDINS	RCASC, 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 NOV 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.) K F CAREY (Must be named. RP 106.) CAC, (Unit.) 9 CBR Bn

MEMBERS.

Capt — To be detailed by OC 12 CBR Bn — 12 CBR Bn

Lieut (Rank.) — To be detailed by OC 12 CBR Bn (Named or detailed. RP 106.) — 12 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.) — To be detailed by OC 9 CBR Bn (Named or detailed, if any. RP 106.) — 9 CBR Bn (Unit.)

~~JUDGE ADVOCATE.~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 17 NOV 44

G Francoeur (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le temoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(E)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply *so far as practicable*, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 80(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 86.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 562(a).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificates. (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA* 163 (1) (*g*) (*ii*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(*C*), *MML* p 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined C/C 2 0 7 1
(No.)

Pte Desjardins, Y.P. and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.

Station _____

Date. 23 Nov. 44

[signature] (Sgd)
Medical Officer
(unit) 12 CBR Bn

E Proceedings on Conviction before Sentence (1)

E1. C102091 Pte Desjardine Y.B. RCASC sworn states.

On the 11 Oct 44 after dinner before coy parade I went out the front gate to get some apples and I met Pte Mallett & Pte Thompson. They had everything arranged to go away. Without stopping to think any longer I went with them. After being away with these two chaps for about 25 days I realized I was doing wrong so I told them that we should go back and give ourselves up, but they would not come so I left myself the next morning. When I found out CBRG was in the same place I came in and gave myself up.

22 Nov 44
[signature] Major.

E3.

Plea in mitigation att

23 Nov. 44

(2)

MR PRESIDENT

I have interviewed the accused PTE. DESJARDINS Y.B. C. 102091 and discussed his case with him. I present the following facts to the board and request that they be taken into consideration before passing sentence.

1. The accused is quite young, only 20 years of age.
2. He is a married man with a family and has been away from home for some time.
3. He has been a soldier in the Canadian Army for nearly 2 years, and during that time has never committed a crime. For this reason I am not calling upon character witnesses as I think that his "Field Conduct Sheet" speaks for its self.
4. The accused unfortunately appears to have been a victim of circumstances in as much as he was influenced by bad company which he fell into.

After absenting himself from Camp for approx 25 days Des Jardins Y.B. realized that he was committing an offence and decided to surrender himself.

Des Jardins' friends whom were more or less responsible for his absence from Camp preferred to remain away from Camp and as yet have not been apprehended.

I feel quite sure that Des Jardins left camp at noon on 11 Oct for the sole purpose of purchasing apples in a local shop and ~~[illegible]~~ that going A.W.L. was the farthest thought from his mind.

In passing sentence I ask the court to show mitigation in this case.

J.W. Whitelaw Lt
PRESIDING OFFICER

EXHIBIT "A"

SUMMARY OF EVIDENCE IN THE CASE OF
C-102091 PTE DESJARDINS Y.B.-RCASC
12 Bn 2 C.B.R.G.

The Commanding Officer directs that the evidence be taken on oath.

First Witness for Prosecution

K42242 C.S.M. Pratt W.D. 12 Bn. 2 C.B.R.G. having been duly sworn states:-
"On coy parade at 1330 hrs on 11 Oct 44 Pte Desjardins was absent. A search was made of the barracks and he could not be found. I have called subsequent coy rolls and he remained absent until surrending himself at the coy orderly room on 8 Nov 44".

The accused declines to cross-examine the witness.

K42242 C.S.M. Pratt W.D.

Second Witness for Prosecution

C11794 Sgt. Girouard T.J. 12 Bn. 2 C.B.R.G. having been duly sworn states:-
"I was orderly sjt. on 8 Nov 44 when at approximately 1900 hrs the accused voluntarily surrended himself to me in 47 coy orderly room. I then turned him over to Sgt. MacDonald, D.I., R.P. Sgt. 12 Bn., 2 C.B.R.G.".

The accused declines to cross-examine the witness.

C11794 Sgt Girouard T.J.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not oblized to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused, and that R.P. 4(c), (d), (e), (f) and (g) have been complied with.

(P.J.S. Sutcliffe) Lieut.
Officer detailed to take the Summary of Evidence.

In the field.

14 Nov 44.

LIST OF WITNESSES

in the case of

C102091 Pte Desjardins Y.P.

FOR PROSECUTION

(1) K42242 C.S.M. Pratt, W.D. - 12 Bn 2 CBRG Cdn Army C/seas.

(2) C11794 Sgt Girouard, T.J. - 12 Bn 2 CBRG Cdn Army C/seas.

FOR DEFENCE

N i l

EXHIBIT 8

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
C102091	Pte	DESJARDINS Y.P.	R.C.A.S.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.

or

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. *or* The accused at the present time is under sentence for _____ beginning on the day of _____

4. The accused has been in confinement, awaiting trial on the present charges, for 15 days in civil custody, and 15 days in military custody, making a total of _____ days of which _____ days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 20 yrs.

6. The date of his commission / attestation specified in his record of service / attestation paper is 2 Dec 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1yrs.11mos.13 dys.

8. The accused is entitled to deferred pay or gratuity in respect of 1yrs.11mos.13 dys. service.

9. The accused is entitled to reckon 1yrs.11mos.13 dys. service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of _____ dated _____

12. (*In the case of an officer.*) The accused holds in the army the rank of _____ dated _____ and in his regiment (*or corps or department*) the rank of _____ dated _____

W.3587/3267 200m. 5/41. F. Ltd. 731-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C102091 *Rank* Pte Name DESJARDINS Y.P. of RCASC Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 day of November 1944 [signature] Capt. aap

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such courses as are available and the paragraphs concerned amended accordingly.*)

No. C102003 Name DESJARDINS Y.P. Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 2 Dec 40 | GC Badges | Exhibit C | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (5418)

Date of last entry in Company Conduct Sheet NIL | No. and date of last drunk NIL | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc TRUE COPY | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				No entries.					

(Certified to be a true extract from the regimental books and documents in my custody)

Adjutant, 12 n A C(S)C

(P10)

4M-24

Spr. Desjardins W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-40143 Spr William DESJARDINS 1 CERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present~~ under sentence for ~~being served, or delete, if not applicable.~~ beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of ninety (90) days.

(Sgd) Judge-Advocate, if any. 10 Jan/45 Date awarded. (Sgd) President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 61. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 (n 1.))

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders (1). A.C.
(1. AA 57A. Delete if not used.)

Date 13 Jan 45 (Sgd) A.B. Connolly Brig
Commanding 3 Group CRU
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
Desjardins B40143	15 Jan 45	P.G. McCallum Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

OFFICER i/c RECORDS
No. 1 Con. Engineers' Holding Unit. C.A.

RECORDED AT CMHQ IN AB 160, 4M-24

CPA96 (In lieu of CPA8) 40/F & B/1698 (5144) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig A.B. Connolly Comd "B" Gp CRU dated 8 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/Rank or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-40143	Spr		William	DESJARDINS	1 CERU

PROCEEDINGS REVIEWED 20 Jan 45 JAG
IN REPLY PLEASE QUOTE B.G.H.Q. S-62-2/513

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 10 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~is~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1 32 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ as interpreter? Ans ~~No.~~
~~The Interpreter is sworn.(1)~~ Do you object to 728126 Sgt Atk Sinclair as shorthand writer? Ans No.
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No I am
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	D.L. Redman VD	HQ CRU
Member	CAPT	D A DRUMMOND	1 CARU
Member	LT	J H KEARNS	1 CARU
~~Judge-Advocate~~			
Prosecutor	LT	K.D. McNAMARA	1 CERU
Defending Offr	LT	R.G. WESTHEASON	1 CERU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) (~~s~~) plea. (3)
(1. If a special plea is made for separate trial on one or more charges see 62(E), (OR), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to (~~are~~) made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO, SIR (5)
(1. *RP* 37(*B*). 2. *RP* 37(*C*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court ~~considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change his (their) plea(s) of ~~Guilty~~ to Not Guilty on ~~charge(s).~~ ~~The accused is (are) so informed, and he (they)~~ ~~change(s)~~ his ~~(their)~~ plea(s) on ~~the~~ charge(s). Part I of the Schedule ~~is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 355. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO, SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB 253 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. NOTHING FURTHER (2)
(1. *RP* 37(*C*), 44(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 343-366, Overseas RO 309, 2322, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1) (b), 68(1), KR Con 364.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-40143 Spr William DESJARDINS, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with

FIRST CHARGE ARISE

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, at No. 1 C.E.R.U., absented himself without leave from 2230 hrs 30 Nov 44 until 2210 hrs 3 Jan 45 when he surrendered himself at No. 1 C.E.R.U.

(Total Time Absent 33 days 23 hours 40 mins.)

(G.H. WHYTE) Colonel,
Commanding Officer,
No. 1 Cdn Engr Rft Unit
Canadian Army (Overseas)

In the field
6 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(A.B. Connelly) Brig
Comd "B" Gp
Cdn Rft Units.

8 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-40143	Sjr	William	DESJARDINS	1 CHRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-col (Rank.)	D.L. Redman VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Captain	to be detailed by OC	1 CARU
Lieutenant (Rank.)	to be detailed by OC (Named or detailed. RP 106.)	1 CARU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 8 Jan 45

(A.B. Connelly) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "B" Gp Cdn Rft Units. Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn, or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 46 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 46 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by J.A. if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A. if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 507.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (8).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 759.*)

4. The President or J.A. if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE

A.R. (C.M.) F.R.A. 557

I certify that I have this morning examined

No. B 40143 Spr. Des Jardins W.

of A.L.C.E.R.U. and in my opinion he

is fit ~~unfit~~ to undergo Trial by Court Martial.

Station Field

Date 10-1-45

Medical Officer.

PLEA ~~IN~~ MITIGATION FOR B40143 SPR. DESJARDINS W.

Spr. Desjardins joined the Canadian Army on 27 Feb. 42. He left a good position as shift boss over 60 men at Creighton, Ont with the International Nickel Co. His employer could have kept him on the job on which home Spr. Desjardins had served faithfully for 14 years, but Spr. Desjardins elected to serve his Country instead. On proceeding Overseas in 1942, he left behind him a wife and 6 children. He arrived at No 1 CERU at the age of 40 years. He was considered too old for parade square routine, and was sent to 5 Fd. Construction Coy where he was employed as a saw doctor until 1944 with a good record. He was then sent to No 1 CERU after spending 1 week in hospital. The 5 Fd. Construction Coy asked for his services again due to his efficiency in his particular trade and he was placed on draft to 5 Fd. Construction Coy again. He was removed from this draft and placed on draft for Overseas in Oct 1944 and was ready to proceed. He was removed from this draft due to the fact that he had failed in a couple of TOETS. Following this disappointment Spr. Desjardins worked hard and passed his TOETS. He applied for leave. This was cancelled and he was placed on draft again for Overseas in November 1944. Most of his friends had proceeded Overseas and Spr. Desjardins was again ready and willing to go. He was again removed

from draft for reasons not known to him and sent on leave.

By this time, Spr. Desjardins felt that he had not a friend left, Xmas was at hand, he became homesick for his wife and children whom he had not seen for 3 years, and he could not stand the thought of pounding the parade square again. So Spr. Desjardins went A.W.L. until he gave himself up at the guard room of No. 1 CERU. with full equipment.

This soldier has had an excellent record throughout his service having been awarded one Good Conduct Badge.

If Spr. Desjardins at his present age of 42 yrs. and 8 months, is too old to proceed Overseas, and if he were given the chance to work at his trade with his former Unit or other Unit, there is no reason why he could not carry out his duties to the satisfaction of all concerned.

I offer this Plea to the members of this Court, in order that leniency may be shown in passing sentence to this Soldier.

R. Weshkeuser Lt.
Defending Officer.

E-3
MW

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-40143 Spr.William Desjardins,Royal Canadian Engineers,No.1 Cdn.Engr Rft Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut.D.L.Seymour,RCE of No.1 Cdn.Engr Rft Unit having been duly sworn states that:-

I Lieut.D.L.Seymour,RCE.,No.1 Cdn Engr Rft Unit present a record of the DECLARATION OF A COURT OF INQUIRY assembled at No.1 C.E.R.U. on the 26th.day of December 1944 for the purpose of investigating and recording the absence without leave from his duty and deficiencies,if any, in the Arms,Ammunition,Equipment,Instruments,Regimental Necessaries, or Clothing of No. B-40143 Spr.William Desjardins (Marked Appendix "A".

.....
(D.L.Seymour) Lieut. RCE.

The accused declines to cross-examine the witness.

SECOND WITNESS FOR THE PROSECUTION

B-29693 L/Sgt Law,P. RCE.No 1 Cdn.Engr Rft Unit having been duly sworn states:-

I,B-29693 L/Sgt Law P. No.1 Cdn Engr Rft Unit,was guard commander at No.1 C.E.R.U Guard Room on the 3rd day of January 1945 when B-40143 Spr.Desjardins,W, reported to me at 2210 hrs 3rd day of January 1945. He was properly dressed and sober. I placed him under close arrest and placed him in Unit Detention.

.....
B-29693 L/Sgt. Law, P.

The accused declines to cross-examine the witness.

The accused was cautioned as follows:-

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so,but whatever you say or any evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make a statement or to give evidence.

The accused reserves his defence.

I certify that the foregoing Summary of Evidence consisting of 1 page was taken down by me in the presence and hearing of the accused and that the Rules of Procedure 4 (C)(D)(E)(F) ~~and~~ (G) have been complied with.

.....
(K.D.McNamara)Lieut. RCE.
Officer detailed to take the Summary of Evidence.

In the field
5 Jan.45

EXA

Appendix "A"

RECORD of the Declaration of a Court of Inquiry assembled at No.1.C.E.R.U. on the 26th day of December 1944 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B-40143 Spr. DESJARDINS, W. - - - - - - - - - - -

D E C L A R A T I O N

The Court declare that B-40143 Spr. DESJARDINS, W. ~~[illegible]~~ illegally absented himself without leave from No.1.C.E.R.U. at 2230 hrs on the 30th day of November 1944, that he is still so absent, and that on the 26th day of Dec 1944 he was deficient, and that he is still deficient of the following articles to the value of $31.15 ------ (75% of vocab rate. See list on reverse of this sheet)

Signed at No.1. C E R U this 26th day of December 1944

W.W. NEWMAN, Lt. R.C.E. - PRESIDENT
No.1. C E R U

[illegible] Lt. R.C.E. - MEMBER
No.1. C E R U

A.K. ORMISTON, Lt. R.C.E. - MEMBER
No.1. C E R U

Signature of Commanding Officer [signature]

Certified true copy [signature]
Signature of officer having custody of original record ..... Adjt.
1 C. Eng. R.U.

SUB for MFB 375
8/165

KIT DEFICIENCIES OF B-40143 SPR. DESJARINS, W. 26 Dec 44.

Anklets Web	prs 1.	$ 0.99	$ 0.74
BD Blouses Serge	1.	5.25	3.94
BD Trousers Serge	1.	5.39	4.04
Boots Ankle	prs 1.	5.46	4.10
Badges Cap	1.	0.09	0.06
Caps Field Service	1.	0.56	0.42
Greatcoat	1.	11.55	8.67
Combs Hair	1.	0.04	0.03
Discs Identity	2.	0.02	0.02
Drawers Woolen	1.	1.20	0.90
Meldall	1.	0.19	0.12
Ration Bag	1.	0.04	0.03
Belts Waist WE	1.	0.74	0.56
Braces WE	1.	0.30	0.22
Haversack WE	1.	1.79	1.32
Helmet Steel	1.	2.39	1.79
Razor	1.	0.06	0.04
Vests Woolen	1.	1.20	0.90
Shoes Canvas	prs 1.	0.65	0.80
Shorts Gymnasium	2.	0.72	0.54
Sheets Grauns	1.	2.94	2.21
		$43.57	$31.15
		100%	75%

Checked against Prev. Scale of Issue and Priced in accordance with price list of Clothing and Equipment.
NOTE:- As no evidence is available to assess the cost of unexpired wear of the above deficiencies, 75% of vocabulary rates will be charged. Auth. R.O. 2111 4 Jun 42.

KIT INSPECTED BY A-18286 CPL TURPIN, G.W. 0900 hrs 26 Dec 44

75% of total $ 31.15

A-18286 Cpl. "G.W. TURPIN"
2 i/c Pack Stores

SUB FOR ARMY FORM B.296 (WAR).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank	Name	Unit ~~(or as the case may be)~~
R-40143..	...Spr..	William Desjardins	.....No.1 C.E.R.U.....

NOTE:- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entry for drunkeness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :--

For...Sec. 15 (1) A.A..... 21..times.

For.....Nil..... ..... times.

For.....Nil..... ..... times.

For.....Nil..... ..... times.

Date of first entry in Field Conduct Sheet. 5 Jun.42..

Date of last entry in Field Conduct Sheet. 29 Aug.44..

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. Nil.

3. ~~The accused at the present time is under sentence for.....~~

~~beginning on the.....day of.....~~

4. The accused has been awaiting trial on the present charges for.....

~~days in civil custody; and for~~ Sub (6).....days in military custody, i.e., ~~[illegible]~~ ~~days in open arrest~~, Sub (6).....days in close arrest; of which...Nil.....days were spent in hospital.

Strike out if not applicable.

5. The present age of the accused is...42 yrs.....

6. The date of his...attestation.....is. 27 Feb.42

~~calling up for military service~~

7. The service which the accused is allowed to reckon is .....2 10/12 yrs.....

8. The accused is in possession of C.V.S.M.& Clasp Good conduct Badge

9. (if the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date - Date of Promotion.

State the military decorations (if any held by accused.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of.....

INSTRUCTION.- If any matter in any of the above para cannot be stated from the regimental bo the paragraph must be struck through.

EXB

TM

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this.....10th.....day of.....Jan.45.....

R.E.V. Frangley

(R.E.V.Frangley) Major.
Administrative Officer.
No.1 Cdn.Engr.Rft Unit.
Canadian Army(Overseas).

5/m

33

No. B-40143 Name Desjardins William | Sqn., Battery, or Company | Corps RCE | Date of enlistment 27 Feb 42 G.C. Regts | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /5136 (2965)

Date of last entry in Company Conduct Sheet 8 Jul 44 | No. and date of last drunk NIL | Period not reckoning towards freedom from extra fine N/A | Sheet No. | Signature O.C. Company, etc. ??????????? | Character ??????

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				COMPLETED SIX MONTHS SERVICE OLD GREAT DESERVED:	27 Aug 42				
Field		Spr		Awarded Can Volunteer Service Metal & Clasp wef 15 Jan 44					
Field		Spr		Extract A-10 ITC Borden, Canada Pt II Order No. 133 d/5 Jun 42		3 days CB 3 days pay and allowance	DO 5 d/18 Jan 44	O/C Unit	
Field	16 Apr 44	Spr		AA Sec 15(1) A/C from 2359 hrs 16 Apr 44 to 0745 hrs 17 Apr 44 (Absent 7 hrs 46 mins)	Sgt Lean JT	7 days C B	17 Apr 44	Lieut J.R. Cathleson	1 day pay FRAI 149 1 (a)
Field		Spr		Awarded one Good Conduct Badge wef 3 Jun 44			D.O. 5 d/15 Jun 44	???????????	
Field	Volunteered as Blood Donor - gave 450 CC Blood on 4 Jul 44						DO 10 d/4 Jul 44	???????????	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Aug 44	S Dr		A.A.15(1) AWL from 2230 hrs 20 Aug 44 until 1800 hrs 26 Aug 44 (Absent 5 Dys 19 hrs 30 mins)	Documentary	14 Dys C.B. ceases Trades Pay	29 Aug 44	HGJ Woods Lt. Col.	For 6 Dys Pay FR&I 149(1)(a) Forf [illegible] days pay FR&I 149 (1)(e)

CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT

R.E. Frangley M/Jr

(R.E.V. Frangley) Major
Officer having custody of Regt'l Books
No. 1 C.E.R.U.
Canadian Army (Overseas)

LIST OF WITNESSES

List of witnesses in the case of B-40143 Spr.Desjardins,W. Royal Canadian Engineers, No.1 Cdn.Engr Rft Unit, a soldier of the Canadian Army (Overseas).

FOR THE PROSECUTION

1. Lieut. D.L.Seymour, RCE No.1 Cdn Engr Rft Unit.
2. B-29693 L/Sgt Law, P. RCE. No.1 Cdn Engr Rft Unit.

FOR THE DEFENCE

Nil.

LIST OF EXHIBITS

FOR THE PROSECUTION

Exhibit "A" Declaration of Court of Inquiry.

FOR THE DEFENCE

Nil.

RECEIPT OF DOCUMENTS

5 Jan.45

This is to certify that I,B-40143,Spr.Desjardins,W. have received one copy of the Charge Sheet and one copy of the Summary of Evidence relating to my trial.

Desjardins, W.
B-40143 Spr.Desjardins,W.

APPLICATION FOR DEFENDING OFFICER

5 Jan.45

I, B-40143 Spr.Desjardins,W. request an Officer to be assigned to represent me at my forthcoming trial.

Desjardins, W.
B-40143-Spr.Desjardins,W.

48 – 60

Pte. Desjarlais L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M-67635 Private DESJARLAIS, George

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	NOT GUILTY	NOT GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~3rd~~ ~~beginning~~ ~~on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for 60 days and to forfeit all ordinary pay for a period of 60 days.

(Sgd) Eadon H Jermyn Judge-Advocate, if any. Capt — 20 dec 44 Date awarded. — (Sgd) D G Fergusson Lt-Col President (RP 45, 50 ~~XXXXX~~)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding ~~Officer~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Nothing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the findings and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1. AA 57A. Delete if not used.)

(Sgd) W O Nicol

Date 2 Dec 44 Commanding 1 Can Army Tpt Coln Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

M 67635 Pte Desjarlais, George — 17 Dec 44 — Ed Nicol Maj MAJOR. 47 CDN. ARMY TPT. COY. R.C.A.S.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 40-60

2 FEB 1945 A.M.H.Q.

FIELD GENERAL COURT-MARTIAL

(PAM6 (In lieu of AF B63) 40/P & R/1608 (H2) 44)

Convened by Order of Lt-Col V.R. Jones Comd HQ 1 Cdn Army Tpt Coln dated 17 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M-67635	Private	George	DESJARLAIS	47 Cdn Army Tpt Coy RCASC

RECORD REVIEWED Mul W Hardy Major REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 20 dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18/6

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 557(3)(c). Delete, if not applicable.)

A5. President to accused: Do you object to as interpreter? Ans

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.A. Fergusson	4 Cdn Armd Div Tpt Coy
Member	Capt	J.H. MacLaren	HQ 1 Cdn Army Tpt Coln
Member	Lieut	J.P. McAvoy	4 Cdn Armd Div Tpt Coy
Judge-Advocate	Capt	E.H. Jermyn	HQ 1 Cdn Army Tpt Coln
Prosecutor	Lieut	J.R. Chandler	47 Cdn Army Tpt Coy
Defending Offr	Lieut	H.D. Hewitt	47 Cdn Army Tpt Coy

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment makes(s) (no) plea (s)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is arraigned~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D B ~~&~~ E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

1 to 2-30

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ JA, ~~is satisfied~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes sir .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (the~~ir~~) plea(s) of Guilty to Not Guilty on 1st + 2nd charge(s). The accused is (~~are~~) so informed, ~~and he (his) change(s) are (their) plea(s) on the ..... charge(s).~~ Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~has~~ no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~ (2) ~~The Court is closed, and considers the submission.~~ (3) ~~The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~ (4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans I will give evidence on oath ..... Do you intend to call witnesses on your behalf ? Ans Yes sir Are they witnesses as to character only ? Ans No sir
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 (fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(1). The finding~~s~~ of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding~~s~~ if any, of Not Guilty, ~~and states to the accused that the findings of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)
Or, ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(*1. AA 54(7) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Nor further sir .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement~~s~~ as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet~~s~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier~~s~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. AFB 355 or AFB 2Ple. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement~~s~~ and Conduct Sheet~~s~~ and in mitigation of punishment ?(1) Ans NO SIR .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purview, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

COUNTER NUMBER 5-475-40

HOUR 10

OPERATOR'S INITIALS R.D.

RELIEVING OPERATOR BM

Def.

C H A R G E S H E E T

The accused, M57635 Pte. George DESJARLAIS, 47 Cdn Army Tpt Coy RCASC a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Sec 6 (2) (c) Army Act

WHEN ON ACTIVE SERVICE LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER

in that he,

in the Field after being duly mounted as a member of the Guard of HQ First Cdn Army Tpt Coln RCASC at approximately 0300 A hours 1 Dec 44 was found to be absent from the Guard room without permission of his Superior Officer thereby necessitating another man to be detailed for his tour of duty.

SECOND CHARGE
Sec 24 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from the Guard Room from 0300 A hours 1 Dec 44 until surrendering himself at 0830 hours 1 Dec 44. (Absent 5 hours 30 minutes)

THIRD CHARGE
Sec 24 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field absented himself without leave while under open arrest from 2300 A hours 1 Dec 44 until 0830 hours 2 Dec 44 (Absent 7 hours 30 minutes)

(C.A. Main) Major
Officer Commanding
47 Cdn Army Tpt Coy
R.C.A.S.C.

In the Field
2 Dec 44

"To be tried by F.G.C.M."

(W.R. Jones) Lt-Col
Comd 1 Cdn Army Tpt Coln

IN THE FD
18 DEC 44

D&A

FIELD GENERAL COURT-MARTIAL

CFA35 (To Box of AFA3)
40/P&S/1097 (2603)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M-67635	Private		George	DESJARLAIS	47 Cdn Army Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 DEC 44 endorsed by me, ~~or by an officer my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable that such offence should be tried by a Field General Court-Martial~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I hereby authorize and appoint the Officer~~ ~~for the Court; and I direct as President, for the purpose of trial~~ ~~mentioned herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR (Rank.)	D.A.	FERGUSSON (Must be named. RP 106.)	4 Cdn Armd Div Tpt (Unit.) Coy RCASC

MEMBERS.

CAPT	H.H.	MACKAY	45 Cdn Army Tpt Coy RCASC
CAPT (Rank.)	J.H.	MACLAREN (Named or detailed. RP 106.)	HQ 1 Cdn Army Tpt (Unit.) Coln

WAITING MEMBER.

LIEUT (Rank.)	To be detailed by OC 4 Cdn Armd Div T.t Coy	(Named or detailed, if any. RP 106.)	4 Cdn Armd Div Tpt (Unit.) Coy RCASC

JUDGE-ADVOCATE.

CAPT (Rank.)	G.B.	JERMYN (Must be named, if any. RP 106.)	ADJ, HQ Army Tps (Unit.) Area

On Active Service in the Fd

in BELGIUM (Country.)

(W.B. Jones) (Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Date 18 DEC 44

Commanding HQ 1 Cdn Army Tpt Coln
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

The Court satisfy themselves that Capt H A MacKay 45 Cdn Army Tpt Coy RCASC is not available to serve owing to the exigencies of the service

Lieut J P McAvoy, 4 Cdn Armd Div Tpt Coy. waiting member takes his place as a member of the Court.

MEDICAL CERTIFICATE (M.R. (Can) 867) Duty.

I certify that I have this morning examined No. M 6765 pte

Desjardins G. of 42 CA AT Coy and, in my opinion,

he is ~~fit~~ unfit to undergo trial by Court-Martial, this date.

Station Field

Date 20 Dec 44

Medical Officer

Prosecution

First Witness

B-99167 Cpl. Brown, B.B. - 47 Cdn Army Tpt Coy sworn states,

On 1 Dec 44 I was orderly N.C.O. on checking the roll at 2300 hrs I found Pte Sleyarlais, absent. At the time he was under open arrest. I did not see him until about 0630 hrs 2 Dec 44. when he was in the hallway.

Cross-examination

I did not check again up to 0630 hrs next morning. I searched the billets but I did not check the ablation rooms and latrines.

R.P. 93(A) complied with.

Defence

First Witness

M-67635 Pte Sleyarlais, J. sworn states,

I was ill. I had diarrorea. It kept me out all night running between my billets and the lavatory. I had cramps. I sat there for an hour at a time.

Cross-examination

I wasn't told by anyone in billets that the duty Cpl. had marked me A.W.L. The latrine is ~~[illegible]~~ in a [illegible] bldg. about 50 x from billets.

RP 93(A) complied with.

Second Witness

F-32226 Coakley, R. - 47 Cdn Army Tpt Coy sworn states,

I am medical orderly. Accused reported ill on 3rd Dec. The M.O. diagnosed it as dysentry, diarrorea and cramps. This condition often last two or three days.

Cross-examination

He reported on 3rd Dec.

RP 93(A) complied with

Third Witness

L-7145 Sgt. Major Busland, J. - 47 Cdn Army Tpt Coy sworn states,

Pte Sleyarlais has been with our coy for about 2½ years. For 2 years of that time he was Reg't Police on H.Q. He handled men well for me and did his work quite satisfactorily.

No cross examination

RP 93(A) complied with.

Defending officer's closing address

No absence in first place. Even if absent from billets under open arrest absence was due to illness.

Prosecuting officer's closing address

He was not in billets. Not sufct. evidence of illness. He did not report to unit orderly until 3rd Dec.

Summing up by J.A.

Advises court on burden of proof. Reads footnote to AA15 MML P441 3rd and 5th sentences. Defines reasonable doubt

Mr President, are there any further matters on which you wish me to advise the court?

Pres. No.

Mr Prosecuting Officer, are there any further matters on which you wish me to advise the court?

Pros. No

Mr Defending Officer are there any further matters on which you wish me to advise the court?

Def. No

Statement by accused in reference to the Charges

On 10 Nov 44 I was on guard. I did not want to go to sleep ~~[illegible]~~ The night before that I was sick. I just kept walking around. Then I met some people and went into their home. Coming out to go on guard at 0200 hrs I got lost in the dark and didn't find my way back until day light. I reported to the Cpl of the guard.

G. Terry Jr Capt
J.A.

EXHIBIT A

Dat

SUMMARY OF EVIDENCE

in the case of

M67635 Pte Desjarlais, G., of 47 Cdn Army Tpt Coy RCASC a soldier of the Canadian Army, on Active Service, charged with:-

FIRST CHARGE
Sec 6 (2)(f)
Army Act

WHEN ON ACTIVE SERVICE LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE WHILE UNDER OPEN ARREST

FIRST WITNESS

M20638 R.S.M., H.W. Jeynes, H.Q Comd First Cdn Army Tpt Coln., having been duly sworn states:-

"I am M20638 RSM H.W. Jeynes of HQ Comd First Cdn Army Tpt Coln. On Nov 27th 1944 I mounted the Guard on this HQ. The Guard's tour of duty to last until 1400 hours 3 Dec 44. I called the roll and M67635 Pte Desjarlais, G. answered his name. I now recognize Pte Desjarlais. I read the Guard Standing Orders to the Guard and emphasized the fact that all members of the Guard were definitely C.B. for their entire tour of duty to the Guard Room except when proceeding to the Mess Hall for meals. As a number of the Guard required haircuts I instructed the Guard Commander that he would at permission from the Adjutant or myself for one or two men at a time to go down to the barber which is close vicinity to this HQ. for the necessary haircut. On 1 Dec 44 B81815 Cpl Hannan, A. at approximately 0730 hours reported to me that M67635 Pte Desjarlais, G. had been absent without leave from approximately 0200A hours 1 Dec 44. Approximately fifteen minutes later Cpl Hannan reported to me that M67635 Pte Desjarlais G. was in the Guard Room. I herewith present copy of Guard Standing Orders. (Exhibit A) marked.

R.W. Jeynes, RSM

SECOND WITNESS

B81815 Cpl Hannan, A., 47 Cdn Army Tpt Coy RCASC having been duly sworn states:-

" I am B81815 Cpl Hannan, A. of 47 Cdn Army Tpt Coy RCASC I was the commander of the Guard HQ Comd First Cdn Army Tpt Coln, which was mounted on the 27 Nov 44 and which was to remain on duty until 1400 hours 3 Dec 44. I was present at the Guard Mount and heard the Guard Standing Orders read by M20638 RSM H.W. Jeynes. The roll was called and M67635 Pte Desjarlais G answered his name. I now recognize Pte Desjarlais. At approximately 0200A hrs 1 Dec 44 I was getting my relief guard ready and found Pte Desjarlais was not present in the Guard Room. I put another man in his place and waited until 0700 hours 1 Dec 44 when I reported his absence to RSM H W Jeynes. Pte Desjarlais reported to me in the Guard Room at approximately 0730A hours. I placed him under open arrest and reported him to RSM Jeynes.

Q 1. What arrangements are made for feeding the Guard during the night?

A 1. Between 2100A hrs and 2130 A hrs I send two men to the kitchen to pick up a lunch. This is brought to the Guard Room and consumed there during the night.

The accused declines to cross examine the witness.

B61815 Cpl Hannan, A.

THIRD WITNESS

M37269 L/Sgt Forrester, W.B. of 47 Cdn Army Tpt Coy RCASC having been duly sworn states:-

" I am M37269 L/Sgt Forrester, W.B of 47 Cdn Army Tpt Coy RCASC. On 1 Dec 44 at approximately 1600 hours M67635 Pte Desjarlais, G was returned to this Platoon from CMASC Guard under open arrest. At 2300 A hours 1 Dec.44 I made the rounds with the Duty Corporal to check Tattoo and M67635 Pte Desjarlais G was not in his room. I did not see him until 0630A hours 2 Dec 44 when I saw him in his bed at Reveille."

The accused declines to cross examine the witness.

M37269 L/Sgt Forrester, W B

FOURTH WITNESS

B66187 Cpl Brown, B.B. of 47 Cdn Army Tpt Coy RCASC having been duly sworn states:-

" I am B66187 Cpl Brown, B.B. of 47 Cdn Army Tpt Coy RCASC On the 1 Dec 44 I was duty N.C.O. of "D" Platoon. On checking the roll at 2300 A hours with L/Sgt Forrester, W B I found that M67635 Pte Desjarlais, G. was absent from his quarters. I did not see him ~~xxxix~~ until approximately 0630 hours 2 Dec 44.

The accused declines to cross examine the witness.

B66187 Cpl Brown, B.B.

QUESTION TO THE ACCUSED

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED.

I have nothing to say.

I certify that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence of the accused in the Field, Belgium, this 2nd day of December 1944.

T.J. Donahoe, Lt.

Exhibit
"A"

STANDING ORDERS

COPY NO 16

FOR
GUARDS & PIQUETS

Issued by

Lt-Col V R JONES

COMD HQ I CDN ARMY TPT COLN

1. These orders supersede any and all other orders heretofore issued in respect of this subject.

2. All personnel detailed for guards or picquets will make themselves conversant with these orders and ensure that they are strictly adhered to at all times. Strict disciplinary action will be taken in respect of any breaches.

3. Guards and/or roving picquets will be posted at all times.

4. Personnel for these duties will be detailed from Coys under Comd of this HQ as notified. All guards within this fmn will be smart, trained soldiers, uniformly dressed and smart and alert in their bearing while on duty. They will carry arms at the slung except when challenging or as noted hereafter. The methods of challenging or paying compliments as detailed hereafter will be strictly adhered to.

5. The no to be mounted will vary with the location, accesibility etc. In all cases it will be sufficient to ensure the security of the HQ area, vehs, stores, equipment, quarters, etc.

6. Tour of duty will be 2 hours on and 4 hours off, unless otherwise order in HQ D.O. Pt I or by appendices to these orders.

7. Dress will be Battle dress (fully done up), steel helmets, black boots, gaiters, skeleton web with sam pouches (properly cleaned and adjusted), sten guns or rifles will be carried, greatcoats and woolen gloves may be worn in cold or inclement weather, in which event sun will be adjusted and worn over the greatcoat. Gas Capes may be worn in rainy weather Ground Sheets, leather jerkins and DR coats will NOT be worn.

8. Each guard and/or picquet will be in charge of an NCO whose duties will be as follows:-

(a) Tour of duty as notified from time to time in HQ D.O. Pt I.
(b) To attend at the daily guard mounting at 1400 hours with an officer or the RSM in attendance, at which time an inspection of [illegible] will be carried

(c) To read to the guard and/or piquet on parade in such a manner that all can hear para 1,2,7,8,9 and 10 of these and any other pertinent orders and/or instrs which may be issued from time to time

chamber is left empty and will instruct all sentries when placing them on their post that they will not load [illegible]

In para 8 add the following sub paras:

(l) He will not himself enter or permit any member of his guard to enter any cafe, restaurant or bar, except insofar as he or any of his guard are required to do so in the execution of their duties.

(m) He will not nor will any member of his guard partake of any alcoholic beverages during their tour of duty.

(n) He will be available at all times and all members of his guard when not on post will remain available at the guard room and will not be permitted to leave this locn except for reasons of personal toilet as may be required or on the authority of the Adjt or RSM.

Exhibit
"A"

COPY NO 16

STANDING ORDERS

FOR
GUARDS & PICQUETS

Issued by

Lt-Col V R JONES

COMD HQ I CDN ARMY TPT COLN

1. These orders supersede any and all other orders heretofore issued in respect of this subject.

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5. The no to be mounted will vary with the location, accessibility etc. In all cases it will be sufficient to ensure the security of the HQ area, vehs, stores, equipment, quarters, etc.

6. Tour of duty will be 2 hours on and 4 hours off, unless otherwise order in HQ D.O. Pt I or by appendices to these orders.

7. Dress will be Battle dress (fully done up), steel helmets, black boots, gaiters, skeleton web with ammo pouches (properly cleaned and adjusted), sten guns or rifles will be carried, greatcoats and woollen gloves may be worn in cold or inclement weather, in which event web will be adjusted and worn over the greatcoat. Gas Capes may be worn in rainy weather Ground Sheets, weather jerkins and DR coats will NOT be worn.

8. Each guard and/or picquet will be in charge of an NCO whose duties will be as follows:-

(a) Tour of duty as notified from time to time in HQ D.O. Pt I.
(b) To attend at the daily guard mounting at 1400 hours with an officer or the RSM in attendance, at which time an inspection of the personnel comprising the guard and/or picquet will be carried out.
(c) To read paras 1, 2, 7, 8, 9 and 10 of these and any other pertinent orders and/or instructions which may be issued from time to time.
(d) He will examine all small arms and ammo before and after guard duty and will be responsible to see that the guard is fully instructed as to their orders and duties.
(e) He will ascertain that the magazines are charged but that the chamber is left empty and will instruct all sentries when placing them on their post that they will not load unless it is necessary to fire.
(f) He will see that the personnel not on sentry post are capable of answering immediate call at all times.
(g) He will visit the guard at irregular times, twice by day and twice by night, to ensure that they are familiar with their duties and are properly performing them.
(h) To post the guard and each change thereof.
(i) He will be responsible for any and all articles of equipment issued to him for use by the guard during his tour of duty.
(j) He will be available at all times during his tour of duty at a place convenient to and notified to the members of the guard. The Guard Comd will warn all guards and picquets that they will NOT under any circumstances surrender their arms or ammo to any person whatever, nor will they advise any person of their orders unless such person is accompanied by the Guard Comd.
(k) He will be responsible for the making of the Orderly Sgt five minutes before Reveille daily.

9. Duties of Guards and/or piquets will be as follows:-

a) The Post and/or area for which he will be responsible will be detailed at the time of the Guard Mount by the Guard Comd. These posts and/or areas will be as detailed in HQ D.O. Pt I or appendices to these orders.

b) He will in taking over his post and/or area make sure of the no of vehs, stores, equipment, etc. which are in the area and for the safeguarding of which he is responsible during his tour of duty.

c) He will NOT lounge about on his post, but will stand properly at ease, or move smartly when changing position. It is his duty to SEE everybody that comes near his post.

d) Sten guns will be carried slung from one shoulder while standing or moving about.
Rifles will be carried slung from one shoulder when moving around, and may be carried at the sling or stand at ease position when standing still.
Sten or rifle will be held at the READY when challenging.
Loaded magazines will be fixed but no rounds will be placed in the chamber.

9(e) He will not challenge an offr or soldier whom he recognises during the hours of daylight but will challenge all persons during the hours of darkness.

9. Duties of Guards and/or picquets will be as follows:-

(a) The Post and/or area for which he will be responsible will be detailed at the time of the Guard Mount by the Guard Comd. These posts and/or areas will be as detailed in HQ D.O. Pt I or appendices to these orders.

(b) He will in taking over his post and/or area make sure of the no of vehs, stores, equipment, etc, which are in the area and for the safeguarding of which he is responsible during his tour of duty.

(c) He will NOT lounge about on his post, but will stand properly at ease, or move smartly when changing position. It is his duty to [illegible] everybody that comes near his post.

(d) Sten guns will be carried slung from one shoulder while standing or moving about.
Rifles will be carried slung from one shoulder when moving around, and may be carried at the sling or stand at ease position when standin still.
Sten gun or rifle will be held at the READY when challenging.
Loaded magazines will be fitted but no rounds will be placed in the chamber.
He will prove his sten or rifle when relieved before leaving his post.

(e) He will NOT challenge [illegible] when he recognises them. All officers or O.R's unknown to the sentry will be challenged as follows:
(i) In the event of a sentry stopping a veh and challenging the occupants, he will not approach nearer to the veh but will keep his distance and demand that the occupants advance and be recognised one at a time, to concern [illegible] with the proper challenge.
(ii) Sentries will challenge persons approaching their post in the following manner: [illegible] sentry will be sufficiently certain that the challenge is given in the loudest possible manner so that [illegible] manner will avoid any chance of passing an [illegible] chance of responding [illegible] and thus [illegible] easily. If the person [illegible] challenged again. [illegible] and if after [illegible] duty, as the sentry [illegible] to his post but not [illegible] duty to stop a person approaching [illegible] respond to the challenge and the sentry. If a person can be stopped in any other way, [illegible] assisting the guard to arrest, then the sentry will not [illegible] believing that he is about to be attacked. The sentry must remember his responsibility but he will also use common sense when deciding to shoot or not. He must take all precautions to safeguard the HQ and himself from surprise attack by the enemy or other subversive persons.
(iii) At night or in dark [illegible] sentry must not allow himself to be [illegible] daylight. He should [illegible] ready to take [illegible] who refuses to respond to the challenge or persons [illegible] his sentry post and [illegible].

(f) No unauthorised persons or persons will be permitted to enter the HQ area or the veh park. Any person or persons wishing to proceed to HQ or enter any of the parks should have identity card and if unable to do so will be refused permission to enter unless or until the Guard Comd, or officer of the day has interviewed the party concerned. If there is still any doubt about the matter, the Guard Comd will see that the person is escorted to HQ by one of the guards. Attached is appendix A a guide to the examination of identity documents and passes.

(g) He will NOT permit any veh to [illegible] the area or veh park unless accompanied by an officer, or if there is no officer present the [illegible] will be required to show a work ticket. This work ticket will be carefully checked for the following
(i) That it is made out for the proper veh (that is that the veh number on the work ticket agrees with the number on the veh).
(ii) That the work ticket bears the correct date.
(iii) That the work ticket has been signed by an officer or the RSM.

(h) Personnel will not [illegible] post and/or area for any reason what soever, except on the [illegible] and then only

after they are properly relieved.

(i) He will patrol the veh lines and/or area every half hour and ensure that there are no unauthorized persons therein. Any suspicious circumstances will immediately be reported to the Guard Comd.

(j) He will pay compliments to all officers, whether on foot or in a veh, and all vehs displaying a flag or pennant indicating the presence of a senior officer in the veh. He will do this by coming smartly to attention. He will NOT salute.

10. These Orders are Published, Promulgated and Issued with effective date 13 Nov 44. Further warnings will not be given and disciplinary action will be immediately taken in respect of any breach, without discrimination.

[signature]
for [illegible] Lt-Col
Comd 1 Cdn Army Tpt Cols

DISTRIBUTION:

Copy No. 1 - [illegible]
2 - [illegible]
3 - [illegible]
4 - [illegible] Comd
5 - [illegible]
6 - [illegible]
7 - [illegible]
8 -
9 -
10 - Guard Comd
11 - File
12 - War Diary
13 - War Diary
14 - War Diary

Trial of M67635 Pte. Desjarlais G. 47 Cdn Army Tpt Coy

LIST OF EXHIBITS

Exhibit "A"	Guard Standing Orders - of HQ 1 Cdn Army Tpt Coln RCASC Marked exhibit "A"

Trail of M 67635 Pte. Desjarlais, G. - 47 Cdn Army Tpt Coy RCASC

LIST OF WITNESSES FOR THE PROSECUTION

M 20638	RSM	H.W. Jeynes	- 1 Cdn Army Tpt Coln RCASC
B 81815	Cpl.	Hannan, A	- 47 Cdn Army Tpt Coy RC.A.S.C.
H 37269	L/Sgt.	Forrester, W	- 47 Cdn Army Tpt Coy R.C.A.S.C.
B89167	Cpl.	Brown, B.B.	- 47 Cdn Army Tpt Coy R.C.A.S.C.

I, M67635 Pte. George Desjarlais desire to have an officer assigned to represent me at my trial by Court-Martial.

G. Desjarlais

M67635 Pte. Desjarlais, G

EXHIBIT B

ARMY FORM B.213d (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M67635	Private	DESJARLAIS, G.	47 Can Army Tpt Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be attached to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct rewarded or the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA Sec 15 (1) AWL — Three times.

For AA Sec 40 "Conduct etc" — One times.

For AA Sec 19 Drunkenness — One times.

For ____ — ____ times.

Date of first entry in Field Conduct Sheet 15 Sep 40

Date of last entry in Field Conduct Sheet 1 Nov 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. N/A

*Strike out if not applicable.

*3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~seventeen~~ eighteen (18) days in military custody, *i.e.*, Nil days in open arrest, ~~seventeen~~ eighteen (18) days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 28 years 9 months 3 days

6. The date of his attestation is 10 Dec 41

7. The service which the accused is allowed to reckon is 3 years 5 days to [illegible]

†State the military decorations (if any) held by accused.

8. The accused is in possession of† Can Voluntary Service Medal and Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date— N/A

		Date of Promotion.
In the substantive rank of	N/A	
In the war substantive rank of	N/A	
In the acting rank of	N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(22134) W1.8470/668 200,000 4/42 A.& E.W.Ltd. Gp.698
(25489) W1.10456/1473 80,000 2/42

Forms/B.200/Ward/2

No. M67635 Name DESJARLAIS, G. Sqn. Battery or Company | Corps R.C.A.S.C. | Date of enlistment 16-12-41 | Badges | Service or Proficiency Pay | EXHIBIT C | MFM 6 (AFB 122) 40/PAM/136 (3438)

Company Conduct Sheet Date of last entry in 19-5-43 | Month and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Dates of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with K.O. 2064 upon completion of six months service, old sheet destroyed 17-6-42									
Field	15-9-42	Pte		AWL from 2359 hrs 14-9-42 until 0240 hrs 16-9-42. (Absent 2 hrs, 41 min) AA Sec 15 (1).	Documentary	7 days C.B.	16-9-42	Maj J.W. Wilson	
Field	31-7-43	Pte		Sec 15 (1) AA - AWL from 0616 hrs 31 Jul 43 to 1600 hrs 5 Aug 43	Sgt Leonard	7 days C.B. Forf 7 days pay FR&I 149 (2)	6 Aug 43	Maj G. Gibb	Forf 6 days pay FR&I 149 (1) (a)
Field	1 Jul 44	Pte	1.	Sec 40 AA Conduct to the prejudice etc. failed to do his guard shift.	Cpl Slatter	Forf 7 days pay FR&I 149 (2)	2 Jul 44	Maj Muir	Forf 1 days pay FR&I 149 (1) (a)
			2.	Sec 15 (1) AWL from 1600 hrs 1 Jul 44 to 0200 hrs 2 Jul 44	Cpl Koonle	Forf 14 days pay FR&I 149 (2)			
				7 days concurrent with award on 1st charge.					

(PTO)

CORRECTION

This document has been rephotographed to assure legibility

CHARGE SHEET

Def.

The accused, M67635 Pte. George DESJARLAIS, 47 Cdn Army Tpt Coy RCASC a soldier of the Canadinn Army Overseas is charged with:-

FIRST CHARGE
Sec 6 (2) (f)
Army Act

WHEN ON ACTIVE SERVICE LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER

in that he,

in the Field after being duly mounted as a member of the Guard of HQ First Cdn Army Tpt Coln RCASC at approximately 0800 A hours 1 Dec 44 was found to be absent from the Guard room without permission of his Superior Officer thereby necessitating another man to be detailed for his tour of duty.

SECOND CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from the Guard Room from 0800 A hours 1 Dec 44 until surrendering himself at 0730 hours 1 Dec 44. (Absent 5 hours 30 minutes)

THIRD CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE ~~WHILE UNDER OPEN ARREST~~ CAMP

in that he,

in the Field absented himself without leave while under open arrest from 2300 A hours 1 Dec 44 until 0630 hours 2 Dec 44 (Absent 7 hours 30 minutes)

(C.A. Mair) Major
Officer Commanding
47 Cdn Army Tpt Coy
R.C.A.S.C.

In the Field
6 Dec 44

"To be tried by F.G.C.M."

(W.R. Jones) Lt-Col
Comd 1 Cdn Army Tpt Coln

IN THE FD
18 DEC 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA82)
40/P&S/1697 (2665)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-67635	Private		George	DESJARLAIS	47 Cdn Army Tpt Coy RCASC

CONVENING ORDER.

Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 DEC 44 endorsed by me, ~~or by an offr of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; "~~and that it is not practicable for delay to occur in bringing the case to trial~~"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I do hereby appoint (a) the next Member of the Court, to act as President for the occasion, as detailed hereunder.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR (Rank.)	D.A.	FERGUSSON (Must be named. RP 106.)	4 Cdn Armd Div Tpt (Unit.) Coy RCASC

MEMBERS.

CAPT	H.H.	MACKAY	45 Cdn Army Tpt Coy RCASC
CAPT (Rank.)	J.H.	MACLAREN (Named or detailed. RP 106.)	HQ 1 Cdn Army Tpt (Unit.) Coln

WAITING MEMBER.

LIEUT (Rank.)	To be detailed by OC 4 Cdn Armd Div Tpt Coy (Named or detailed, if any. RP 106.)		4 Cdn Armd Div Tpt (Unit.) Coy RCASC

JUDGE-ADVOCATE.

CAPT (Rank.)	G.H.	JERMYN (Must be named, if any. RP 106.)	ADJR, HQ Army Tps (Unit.) Area

On Active Service in the Fd

in BELGIUM (Country.)

(J.B. Jones)
(Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

Date 18 DEC 44

Commanding HQ 1 Cdn Army Tpt Coln
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

The Court satisfy themselves that Capt H A Mac Kay 45 Coln Army Tpt Coy RCASC is not available to serve owing to the exigencies of the service

Lieut J P Mc Avoy, 4 Coln Armd Div Tpt Coy. is acting member takes his place as a member of the Court.

MEDICAL CERTIFICATE (K.R. (Can) 557) Daf.

I certify that I have this morning examined No. M 67635 pte

Desjarlais G. of 47 CA Tpt Coy, in my opinion,

he is ~~fit~~ fit to undergo trial by Court-Martial, this date.

unfit

Station Field

Date 20 Dec 44

G K Fowler Capt
Medical Officer

Prosecution

First Witness

B-89167 Cpl. Brown, B.B. - 47 Cdn Army Tpt Coy sworn states,

On 1 Dec 44 I was orderly N.C.O. on checking the roll at 2300 hrs I found Pte Desjarlais, absent. At the time he was under open arrest. I did not see him until about 0630 hrs 2 Dec 44. when he was in the hallway.

Cross-examination

I did not check again up to 0630 hrs next morning. I searched the billets but I did not check the ablution rooms and latrines.

R.P. 93(A) complied with.

Defence

First Witness

M-67635 Pte Desjarlais, J. sworn states,

I was ill. I had diarrhoea. It kept me out all night running between my billets and the lavatory. I had cramps. I sat there for an hour at a time.

Cross-examination

I wasn't told by anyone in billets that the duty Cpl. had marked me A.W.L. The latrine is in a [illegible] bldg. about 50 x from billets.

RP 93(A) complied with.

Second Witness

F-32226 Coakley, R. - 47 Cdn Army Tpt Coy sworn states,

I am medical orderly. Accused reported ill on 3rd Dec. The M.O. diagnosed it as dysentery, diarrhoea and cramps. This condition often last two or three days.

Cross-examination

He reported on 3rd Dec.

RP 93(A) complied with

Third Witness

L-7145 Sgt. Major Busland, J. - 47 Cdn Army Tpt Coy sworn states,

Pte Desjarlais has been with our coy for about 2½ years. For 2 years of that time he was Reg't Police on H.Q. He handled men well for me and did his work quite satisfactorily.

No cross examination

RP 93(A) complied with.

Defending officer's closing address

No absence in first place. Even if absent from billets under open arrest absence was due to illness.

Prosecuting officer's closing address

He was not in billets. Not suffct. evidence of illness. He did not report to unit orderly until 3rd Dec.

Summing up by J.A.

Advises court on burden of proof. Reads footnote to BA15 MMAL P441 3rd and 5th sentences. Defines reasonable doubt

Mr President, are there any further matters on which you wish me to advise the court?

Pres. No.

Mr Prosecuting Officer, are there any further matters on which you wish me to advise the court?

Pros. No

Mr Defending Officer are there any further matters on which you wish me to advise the court?

Def. No

Statement by accused in reference to the Charges

On 30 Nov 44 I was on guard. I did not want to go to sleep ~~[illegible]~~ The night before that I was sick. I just kept walking around. Then I met some people and went into their home. Coming out to go on guard at 0200 hrs I got lost in the dark and didn't find my way back until day light. I reported to the Cpl of the guard.

G. Ferrington capt
J.A.

EXHIBIT A

SUMMARY OF EVIDENCE

in the case of

M67635 Pte Desjarlais, G., of 47 Cdn Army Tpt Coy RCASC a soldier of the Canadian Army, on Active Service, charged with:-

FIRST CHARGE Sec 6 (2)(f) Army Act — WHEN ON ACTIVE SERVICE LEAVING HIS GUARD WITHOUT ORDERS FROM HIS SUPERIOR OFFICER

SECOND CHARGE Sec 15 (1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

THIRD CHARGE Sec 15 (1) Army Act — WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE WHILE UNDER OPEN ARREST

FIRST WITNESS — M20638 R.S.M., H.W. Jeynes, H.Q Comd First Cdn Army Tpt Coln., having been duly sworn states:-

"I am M20638 RSM H.W. Jeynes of HQ Comd First Cdn Army Tpt Coln. On Nov 27th 1944 I mounted the Guard on this HQ. The Guard's tour of duty to last until 1400 hours 3 Dec 44. I called the roll and M67635 Pte Desjarlais, G. answered his name. I now recognize Pte Desjarlais. I read the Guard Standing Orders to the Guard and emphasized the fact that all members of the Guard were definitely C.B. for their entire tour of duty to the Guard Room except when proceeding to the Mess Hall for meals. As a number of the Guard required haircuts I instructed the Guard Commander that he would get permission from the Adjutant or myself for one or two men at a time to go down to the barber which is close vicinity to this HQ. for the neces ary haircut. On 1 Dec 44 B81815 Cpl Hannan, A. at approximately 0750 hours reported to me that M67635 Pte Desjarlais, G. had been absent without leave from approximately 0800A hours 1 Dec 44. Approximately fifteen minutes later Cpl Hannan reported to me that M67635 Pte Desjarlais G. was in the Guard Room. I herewith present copy of Guard Standing Orders. (Exhibit A) marked.

R.W. Jeynes, RSM

SECOND WITNESS — B81815 Cpl Hannan, A., 47 Cdn Army Tpt Coy RCASC having been duly sworn states:-

" I am B81815 Cpl Hannan, A. of 47 Cdn Army Tpt Coy RCASC I was the commander of the Guard HQ Comd First Cdn Army Tpt Coln, which was mounted on the 27 Nov 44 and which was to remain on duty until 1400 hours 3 Dec 44. I was present at the Guard Mount and heard the Guard Standing Orders read by M20638 RSM H.W. Jeynes. The roll was called and M67635 Pte Desjarlais G answered his name. I now recognize Pte Desjarlais. At approximately 0800A hrs 1 Dec 44 I was getting my relief guard ready and found Pte Desjarlais was not present in the Guard Room. I put another man in his place and waited until 0900 hours 1 Dec 44 when I reported his absence to RSM H W Jeynes. Pte Desjarlais reported to me in the Guard Room at approximately 0750A hours. I placed him under open arrest and reported him to RSM Jeynes.

Q 1. What arrangements are made for feeding the Guard during the night?

A 1. Between 2100A hrs and 2130 A hrs I send two men to the kitchen to pick up a lunch. This is brought to the Guard Room and consumed there during the night.

The accused declines to cross examine the witness.

B81815 Cpl Hannan, A.

THIRD WITNESS H37269 L/Sgt Forrester, W.B. of 47 Cdn Army Tpt Coy RCASC having been duly sworn states:-

" I am H37269 L/Sgt Forrester, W.B of 47 Cdn Army Tpt Coy RCASC. On 1 Dec 44 at approximately 1600 hours M67635 Pte Desjarlais, G was returned to this Platoon from CRASC Guard under open arrest. At 2300 A hours 1 Dec.44 I made the rounds with the Duty Corporal to check Tattoo and M67635 Pte Desjarlais G was not in his room. I did not see him until 0630A hours 2 Dec 44 when I saw him in his bed at Reveille."

The accused declines to cross examine the witness.

H37269 L/Sgt Forrester, W.B.

FOURTH WITNESS B99167 Cpl Brown, B.B. of 47 Cdn Army Tpt Coy RCASC having been duly sworn states:-

" I am B99167 Cpl Brown, B.B. of 47 Cdn Army Tpt Coy RCASC On the 1 Dec 44 I was duty N.CO. of "D" Platoon. On checking the roll at 2300 A hours with L/Sgt Forrester, W B I found that M67635 Pte Desjarlais, G. was absent from his quarters. I did not see him until approximately 0630 hours 2 Dec 44.

The accused declines to cross examine the witness.

B99167 Cpl Brown, B.B.

QUESTION TO THE ACCUSED

Do you wish to make a statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY THE ACCUSED.

I have nothing to say.

I certify that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence of the accused in the Field, Belgium, this 2nd day of December 1944.

J.M. Donaher, Lt.

Exhibit "A"

STANDING ORDERS

FOR

GUARDS & PICQUETS

COPY NO. 16

Issued by

Lt-Col V R JONES

COMD HQ I CDN ARMY TPT COLN

1. These orders supersede any and all other orders heretofore issued in respect of this subject.

2. All personnel detailed for guards or picquets will make themselves conversant with these orders and ensure that they are strictly adhered to at all times. Strict disciplinary action will be taken in respect of any breaches.

3. Guards and/or roving picquets will be posted at all times.

4. Personnel for these duties will be detailed from Coys under Comd of this HQ as notified. All guards within this fmn will be smart, trained soldiers, uniformly dressed and smart and alert in their bearing while on duty. They will carry arms at the sling except when challenging or as noted hereafter. The methods of challenging or paying compliments as detailed hereafter will be strictly adhered to.

5. The no to be mounted will vary with the location, accessibility etc. In all cases it will be sufficient to ensure the security of the HQ area, vehs, stores, equipment, quarters, etc.

6. Tour of duty will be 2 hours on and 4 hours off, unless otherwise order in HQ D.O. Pt I or by appendices to these orders.

7. Dress will be Battle dress (fully done up), steel helmets, black boots, gaiters, skeleton web with ammn pouches (properly cleaned and adjusted), sten guns or rifles will be carried, greatcoats and woolen gloves may be worn in cold or inclement weather, in which event web will be adjusted and worn over the greatcoat. Gas Capes may be worn in rainy weather Ground Sheets, leather jerkins and DR coats will NOT be worn.

8. Each guard and/or picquet will be in charge of an NCO whose duties will be as follows:-

(a) Tour of duty as notified from time to time in HQ D.O. Pt I.
(b) To attend at the daily guard mounting at 1400 hours with an officer or the RSM in attendance, at which time an inspection of [illegible] the guard and/or picquet will be carried

(c) To read to the guard and/or picquet on parade in such a manner that all can hear para 1,2,7,8,9 and 10 of these and any other pertinent orders and/or instrs which may be issued from time to time

chamber is left empty and will instruct all sentries when placing them on their posts that they will not load unless it is

In para 8 add the following sub paras:

(l) He will not himself enter or permit any member of his guard to enter any cafe, restaurant or bar, except insofar as he or any of his guard are required to do so in the execution of their duties.

(m) He will not nor will any member of his guard partake of any alcoholic beverages during their tour of duty.

(n) He will be available at all times and all members of his guard when not on post will remain available at the guard room and will not be permitted to leave this loom except for reasons of personal toilet as may be required or on the authority of the Adjt or RSM.

Exhibit "A"

STANDING ORDERS

FOR

GUARDS & PICQUETS

COPY NO 16

Issued by

Lt-Col V R JONES

COMD HQ 1 CDN ARMY TPT COLN

1. These orders supersede any and all other orders heretofore issued in respect of this subject.

2. All personnel detailed for guards or picquets will make themselves conversant with these orders and ensure that they are strictly adhered to at all times. Strict disciplinary action will be taken in respect of any breaches.

3. Guards and/or roving picquets will be posted at all times.

4. Personnel for these duties will be detailed from Ocys under Comd of this HQ as notified. All guards within this fmn will be smart, trained soldiers, uniformly dressed and smart and alert in their bearing while on duty. They will carry arms at the sling except when challenging or as noted hereafter. The methods of challenging or paying compliments as detailed hereafter will be strictly adhered to.

5. The no to be mounted will vary with the location, accesibility etc In all cases it will be sufficient to ensure the security of the HQ area, vehs, stores, equipment, quarters, etc.

6. Tour of duty will be 2 hours on and 4 hours off, unless otherwise order in HQ D.O. Pt I or by appendices to these orders.

7. Dress will be battle dress (fully done up), steel helmets, black boots, gaiters, skeleton web with ammo pouches (properly cleaned and adjusted), sten guns or rifles will be carried, greatcoats and woollen gloves may be worn in cold or inclement weather, in which event web will be adjusted and worn over the greatcoat. Gas Capes as may be worn in rainy weather Ground Sheets, leather jerkins and fur coats will NOT be worn.

8. Each guard and/or picquet will be in charge of an NCO whose duties will be as follows:-

(a) Tour of duty as notified from time to time in HQ D.O. Pt I.
(b) To attend at the daily guard mounting at 1400 hours with an officer or the RSM in attendance, at which time an inspection of the personnel comprising the guard and/or picquet will be carried out.
(c) To read paras 1, 2, 7, 8 and 10 of these standing orders and other pertinent orders and/or instructions which may be issued from time to time.
(d) He will examine all small arms and ammo before and after guard duty and will be responsible to see that the guard is fully instructed as to their orders and duties.
(e) He will ascertain that the magazines are charged but that the chamber is left empty and will instruct all sentries when placing them on their post that they will not load unless it is necessary to fire.
(f) He will see that the personnel not on sentry post are capable of answering immediate call at all times.
(g) He will visit the guard at irregular times, twice by day and twice by night, to ensure that they are familiar with their duties and are properly performing them.
(h) To post the guard and each change thereof.
(i) He will be responsible for any and all articles of equipment issued to him for use by the guard during his tour of duty.
(j) He will be available at all times during his tour of duty at a place convenient to and notified to the members of the guard. The Guard Comd will warn all guards and picquets that they will NOT under any circumstances surrender their arms or ammo to any person whatever, nor will they advise any person of their orders unless such person is accompanied by the Guard Comd.
(k) He will be responsible for the waking of the Orderly Sgt [illegible] minutes before Reveille daily.

9. Duties of Guards and/or picquets will be as follows:-

(a) The Post and/or area for which he will be responsible will be detailed at the time of the Guard Mount by the Guard Comd. These posts and/or areas will be as detailed in HQ D.O. Pt I or appendices to these orders.

(b) He will in taking over his post and/or area make sure of the no of vehs, stores, equipment, etc, which are in the area and for the safeguarding of which he is responsible during his tour of duty.

(c) He will NOT lounge about on his post, but will stand properly at ease, or move smartly when changing position. It is his duty to see everybody that comes near his post.

(d) Sten guns will be carried slung from one shoulder while standing or moving about.
Rifles will be carried slung from one shoulder when moving around, and may be carried at the slung or stand at ease position when standin still.
Sten or rifle will be held at the READY when challenging.
Loaded magazines will be fixed but no rounds will be placed in the chamber.
He will ensure his area is [illegible]

9(e) He will not challenge an offr or soldier whom he recognises during the hours of daylight but will challenge all persons during the hours of darkness.

his entrance and ensure that the occupants advance and be recognised one at a time, in accordance with the general challenge.
(ii) Sentries will challenge persons approaching their post in the following manner: "Halt! Who goes there". The sentry must be perfectly certain that his challenge is given in the loudest possible manner so that even those who may be dull of hearing can have the chance of responding. Failure of some such action to reply. If the person who is challenged is in this way does not halt he will load his challenged again in the same manner. If the person does not halt after this warning he will be immediately and if no other means are available to him to stop the person from advancing further should he fail to respond to the challenge and the warning. If a person and be stopped in any other way, for example, by calling the guard to assist, then the sentry will not shoot unless he has grounds for believing that he is about to be attacked. The sentry must remember his responsibility but he will also use common sense when deciding to shoot or not. He must take all precautions to safeguard the HQ and himself from surprise attack by the enemy or other subversive persons.
(iii) At night or in thick fog, the sentry must not allow himself to be rushed and he must be well on the alert even more so than daylight. He must [illegible] ready to take such action as will be necessary to prevent any person who refuses to respond to his challenge or warning from approaching his sentry post any nearer.

(f) No unauthorised person or persons will be permitted to enter the HQ area or the veh park. Any person or persons wishing to proceed to HQ or enter any of the parks should show identity card and if unable to do so will be refused permission to enter unless or until the Guard Comd, an officer or the RSM has interviewed the party concerned. If there is still any doubt about the matter the Guard Comd will see that the person is escorted to HQ by one of the guards. Attached to appendix as a guide to the examination of identity documents and passes.

(g) He will NOT permit any veh to leave the area or veh park unless accompanied by an officer or if there is no officer present the dvr will be required to show a work ticket. This work ticket will be carefully checked for the following:
(i) That it is made out for the proper veh (that is that the veh number on the work ticket agrees with the number on the veh).
(ii) That the work ticket bears the correct date.
(iii) That the work ticket has been signed by an officer or the RSM.

(h) Personnel will not [illegible] veh/s/ area for any reason whatsoever, except on the authority of the Guard Comd and then only [illegible]

9. Duties of Guards and/or picquets will be as follows:-

(a) The Post and/or area for which he will be responsible will be detailed at the time of the Guard Mount by the Guard Comd. These posts and/or areas will be as detailed in HQ D.O. Pt I or appendices to these orders.

(b) He will in taking over his post and/or area make sure of the no of vehs, stores, equipment, etc, which are in the area and for the safeguarding of which he is responsible during his tour of duty.

(c) He will NOT lounge about on his post, but will stand properly at ease, or move smartly when changing position. It is his duty to SEE everybody that comes near his post.

(d) Sten guns will be carried slung from one shoulder while standing or moving about.
Rifles will be carried slung from one shoulder when moving around, and may be carried at the slung or stand at ease position when standin still.
Sten or rifle will be held at the READY when challenging.
Loaded magazines will be fixed but no rounds will be placed in the chamber.
He will prove his sten or rifle when relieved before leaving his post.

(e) ~~He will NOT challenge an officer or soldier whom he recognises.~~
All officers or O.R's unknown to the sentry will be challenged as follows:
(i) In the event of a sentry stopping a veh and challenging the occupants, he will not approach nearer to the veh but will keep his distance and demand that the occupants advance and be recognized one at a time, in accordance with the general challenge.
(ii) Sentries will challenge persons approaching their post in the following manner: "Halt! Who goes there". The sentry must be perfectly certain that his challenge is given in the loudest possible manner so that even those who may be dull of hearing can have the chance of responding "Friend" or some such suitable reply. If the person who is challenged in this way does not halt, he will then be challenged again by the sentry thus: "Halt or I fire!" If the person does not halt after this warning, he will be immediately challenged again in the same manner. If the person does not halt and if no other means are available to stop him, it is then the duty of the sentry to use his rifle or sten and shoot, aiming low to hit but not to kill. The sentry must remember that it is his duty to stop a person from advancing farther should he fail to respond to the challenge and the warning. If a person can be stopped in any other way, for example, by calling the guard to assist, then the sentry will not shoot unless he has grounds for believing that he is about to be attacked. The sentry must remember his responsibility but he will also use common sense when deciding to shoot or not. He must take all precautions to safeguard the HQ and himself from surprise attack by the enemy or other subversive persons.
(iii) At night or in thick fog, the sentry must not allow himself to be rushed and he must be well on the alert even more so than in daylight. He should at no time unduly expose himself, and must be ready to take such action as will be necessary to prevent any person who refuses to respond to his challenge or warning from approaching his sentry post any nearer.

(f) No unauthorised person or persons will be permitted to enter the HQ area or the veh park. Any person or persons wishing to proceed to HQ or enter any of the parks should show identity card and if unable to do so will be refused permission to enter unless or until, The Guard Comd, an officer or the RSM has interviewed the party concerned. If there is still any doubt about the matter the Guard Comd will see that the person is escorted to HQ by one of the guards. Attached is appendix as a guide to the examination of identity documents and passes.

(g) He will NOT permit any veh to leave the area or veh park unless accompanied by an officer or if there is no officer present the dvr will be required to show a work ticket. This work ticket will be carefully checked for the following:
(i) That it is made out for the proper veh (that is that the veh number on the work ticket agrees with the number on the veh).
(ii) That the work ticket bears the correct date.
(iii) That the work ticket has been signed by an officer or the RSM.

(h) Personnel will NOT leave the post and/or area for any reason whatsoever except on the authority of the Guard Comd and then only

(cont'd)

after they are properly relieved.

(i) He will patrol the veh lines and/or area every half hour and ensure that there are no unauthorized persons therein. Any suspicious circumstances will immediately be reported to the Guard Comd.

(j) He will pay compliments to all officers, whether on foot or in a veh, and all vehs displaying a flag or pennant indicating the presence of a senior officer in the veh. He will do this by coming smartly to attention. He will NOT salute.

10. These Orders are Published, Promulgated and Issued with effective date 13 Nov 44. Further warnings will not be given and disciplinary action will be immediately taken in respect of any breach, without discrimination.

for (W H Jones) Lt-Col
Comd 1 Cdn Army Tpn Coln

DISTRIBUTION:

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12 - War Diary
13 - War Diary
14 - War Diary

Trial of M67685 Pte. Desjarlais C. 47 Cdn Army Tpt Coy

LIST OF EXHIBITS

Exhibit "A"	Guard Standing Orders - of HQ 1 Cdn Army Tpt Coln RCASC Marked exhibit "A"

Trail of M 67635 Pte. Desjarlais, G. - 47 Cdn Army Tpt Coy RCASC

LIST OF WITNESSES FOR THE PROSECUTION

M 20638	RSM	H.W. Jeynes	- 1 Cdn Army Tpt Coln RCASC
B 81815	Cpl.	Hannan, A	- 47 Cdn Army Tpt Coy RC.A.S.C.
H 37269	L/Sgt.	Forrester, W	- 47 Cdn Army Tpt Coy R.C.A.S.C.
B89167	Cpl.	Brown, B.B.	- 47 Cdn Army Tpt Coy R.C.A.S.C.

I, M67635 Pte. George Desjarlais desire to have an officer assigned to represent me at my trial by Court-Martial.

G. Desjarlais

M67635 Pte. Desjarlais, G

EXHIBIT B

ARMY FORM B.196 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M07635	Private	DESJARLAIS, G.	47 Can Army Tpt Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	AA Sec 15 (1) AWL	Three times.
For	AA Sec 40 "Conduct etc"	One times.
For	AA Sec 19 Drunkenness	One times.
For		times.

Date of first entry in Field Conduct Sheet 15 Sep 42

Date of last entry in Field Conduct Sheet 1 Nov 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. N/A

*Strike out if not applicable.

*3. ~~[illegible]~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~seventeen~~ eighteen days in military custody, *i.e.*, Nil days in open arrest, ~~seventeen~~ eighteen days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 28 yeers 9 monthe 3 days

6. The date of his attestation is 10 Dec 41

7. The service which the accused is allowed to reckon is 3 years X days

8. The accused is in possession of: Cdn Voluntary Service Medal and Clasp

State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date— N/A

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21131) W1.8670/868 100,000 6/42 A.& E.W.Ltd. Gp.446
(22439) W1.13026/1870 80,000 9/42 " " Form B.196(War)1

EXHIBIT C

MFM 6 (AFB 152)

No M67635 Name DESJARLAIS, G. | Sqn, Battery or Company | Corps R.C.A.S.C. | Date of enlistment 10-12-41 (RC Badges) | Service or Proficiency Pay | Character

Company Conduct Sheet | Date of last entry in 19-5-42 | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with R.O. 2084 upon completion of six months service, old sheet destroyed 17-6-42									
Field	15-9-42	Pte		AWL from 2359 hrs 14-9-42 until 0240 hrs 15-9-42. (Absent 2 hrs, 41 min) AA Sec 15 (1).	Documentary	7 days C.B.	16-9-42	Maj J.W. Wilson	
Field	31-7-43	Pte		Sec 15 (1) AA - AWL from 0615 hrs 31 Jul 43 to 1600 hrs 5 Aug 43	Sgt Leonard	7 days C.B. Forf 7 days pay FRAI 149 (2)	6 Aug 43	Maj G. Gibb	Forf 6 days pay FRI 149 (1) (a)
Field	1 Jul 44	Pte	1.	Sec 40 AA Conduct to the prejudice etc. failed to do his guard shift.	Cpl Slatter	Forf 7 days pay FRAI 149 (2)	2 Jul 44	Maj Mair	Forf 1 day pay FRI 149 (1) (a)
			2.	Sec 15 (1) AWL from 1600 hrs 1 Jul 44 to 0800 hrs 2 Jul 44	Cpl Moonie	For 14 days pay FRAI 149 (2)			
				7 days concurrent with award on 1st charge.					

(F10)

5F-89

Pte. Desjarlais, G.

RECORDED AT CMHQ IN AB 160 5F-89

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40/P & B/1688 18(44) 4/38B

RT
MAY 1945
JAG I.

Convened by Order of Lt ColV R Jones Comd HQ 1 Cdn Army Tpt Coln dated 12 Mar 45.

ACCUSED.

(As to the trial of two or more charged jointly see RR 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) apprnt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M67635	Private	George	DESJARLAIS	47 Cdn Army Tpt Coy

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

3-5-45

REVIEWING OFFICER JAG BRANCH C.M.H.Q.

Held at (place) on (date(s)) 21 March 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is subject amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~in custody~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~in custody~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~ summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the Interpreter~~ as interpreter ? Ans

The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A B Shaneman	63 Cdn Army Tpt Coy
Member	Capt	R.H. Cadney	64 Cdn Army Tpt Coy
Member	Capt	A.L. Upton	45 Cdn Army Tpt Coy
Judge-Advocate	Capt.	J.B. Jermyn	HQ A Tps Area Headquarters
Prosecutor	Capt	C.B.M. Foster	64 Cdn Army Tpt Coy
Defending Offr	Lt	F.E. Murphy	47 Cdn Army Tpt Coy

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert as AB rank and name of the accused making the plea.)

A9. The accused is (~~severally~~) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M67635 Pte George DESJARLAIS 47 Cdn Army Tpt Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 23 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 120 days

(Sgd) Gordon H Jermyn Judge-Advocate, if any. Date awarded. 21 Mar 45 (Sgd) A B Shaneman Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd)

Date 22 Mar 45 Commanding 1 Cdn Army Tk Coln Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M67635 Pte George Desjarlais	24 Mar 45	MAJOR 47 CDN. ARMY TPT. COY. R.C.A.S.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~ ~~as~~ JA, ~~if duly~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans *I do not* .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is ~~(are)~~ so informed, ~~and he (they)~~ ~~change(s) his (their) plea(s)~~ on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement.* ~~*Delete whole or part not used.*~~)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex *A*, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded NOT GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 46, *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf* 395. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*E*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans *I do not wish*
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 6, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (record) of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex *B* and Ex *C* respectively.(3)
(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 1338. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet and in mitigation of punishment ?(1) Ans *I do not wish to say anything in addition to what my Defending Officer* .....(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 48, 116, 119(*A*), *KR Con* 1001, 1301, 563-565, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No. M67635 Pte. George Desjarlais 47 Cdn Army Tpt Coy RCASC a soldier of the Canadian Army Overseas is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he
in the Field absented himself without leave from 0800 hours 18 Feb 45 until 1000 hours 25 Feb 45 (Absent 7 days 2 hours).

(S.A. Adams) A/Major C.O.
47 Cdn Army Tpt Coy RCASC

Field
7 Mar 45

To be tried by Field General Court Martial

(V.P. Jones) Lt Col
Comd 1 Cdn Army Tpt Coln

Field
12 Mar 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 100. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (c) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M67635	Private		George	DESJARLAIS	47 Cdn Army Tpt Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~(s)~~ set forth in the Charge Sheet~~(s)~~ attached and on (*date*) 12 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~(s)~~ should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	R D SHANEMAN	63 Cdn Army Tpt Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT	K H PUDNEY	64 Cdn Army Tpt Coy
LT	T W Mc LEAN	45 Cdn Army Tpt Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt.	To be detailed by OC 45 Cdn Army Tpt Coy	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
CAPT	G H JERMYN	HQ A Tps Area

On Active Service in the Fd

in Holland (Country.)

(W R Jones) (Signed personally. RP 105 fn 2.)

LT COL (Rank.)

Date 12 Mar 45

Commanding 1 Cdn Army Tpt Coln
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/F & S/1697 (8143)

MEDICAL CERTIFICATE (K.R. (CAN) 557)

I certify that I have this morning examined No. M67635

Pte Desjarlais G. of 47th Cdn Army Tpt Coy. RCASC and, in my opinion,

he is fit to undergo trial by Court-Martial
unfit

Station Field

Date 21 March 45

Jas J Anderson Capt
Medical Officer

The Court satisfy themselves that Lt. T. W. McLean, 45 Cdn Army Tpt Coy is not available to serve having been detailed to operational duty.

Lt A C Upton 45 Cdn Army Tpt Coy waiting member takes his place as a member of the Court

Kenny Capt
J.A.

B-2

On Saturday night 18 Feb I had two more months of training before any other fight granted to me. I was supposed to bus for the unit. I decided to have a drink and took too much. When I woke up I was away from the camp. I kept on drinking and didn't realize how long I was away. Then I sobered up and came right back to camp.

E-1

Character Evidence

L-7005 A/C.S.M. Leonard, B.L. 47 Coy Army Tpt Coy, sworn states,

I have known the accused for the last two years. At one time I was his pl. sgt both in D pl. and H.Q. During that time he has been one of the most excellent soldiers particularly when he was on Sgt. Mess duties. I have never had any trouble with him.

No - Cross examination

R.P. s 3(b) complied with.

~~S.C. 24~~ held in the field 21 Nov 45
to try a charge against
M67635 Pte Desjardins, George. of 47 Can Army Pet Coy.

This man has been held under close arrest in the unit lines for a period of 23 days. During that time he has worked very hard at the tasks assigned to him and has caused no trouble whatsoever.

He joined the unit in Oct 1942 and has been employed since then as a driver and as Regimental Policeman. In both these jobs he carried out his duties conscientiously and to the best of his ability.

I trust the Court will take these facts into consideration when making a decision on the case.

J B Murphy Lt
47 Can Army Pet Coy
RCASC

Plea of mitigation at a F.G.C.M held in the field 21 Mar 45
to try a charge against

E-3. M67635 Pte Desjarlais, George of 47 Cdn Army Tpt Coy.

This man has been held under close arrest in the unit lines for a period of 23 days. During that time he has worked very hard at the tasks assigned to him and has caused no trouble whatsoever.

He joined the unit in Oct 1942 and has been employed since then as a driver and as Regimental Policeman. In both these jobs he carried out his duties conscientiously and to the best of his ability.

I trust the Court will take these facts into consideration when making a decision on the case.

J S Murphy Lt
47 Cdn Army Tpt Coy
RCASC

EXHIBIT 'A'

SUMMARY OF EVIDENCE

in the case of

M67635 Pte George Desjarlais

47 Cdn Army Tpt Coy RCASC

Canadian Army Overseas

The Officer Commanding directs that all Evidence be taken upon oath.

FIRST WITNESS A9486 Sgt Watson, A. 47 Cdn Army Tpt Coy RCASC, Cdn Army Overseas, having been duly sworn states:

"Sir, I am A9486 Sgt Watson, A. 47 Cdn Army Tpt Coy RCASC and am employed as Sgt i/c GD Platoon.

On the morning of 18 Feb 45 at about 0800 hrs I checked my Pl billets in preparation for my Morning Parade State. I noted that M67635 Pte Desjarlais, G. although present at 2300 hrs, 17 Feb 45, was now missing.

As Pte Desjarlais was in training for the forthcoming Boxing Competition, Cdn Army, and with permission had previously made use of the room used as a Gymnasium in "C" Pl Lines, I immediately checked with "C" Tpt Pl to ascertain if Pte Desjarlais was in their Lines. I was informed that he was not in "C" Pl Lines and accordingly reported him as absent without leave from 0800 hrs, 18 Feb 45.

On the morning of 25 Feb 45 at about 1000 hrs I entered the GD Pl billets. Pte Desjarlais was present in the GD Pl billets at that time. I received a report from L/Cpl Edwards and as a consequence I placed Pte Desjarlais under close arrest and instructed that he be placed in the detention room at Coy HQ for safe custody.

Pte Desjarlais did not have permission to be absent from his quarters after 0800 hrs 18 Feb 45. He was still so absent each succeeding day up to approximately 1000 hrs 25 Feb 45. Between 0800 hrs, 18 Feb 45 and 1000 hrs 25 Feb 45 I did not see Pte Desjarlais in or about the Coy or Pl lines neither did I receive any report that Pte Desjarlais was at any time after 0800 hrs 18 Feb 45 to approximately 1000 hrs 25 Feb 45, present in the Coy or Pl lines.

That is all I know of the case, Sir."

A. Watson Sgt

(A9486 Sgt Watson, A)
47 Cdn Army Tpt Coy RCASC

R.P. 83 (B) complied with.
The Accused declined to cross-examine the witness.

SECOND WITNESS A9589 L/Cpl Edwards, W.H., 47 Cdn Army Tpt Coy RCASC having been duly sworn, states:

"Sir, I am A9589 L/Cpl Edwards, W.H., 47 Cdn Army Tpt Coy RCASC and am employed as L/Cpl of the GD Pl.

On the morning of 18 Feb 45 Pte Desjarlais was reported as absent without leave as from 0800 hrs.

On the morning of 20 Feb 45 I picked up Pte Desjarlais' kit, made an Inventory of the same and turned the kit along with the Inventory over to the CQMS at Coy HQ for safe custody.

On the morning of 25 Feb 45 at about 1000 hrs when checking the GD Pl billets I found Pte Desjarlais present. He reported to me then. At that moment Sgt Watson arrived and he placed Pte Desjarlais under arrest.

Pte Desjarlais did not have permission to be absent from his quarters after 0800 hrs 18 Feb 45. He was still so absent each succeeding day up to approximately 1000 hrs 25 Feb 45. I did not see Pte Desjarlais in or about the Coy or Pl lines neither did I receive any report that Pte Desjarlais was at any time after 0800 hrs 18 Feb 45 to approximately 1000 hrs 25 Feb 45 present in the Coy or Pl lines.

That is all I know of the case, Sir."

W.H. Edwards L/Cpl

(A9589 L/Cpl Edwards, W.H.)
47 Cdn Army Tpt Coy RCASC

R.P. 83 (B) Complied with.
The Accused declined to cross-examine the witness.

The Accused was cautioned as follows:

"Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused declined to make any statement or to give evidence upon oath.

R.P. 4 (c)(d)(e)(f) complied with.

Taken down in the presence of the Accused this 3rd day of March.

(C.B.K. Foster) Capt
47 Cdn Army Tpt Coy RCASC

Trial of No.M67635 Pte George Desjarlais
47 Cdn Army Tpt Coy RCASC

LIST OF WITNESSES FOR THE PROSECUTION

A9486 Sgt Watson, A., 47 Cdn Army Tpt Coy RCASC

A9589 L/Cpl Edwards, W.H., 47 Cdn Army Tpt Coy RCASC

Dated 7 Mar 45
Field

(F.E. Murphy) Lt.
AO 47 Cdn Army Tpt Coy R
RCASC

I, M67635 Pte. George Desjarlais, desire to have an officer assigned to represent me at my trial by Court-Martial.

Pte Desjarlais

(M67635 Pte Desjarlais,G)

EXHIBIT B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M67635	Pte	DESJARLAIS George	47 Cdn Army Tpt Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL	five	times.
For Drunkenness	one	times.
For Leaving his Guard	one	times.
For		times.

Date of first entry in Field Conduct Sheet 19 May 42

Date of last entry in Field Conduct Sheet 1 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [illegible]

4. The accused has been awa[illegible] trial on the present charges for Nil days in civil custody; and for 23 [illegible] days in military custody, *i.e.*, Nil days in open a[illegible] 23 [illegible] days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 29 yrs, 11 mts, 23 days

6. The date of his attestation is 10 Dec 41

7. The service which the accused is allowed to reckon is 3 yrs, 2 months, 7 days

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ Cdn Voluntary Service Medal with Clasp

9. [illegible]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[illegible] Wt.[illegible] 100,000 4/42 A.B.E.W.Ltd. Gp.[illegible]
[illegible] Wt.[illegible] 60,000 [illegible] Forms/B.296/War/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 21 st day of Nov 45

[illegible] Maj

EXHIBIT C

MFM 6 (AFB 122) 40/P&S/198 (5458)

No M67635 Name Desjarlais, G. Sqn, Battery, or Company

Corps RCASC

Date of enlistment 10-12-41 GC Badges

Service or [illegible]

Date of last entry in Company Conduct Sheet 19-5-42 No and date of last drunk Nil

Period not reckoning towards freedom from extra fine

Sheet No 2.

Signature OC Company, etc

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In accordance with R.O. 2084 upon completion of six months service old sheet destroyed 17-6-42.									
Field	15-9-42	Pte		AWL from 2359 hrs 14-9-42 until 0240 hrs 15-9-42. (Absent 2 hrs, 41 mins) Sec 15 (1) AA	Documentary	7 days C.B.	16-9-42	Maj J. Wilson	
Field	31 Jul 43	Pte		Sec 15 (1) AA AWL from 0616 hrs 31 Jul 43 to 1600 hrs 5 Aug 43. Absent 5 days, 9 hrs.	Sgt Leonard	7 days C.B. Forf 7 d.p. FR&I 149 (2)	6 Aug 43	Maj G. Gibb	Forf 6 d.p. FR&I 149 (1) (a)
Field	1 Jul 44	Pte	1.	Sec 40 AA Conduct tothe prejudice etc failed to do his guard shift when orderedxto do so.	Cpl Slatter	Forf 7 d.p. FR&I 149 (2)	2 Jul 44	Maj C.A. Mair	
			2.	Sec 15 (1) AA AWL from 1600 hrs 1 Jul 44 to 0800 hrs 2 Jul 44. Absent 16 hrs.	Cpl Moonie CSM Burland	Forf 14 d.p. FR&I 149 (2)			Forf 1 d.p. FR&I 149 (1) (a)
				7 days concurrent with award on 1st charge.					

~~C.~~ O. F. - 1-27

Lgt. Deslaurier, J. H.

CHARGE SHEET

The accused C.96464 Sergeant John Harcourt Deslaurier, Headquarters 3 Canadian Infantry Division, Canadian Army Occupation Force, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
Sec 18(5)
Army Act

WHEN ON ACTIVE SERVICE DISGRACEFUL CONDUCT OF AN INDECENT KIND

in that he

In the Field, in Germany, on 10 Sep 45 with indecent intent attempted to unbutton the trousers of 102405 Sgt Smits, H.

SECOND CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in Germany, on 16 Sep 45 at approximately 0220 hours entered the sleeping quarters of G.57173 Pte Buckley, RG and B.163645 Pte White, KA and held the said Pte Buckley by the hair of his head and placed his hand on the said Pte Buckley's thigh and face and having left the room returned at approximately 0230 hours and wrestled with the said Pte White and remained in the said sleeping quarters until approximately 0600 hours.

THIRD CHARGE
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in Germany, on or about 2 Sep 45 at approximately 0230 hours entered the sleeping quarters of M.2642 Pte Nordby, H, who was then in bed and pulled the blankets off him and slapped his face and pursued the said Pte Nordby from the said quarters to an adjacent room.

Charges approved
W.L. Lycroft Capt
for Cdn JAG Cdn

In the Field
22 Sep 45

F. Leaman
(F. Leaman, MBE) Captain,
Camp Commandant,
HQ 3 Cdn Inf Div (CAOF)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

R L Houston
(R.L. Houston) Lt-col
Commanding,
Sigs 3 Cdn Inf Div (CAOF)

In the Field
22 Sep 45

C Doolittle
Major

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
44/PAM/1697 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C.96464	Sergeant		John Harcourt	Deslaurier	HQ 3 Cdn Inf Div (CAOF)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Sept 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it would be prejudicial to the public interest to convene a superior Court~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint the necessary number of the Court, but I appoint as President for the reasons stated hereof.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	C. Doolittle (Must be named. RP 106.)	3 CH of O (MG) CAOF (Unit.)

MEMBERS.

Captain	G.C.D. Adams	2/7 Cdn Rance Regt CAOF
Lieutenant (Rank.)	J.M. Troster (Named or detailed. RP 106.)	3 CH of O (MG) CAOF (Unit.)

WAITING MEMBER.

Lieutenant (Rank.)	S.L. Caseley MC (Named or detailed, if any. RP 106.)	2/7 Cdn Rance Regt CAOF (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	M.F. Reycraft (Must be named, if any. RP 106.)	HQ 3 Cdn Inf Div (CAOF) (Unit.)

On Active Service in the Fd in Germany (Country.)

Date 24 Sep 45

R.L. Houston
(Signed personally. RP 105 fn 2.)
(R.L. Houston.)

Lt-col (Rank.)

Commanding Sigs 3 Cdn Inf Div (CAOF)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

HQ 3 Cdn Inf Div CAOF
27 September 45

This is to certify that C-96464 Sgt DesLaurier, J H has been medically examined and is fit ~~unfit~~ to undergo trial by Field General Court Martial.

Milner Capt
Signature of Medical Officer

First Witness for Prosecution 102405 Sgt Smith H.
duly sworn, states:

I know the accused, Sgt Deslaurier.
On the night of 10 Sep after supper we had kind of a sing song party in our mess, that is E Mess. Sgt Deslaurier and me and four or five other sergeants were sitting around singing some songs and taking some drinks. I went out to take a bit of fresh air on the porch and Sgt Deslaurier joined me there after a few moments and said "I want to tell you something. Let's go out for a walk." We walked around the building and when we came in the shadow of the wall he pushed me against the wall and tried to unbutton my fly. He had his right hand on my shoulder and with his left hand was forking around & I didn't give him much chance because I pushed him away and said "Let's go inside". He tried it several times again and tried to persuade me to go in the back of the garden to let me have a wonderful time or something to that effect.

That is all the evidence I can give.

Cross exam:

I am Dutch interpreter at 3 Div HQ I came here 29 Aug 45. Sgt Deslauriers was in the mess at that time. After a few days I got to know him. I am not sure he was there on 29 Aug 45. He had not interfered with me at any time before. On the night of 10 Sep 45 there was a party in the mess. I was drinking and Sgt Deslauriers was drinking. I had 3 or 4 drinks of gin with fruit juice. Sgt Deslauriers was drinking. He had not molested me prior to the incident I have mentioned. When we were outside he tried almost immediately to unbutton my fly. We were outside 5 or 10 minutes. Sgt Deslauriers tried to stop me going in by holding my arm. It was not a serious attempt to prevent me going in. ~~He did~~ Most of the members of the mess would have made a boxing match of it but I have a 50 per cent disable arm and didn't want to have trouble with him. I had not previously heard anything about Sgt Deslauriers being queer.

Nothing occurred during that time.

RP 83 (B) complied with.

Second Witness for prosecution: A106195 Sgt. Hall R.E. HQ 3 Cdn Inf Div CAOF duly sworn states

I know the accused, Sgt Deslauriers. I know Sgt Smits. He is an interpreter. On about 10 Sep 45 I drove in my jeep along the side of the Sgts mess to the far end. Upon backing it around my headlights shone on the side of the mess where Sgt Deslauriers and Sgt Smits were standing. It was between 11 and 12 o'clock approximately. It was after 10:30. The two sergeants were about two long lengths away when my light shone on them. I dismounted my jeep and as I walked by I said "Good evening gentlemen" but there was no answer and I went to my room. The window of my room is directly above where the two were standing. It was open. It is about 12 or 15 feet above the ground. I was alone in the room and I overheard the conversation beneath the window arguing back and forth. I heard Sgt Deslauriers say to Sgt Smits

First Witness for Prosecution 102405 Sgt Smith H.
duly sworn, states:

I know the accused, Sgt Deslaurier. On the night of 10 Sep after supper we had kind of a sing song party in our mess, that is E Mess. Sgt Deslaurier and me and four or five other sergeants were sitting around singing some songs and taking some drinks. I went out to take a bit of fresh air on the porch and Sgt Deslaurier joined me there after a few moments and said "I want to tell you something. Let's go out for a walk." We walked around the building and when we came in the shadow of the wall he pushed me against the wall and tried to unbutton my fly. He had his right hand on my shoulder and with his left hand was fooling around * I didn't give him much chance because I pushed him away and said "Let's go inside" He tried it several times again and tried to persuade me to go in the back of the garden to let me have a wonderful time or something to that effect.

WH.

I told him not to and said "Let's go inside" but he didn't want to do so. Finally I went up the porch and asked him another time to go inside but he refused to come. During this time I had to stand with my body bent to keep my fly out of reach of his hands. After this I went inside. Before this there was quite a conversation. I didn't want to hurt his feelings and I told him several times not to make a fool of himself and to try to behave more like a man. I can't repeat the whole conversation. After I went inside Sgt Deslauriers joined the party there a couple of minutes later. When I went upstairs to bed later on I found him waiting in front of my room.

Def Offr objects to evidence of events later in the evening.

JA advises court that witness should be allowed to proceed.

Witness continues:

When I opened the door he followed on my heels but I pushed him off and brought him to his own room. After that I went to my own room and locked the door. A few moments later somebody tried to get in because the handle was turned several times

That is all the evidence I can give.

Cross exam:

I am Dutch interepreter at 3 Div HQ I came here 29 Aug 45. Sgt Deslauriers was in the mess at that time. After a few days I got to know him. I am not sure he was there on 29 Aug 45. He had not interfered with me at any time before. On the night of 10 Sep 45 there was a party in the mess. I was drinking and Sgt Deslauriers was drinking. I had 3 or 4 drinks of gin with fruit juice. Sgt Deslauriers was drinking. He had not molested me prior to the incident I have mentioned. When we were outside he tried almost immediately to unbutton my fly. We were outside 5 or 10 minutes. Sgt Deslauriers tried to stop me going in by holding my arm. It was not a serious attempt to prevent me going in. ~~He did~~ Most members of the mess would have made a boxing match of it but I have a 50 per cent disabled arm and didn't want to have trouble with him. I had not previously heard anything about Sgt Deslauriers being queer.

My attitude was to go inside and forget all about it. I don't know who tried to enter my room. It might have been someone else.

By the Court.

I am not sure when I went outside. It must have been close to eleven. It was after supper. I went to bed somewhere around twelve. We started drinking about half past ten. I am not sure of the time. I knew Sgt Deslauriers very well. He was one of 5 or 6 with whom I had closer friendship than the other members of the mess. We have been together to No 16 hospital to visit a member of the mess. When he tried to enter my room I just took him by the shoulders to his own room. He was quite easy to handle.

By the JA.

I don't know how much Sgt Deslauriers had to drink. He wasn't quite sober but he was definitely not drunk. I don't know how many drinks he had while we were around the piano.

By the Court

I don't know exactly what I told him when he tried to enter my room. I don't remember him saying anything at that time

Nothing occurred during that time.
RP 83(B) complied with.

Second Witness for prosecution: A106195 Sgt. Hall R.E. HQ 3 Cdn Inf Div CAOF duly sworn states:

I know the accused, Sgt Deslauriers. I know Sgt Smits. He is an interpreter. On about 10 Sep 45 I drove in my jeep along the side of the Sgts mess to the far end. Upon backing it around my headlights shone on the side of the mess where Sgt Deslauriers and Sgt Smits were standing. It was between 11 and 12 o'clock approximately. It was after 10:30. The two sergeants were about two lorry lengths away when my lights shone on them. I dismobbed my jeep and as I walked by I said "Good evening gentlemen" but there was no answer and I went to my room. The window of my room is directly above where the two were standing. It was open. It is about 12 or 15 feet above the ground. I was alone in the room and I overheard the conversation beneath the window arguing back and forth. I heard Sgt Deslauriers say to Sgt Smits

"I've had my eye on you for a couple weeks now and all I want to do is take a look at it." Sgt Smits said "It wouldn't do you any good to look at it. I'm built and I'm human the same as anyone else." Sgt Deslauriers said "No, no let's go into the wild for about ten minutes and all you have to do is undress." With this Sgt Smits definitely said "No I'm going back in the mess". They moved ~~M~~ toward the steps leading into the mess with the argument continuing, one saying "let's go" and the other saying "No I'm not going". The last of the conversation I heard was Sgt Smits saying "No Jack I wouldn't want to do anything that we would both be sorry for when sober and we have both been drinking."

Cross-exam.

I passed close by the two sgts when entering the mess. Neither of them spoke to me. I overheard an argument below when I was in my room. What made me curious was when I heard the conversation about "I've had my eye on you for a long time."

My room is on the second floor, one floor above the main floor.

(Witness indicates that the two sgts were standing right by a window on the main floor.)

They were not whispering. It sounded like an argument. From what I heard I would say it was a proposition.

I have known the accused since 17 Jul 45. I have not had much to do with any members of the mess. I have had no trouble with the accused.

By the court.

I identified the persons speaking by their voices. I did not look down from my window during the conversation. I knew the sgts well enough to identify them immediately when my lights shone on them. One was leaning against the wall. I cant say just what position they were in. They were close together. I cant say whether one had his hand on the other or not. There was no singing in the mess when I went in. Both Sgt Deslaurier and Sgt Smuts were in the mess later on. Sgt Deslaurier was under the influence

of liquor but was not drunk. Sgt Smith had also been drinking but was not drunk.

RP 83(B) complied with.

WDH At 1215 hrs the court adjourns for lunch.
At 1400 hrs the court resumes. Present the same members as at adjournment.

First witness for prosecution 102405 Sgt Smith H recalled at request of President on his former oath states:

By the court

When Sgt Delaurier and I were outside the mess I remember a jeep came in I don't remember anyone entering the building. I didn't pay any attention. When we were outside the mess I remember I said "Don't behave like a fool. You have reached the age when you shouldn't ask for things like that." When he tried to WDH unbutton my fly he said "I've wanted been wanting to see that thing for almost two weeks" The main part of my conversation was that I tried to persuade him to go in the mess and have a few drinks and forget about it. I was standing just underneath the window of the dining WDH room when this conversation took place

The time we were outside was mainly filled with Sgt Deslauriers trying to persuade me to go behind the building where he would give me a wonderful time

No Cross-exam.

RP 83 (B) complied with.

Third witness for prosecution C 57173 Pte Buckley RC. HQ 3 Cdn Inf Div CAOF duly sworn states:

I know the accused, Sgt Deslauriers. Saturday before last we had a party. I work in the Sgts mess as barman. I finished work about half past one Sunday morning. I then proceeded to my barracks in the next house Approx 2 o'clock I was in bed. About 0220 hrs Sgt Deslauriers came in and started to get me out of bed by grabbing me and pulling me up. Then he grabbed me by the hair of the head three or four times and pulled me up and down on the bed. I then pushed him on the floor and pulled his hair and told him that it hurts. Then I went in another room to get

away from him. ~~Before that~~ I got under another man's bed who is a waiter in the mess. Sgt Deslauriers came back into my room and I could hear him talking to Pte White who lives in the same room as I do. I was only about three feet away from my own room and the door between was open. Sgt Deslauriers asked Pte White where I was and he said he didn't know and that I had probably gone back to the mess. Sgt Deslauriers then told Pte White that if I was in his room he would fuck me until my ass was sore. I know it was Sgt Deslauriers speaking because I recognized his voice. Sgt Deslauriers then left the room. I got out from under the bed, went to my own room to go to bed. I got under Pte White's bed. In ten or fifteen minutes Sgt Deslauriers came back into the room and asked for me. Pte White said he didn't know where I was. I stayed under the bed until 0600 hrs when Sgt Deslauriers left the room.

Cross-exam:

Sgt Deslauriers is mess secretary and is responsible for the barman

and mess waiters and has more to do with me than other members of the mess. That night there was a party Sgt Deslauriers was there. I was at the bar. Sgt Deslauriers had something to drink. I don't know how much. I was not asleep when Sgt Deslauriers came in. I was not surprised when he came in because he has a habit of coming in every night there is a party. On previous occasions he had come in and pulled my hair. I considered his action offensive. His similar actions on previous occasions such as putting his hand on my thigh made me want to get rid of him. I did not consider it serious enough to report to the president of the mess. Deslauriers did not ever ask me to go out alone with him or to do anything improper. I had never reported his actions to the mess president. He had never sought me out when I was alone in the room. After a party we are allowed to sleep in until 9 or 9:30 in the morning

~~I was away on leave~~

~~I was on leave on 10 Sept 45~~

I do not remember Monday night 10 Sept 45 Some nights we do go out to play ball.

~~RP 231(8) complied with~~

~~Recess~~.

The court is closed to discuss the second charge.

The JA explains the substance of the charge.

The court is re-opened.

Third Witness continues
By the Court.

When Sgt Deslauriers came in my room Pte White was there. I think his initial is "K". When Sgt Deslauriers came in he sat on my bed and started to pull the hair on my chest and fool around. He did not discuss any mess business. I don't know just what he said. I got under Pte Whites bed because I wanted nothing to do with Sgt Deslauriers. I was hiding from him. Sgt Deslauriers came back into the room about 1 o'clock I don't know exactly what time it was. I was under the bed when he came back. He wanted to know where I went and Pte White said he didn't know. Sgt Deslauriers left the room approx 0600 hrs. I was under the bed from a quarter to one until six o'clock. There was conversation between Pte White and Sgt Deslauriers all through the night. I think I slept. It didn't seem to be that long that I was under the bed.

RP 83(B) complied with.

Fourth witness for prosecution E163645 Pte White K.A. HQ 3 Cdn Inf Div CAOF duly sworn states:

I know the accused, Sgt Deslauriers. On the 15th Saturday there was a party at the Sgts mess. After the party was over I returned to my billets at approx one oclock. I was bartender. We spelled off on that job. Pte Buckley came to the billets later on. He sleeps in the same room as I do. Pte Buckley was ready for bed with his pyjamas on when Sgt Deslauriers came in. Buckley was not yet in bed. Sgt Deslauriers talked for a few minutes and then got hold of Buckley's hair and started to make him follow his commands by making him get down on the bed and stand up again. I then told Buckley I wouldn't take it if I was him. In return Buckley grabbed Sgt Deslauriers hair and threw him on the floor. In a few minutes Buckley let go and went out the bed room door. I cant remember the conversation. Sgt Deslauriers followed Buckley out the door and Buckley came in through the other bed room door. Sgt Deslauriers followed him. The second time Buckley went out through the door he disappeared

Sgt Deslauriers came into the room alone. He started to fool around with me, trying to slap my face and grab hold of me. I didn't go for that so I defended myself. He asked me where Buckley was and I said I didn't know so he asked me if he would possibly go to the mess. I said he might have gone to the mess to sleep. He then said "You're not my type" I told him I was damn sure he wasn't my type. He said Buckley was his type. He said if he was up at the mess he'd fuck him so hard before he slept that he wouldn't be able to sit on his ass. He then got up and went out. He said he was going to look for Buckley. While he was away Buckley came in the other bed room door got a blanket and got under my bed. Sgt Deslauriers came back in a few minutes. He came in and asked me if I'd seen Buckley. I told him "no". He sat down and talked for a few minutes. Then he got up and started fooling around again by trying to grab me and wrestle. Each time he came near me I grabbed him and threw him down. At approx 0600hrs he left the billets to go back to the mess to go to sleep.

Buckley got under the bed about 2:30. Sgt. Deslauriers sat down and talked for about half an hour. He talked quite sensibly about the mess and how things were going on. Then from about three o'clock until six o'clock he continued to wrestle with me and fool around.

About a week previous to that incident after a party Sgt Deslauriers came into our billets. Pte. Cousin, Pte Nordby, Pte Wright and I were present. He started fooling around with Pte Nordby slapping his face and hitting him on the head. Nordby stood it as long as he could I guess and he took hold of Sgt Deslauriers. The rest of the staff went out to the kitchen. Sgt Deslauriers and Nordby were left alone in the room. In a few minutes I saw Pte Nordby running around the mess in his underwear with Sgt Deslauriers chasing him. S/Sgt McNaughton came down stairs and appeared with a hammer in his hand. He wanted to know what all the rumpus was about. Then he went back up to bed. We all went to bed again. Sgt Deslauriers came in and started fooling around by wrestling with me. I got fed up and grabbed him

and threw him over the bed. He got up in a few minutes and hobbled out of the room. That was the end of that affair.

Cross-exam.

Deslauriers has never made any attempt to suck me off or bugger me. With ~~He~~ I ordered him out of the room the night he was wrestling with Nordby. I had never complained about his visits. I had no strong objections to his coming in the room. At first a while back he didn't make any wise cracks or anything. The 16th of Sept was the first time the accused expressed any desire for unnatural sexual acts. There wasn't a party on 10 Sep 45. There is always drinking going on. I don't believe I drove to Oldenburg that night.

By the court.

With On ~~the~~ the occasion when Nordby was present Sgt Deslauriers did not approach me on mess business. The fooling around with me on the morning of 16 Sep 45 was sometimes good naturedly and sometimes he got sore because he couldn't get hold of me.

Sgt Deslauriers had had some drinks on the occasion of 15 Sep 45. I don't know how much. On the occasion of the Nordby incident he had had a few drinks.

By Def Offr.

Previous to 15-16 Sep 45 Sgt Deslauriers approached me on a friendly basis as a social visit.

RP 83(B) complied with

Fifth Witness for Prosecution M2642 Pte Nordby H H.Q. 3 Cdn Inf Div CAOF. duly sworn, states:

I know the accused Sgt Deslauriers. On a Saturday night there was a party in the Sgts mess. I was working in the kitchen Sgt Deslauriers came in our room around 2:20. He didn't say what he wanted. Pte White was in the room. There were just the two of us there. He came over to my bed and flopped down on my bed. He got up again and started pulling my blankets off. I pulled them back on. He reached out and slapped me in the face and grabbed the blankets again. There was no conversation. I got up out of my bed and started walking toward the door. He came after me.

I ran down the hall to the dining room. I was dressed in my underclothes. He chased me around in the dining room for a while until S/Sgt McNaughton came down. When he came in he asked what was going on. Sgt Deslauriers stopped chasing me and I went back to bed. I did not go to sleep at once. Sgt Deslauriers came back in but didn't come near my bed again. He was talking to Pte White. He stayed about fifteen minutes.

No cross-exam.

By the court.

Sgt Deslauriers did not discuss any mess business with me. When Sgt Deslauriers left the room for the last time I didn't observe the circumstances. I couldn't say he was drunk but he had been drinking. There was no conversation before he started to pull my blankets off.

RP 83(B) complied with.

The prosecution is closed.

WHL

First Witness for the Defence, the accused duly sworn states:

I have been in the Sgts Mess since 16 Jun 45. I am the mess secretary My duties are to look after ordering all supplies, hiring and firing looking after personnel. I am official host and do all the organizing for parties. The personnel of the mess are responsible to me. In the mess proper I act strictly as a senior NCO. At other times I am more or less one of the gang and treat them on an equal basis. I try to run the mess as a club as if I were the manager and they were working there. My visits to the rooms at night were to further good relations between the staff and members of the mess. The men never objected to my visits. I was not in the mess in the latter part of Aug and early in Sep. I was on course from approx 26 Aug to 8 Sep but was back on 1 or 2 Sep.

I remember the night of 10 Sep 45. I arrived at the mess at approx 1700 hrs. I had a few drinks and had.

tea about 1730 hrs. At approx 1900 hrs I went to Oldenburg to 16 Gen Hosp to visit a friend one of the members of the mess. I left the hosp between 2000 and 2015 hrs and went to 16 Gen Hosp Sgts mess in another building. Sgt Smith C W R was with me. We remained there drinking until shortly after 2100 hrs We left there and arrived at my mess at approx 2130 or 2145 hrs. I immediately took over the bar as the two men who ordinarily work on the bar, Pte White and Pte Buckley wanted to go out with their girl friends. I mixed drinks for all personnel present, approx 8. One of the members asked me to lead the singing at the piano. I informed him that I had to remain on the bar. While I was at 16 Gen hosp I was drinking in the bar and continued doing so in my own mess. I can remember being behind the bar for between 15 and 20 minutes I can remember nothing else until the following morning. I woke up on the settee in the lounge just outside the bar. I didn't know how I got there. I was told that I had passed out the night before and they had put me on the settee.

There was a party on the 15th Sept 45
It was such a good party that we
are not going to have any more for
another month. There were about 70
women at the party. I was drinking
that night. I was behind the bar
for a few minutes. I had started
drinking at 3 o'clock in the afternoon.
I do not remember visiting the
room of Mrs Buckley & White that
night. I was pretty drunk at 1 o'clock
and I can remember nothing until
10 o'clock when I was awake in my bed.

There was no party on 2 Sep. There
is drinking every night but that night
there was more drinking than on an
ordinary night when there is not a party.
~~there was a party~~. I remember going
into the room where four members
of the staff were. It has been my custom
after a party when everyone is retiring
at a late hour to inspect the
downstairs, mens quarters, lounge,
dining room and bar. The staff were
then living in the mess building.
The inspection was to see that there
were no lighted cigarettes or anything
that could cause damage, turning out
lights. At times it has been necessary
to keep some of the female personnel working
until a late hour. Rather than going

to the trouble I getting them Nil Go passes we bed them down in the mess. Also to see that personnel all OK. There have been times when they needed looking after. On various occasions I have sat down and talked to the boys and had more or less rough and tumble with them. There was no objection raised against me that night. I have never found the door locked against me. There has been no indication that the men objected to me entering their room and playing with them. If there had been I would have stopped.

Cross-exam.

From 2215 hrs to 0600 hrs in case I first charge I have no recollection.

I usually visited the men's quarters after a party Sometimes I stayed there or four hours. I remember hurting my foot when wrestling with Pte White. I weakened it then and it turned on me the next day. I am not sure whether there is a key to the door of the men's quarters. My normal time for visiting the men was after a party sometimes very late. Sometimes I went in early in the morning

I do not think it a strange way of cementing relations to keep the men up the balance of the night after they had worked all day. I never had any indication from the men that they wanted me to leave their room.

By the court.

I don't drink every day but I drink quite a bit. I drink whatever is in the mess. For some time we had some alcohol which we mixed with lime. On Sep 10 I had two drinks before supper and two or three afterwards. It was either gin or alcohol. At the hosp mess I drank gin or alcohol I had six or seven drinks there. I arrived back at my mess about 2145 hrs. I went behind the bar. I started drinking. I had several drinks. I don't recall leaving the bar. We always have cocktails in the bar. At that time we had gin and lime or fruit juice or alcohol and lime. We sell for chits and cash both. I don't remember what was done with the returns of the night's business. On Sep 10 I don't recall all the people who were in

I dont exactly recall whether Sgt Smith was in the mess or not.

RP 83(B) complied with.

Prosecutor's address.

I submit that the evidence before the court establishes all three charges against the accused. On the first charge the evidence of Sgt Smith is corroborated by Sgt Hall and I think the court will have no doubt as to what took place on that occasion. There is no denial of the facts by the accused. On the second and third charges I submit also that the facts are proved and the court will only have to decide whether or not the facts disclose offences under Section 40 of the Army Act.

M Lt

Defending Officer's Address.

In this case the accused is in the unfortunate position of being unable to deny the statements made by the prosecution witnesses because he had been drinking and does not remember what happened. On the first charge I would ask the court for an acquittal on the ground that at most the act which the accused is alleged to have done was a stupid drunken act and not such conduct as would justify a man being branded for life. On the other two charges I point out that the members of the staff did not object to Sgt Deslauriers visits to their rooms and as mess secretary he had a right to make such visits.

JA sums up.

Burden of proof explained
Drunkenness as a defence - MML P106 quoted
Reasonable Doubt explained
Court, Def Offr and Pros ~~[illegible]~~ say ~~[illegible]~~ they do not require further discussion

E 3

Plea in Mitigation by Def Offr.

I refer the court to MML p 60 paras 78 as to the amount of punishment to be awarded. Whatever punishment is given in this case is not likely to be of any use as a deterrent to other soldiers. Sgt. Deslauriers has over four years service and his conduct sheet is clear. He has never been in trouble of any kind before. I ask the court to be lenient in deciding the degree of punishment in this case.

MKL

Substitute for AF B 295 (War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
G-96464	Sjt	DESLAURIER, J.H.	HQ 3 Cdn Inf Div, CAOF

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused; exclusive of convictions by a Court Martial:

~~For ..... times~~

~~For ..... times~~

~~For ..... times~~

~~For ..... times~~

Date of first entry in Field Conduct Sheet ..... 26 Apr 1945

Date of last entry in Field Conduct Sheet ..... 26 Apr 1945

~~2. Previous convictions of the accused by a Court Martial or Civil Court are set out in the schedule below.~~

3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....
(Strike out if not applicable)

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 6 days in military custody, i.e., Nil days in open arrest, 6 days in close arrest, of which Nil days were spent in hospital.

5. The present age of the accused is 24 yrs 6 mos 1 day

6. The date of his attestation is 29 July 1941

7. The service which the accused is allowed to reckon is 4 yrs 1 mo 24 days

8. The accused is in possession of:-
(State military decorations (if any)(CVSM and Clasp)

9. (If the accused is a warrent officer or N.C.O.). The accused has served continuously, without reduction, to the present date - Date of Promotion

In the substantive rank of Sergeant (confirmed in rank 26 Apr 1945)

In the acting rank of N/A

SCHEDULE [illegible] COURT-MARTIAL OR CIVIL COURT

Description of Court	Date & Place of Trial	Charges	Sentence of the Court

Exhibit I

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the Regimental Books in my custody, are correct to the best of my knowledge and belief.

Signed this Twenty-second day of September 1945

F Leaman
(Signature)

(F. Leaman, MBE) Capt.,
Camp Commandant,
HQ 3 Cdn Inf Div, CAOF

No. C-96464 Name DESLAURIER John Harcourt Sqn, Battery, or Company N11 Corps CMSC Date of enlistment 29 Jul 41 GC Badges Service or Proficiency Pay 3/17 MFM 6 AFB 131 Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 26 Apr 45 this soldier was confirmed in the rank of Sjt and previous sheet was destroyed with no regt'l entries. No cases of drunkenness.									
PL to PARIS 1 Apr 45									

Certified a True Copy.

(F. Leaman, MBE) Capt.,
Camp Commandant, HQ 3 Cdn Inf Div, CAOF
22 Sep 45

Exhibit "2"

(P70)

Summary of Evidence in the case of No C 96464 Sgt Deslaurier, J., H., HQ 3 Cdn Inf Div CAOF, charged with Disgraceful Conduct of an Unnatural Nature (AA Sec 18 (5))

By direction of the Commanding Officer, the evidence is taken on oath.

FIRST WITNESS - 102405 Sgt Smits, H, HQ 3 Cdn Inf Div CAOF, sworn states:-

I am Sgt H Smits, Army No 102405, Dutch Interpreter attached to HQ 3 Cdn Inf Div CAOF. On the night of the tenth Sept 45, there was a party and sing song among several members of the Sgts' Mess, HQ 3 Cdn Inf Div CAOF, of which I am a member. Around 2200 hrs I went outside to get some fresh air. I was standing on the porch of the Sgts' Mess when Sgt Deslaurier joined me. He grabbed me by the arm and said "Let's go for a little walk, I want to tell you something" or words to that effect. We stepped off the porch and walked to the side of the building. He grabbed my shoulder and pushed me against the wall, after that he tried to unbutton my trousers at the fly, but I pushed him back. I held him at a distance and told him to go inside and not to behave like a fool. He answered me "I have been wanting to see that thing behind there for almost two weeks now". I tried to persuade him again to go inside but he said "When we walk into the shadow around the corner here, I can give you a wonderful sensation" or words to that effect. I refused again and, not wanting to hurt his feelings, I talked to him for some time telling him that he should go inside and try to avoid things like this happening-- then I went up the porch again while he was still standing down below. Again I tried to persuade him to come inside with me. Whilst I was doing this I was leaning on the balustrade of the porch and he continued to try and unbutton the fly of my trousers, so much so that I had to back away and bend forward to get that part of my body away from him. After that seeing that my efforts were not successful I went into the Sgt's Mess and rejoined the party. One or two minutes later Sgt Deslaurier followed me into the mess. When I went to bed about an hour later, I found him leaning on the balustrade of the staircase in front of the door of my bedroom. I told him to go to bed and not to bother me, and went into my room, a few seconds later he opened the door and tried to walk in. I brought him outside to his room which is on the same corrider as mine and then I went back and locked my door. About half a minute later I saw the door handle turn and this happened several times. I called several times "who is there" but no one answered, and then I went to bed. I did not mention the nights occurence as I thought that I was the only person that this had happened to, at no other time has Sgt Deslaurier accosted me.

The accused declines to cross examine the witness.

102405 Sgt Smits H

SECOND WITNESS - G57173 Pte Buckley RG, HQ 3 Cdn Inf Div CAOF, having been duly sworn states:-

I am G57173 Pte Buckley RG. I am employed as batman in the Sgt's Mess HQ 3 Cdn Inf Div CAOF. On Sunday 16 Sep 45 at approximately 0200 hrs I knocked off work after a party at the Sgt's Mess. I was in bed at approximately 0220 hrs when Sgt Deslaurier came into my room, which I share with Pte White. He came over to my bed and told me to get up. I layed there for a few minutes and he started to pull my hair, he did this three or four times and I got mad and threw him on the floor and pulled his hair, he then "fooled around me". By that I mean that he put his hand on my thigh and face. During this he was talking and mumbling and said "If I ever get you I will Fuck the arse off you" or words to that effect. I pushed him away and left the room but he followed me. I went through two or three rooms and got away from him, and then got under the bed of another soldier who sleeps in the next room. I heard Sgt Deslaurier go into my room and start talking to Pte White. He asked Pte White where I had gone and Pte White told him that I had probably gone to the Sgt's Mess. (the building in which my quarters are located is next to the one containing the Sgt's Mess). Sgt Deslaurier then said to Pte White, "If he is in my room I'll fuck him till his arse is sore". I heard Sgt Deslaurier leave my room so I went into it and said to Pte White "I may as well go to bed", he said "Well he is coming back" so then I got under Pte White's bed. In approximately ten minutes Sgt Deslaurier came back into the room and asked Pte White where I was. Pte White said he did not know. From that time until approximately 0600 hrs he stayed in the room talking to Pte White. After he left I went to bed. Every-time we have had a party at weekends Sgt Deslaurier has come to our room after the party and stayed several hrs. I went to Sgt Deslaurier on Sunday noon to get the keys for the bar to open it, and he asked me where I had been. I told him I was out walking. After he gave me the keys I went behind the bar and he followed me. He started to play around and put his hands down on my legs. I then pushed him away. I left the room and did not see him again.

Cross-examined by accused:-

Q. Is it not my habit as secretary of the Sgt's Mess to go around to all rooms on the ground floor after a party to check and see that everything is alright.

A. After a party Sgt Deslaurier was in the habit of coming to my and other rooms occupied by Sgt's Mess help and staying two or three hrs.

Q. Did this habit of mine annoy you?

A. Yes. I was unable to get to sleep as Sgt Deslaurier would sit on my bed and pull my hair and fight.

Q. Is it not true that several times I have had to see that various men working for the mess had to be told to go to bed?

A. That is true.

Q. Did you ever think that my reason for visiting the mess staff was for any other purpose than to further good relations between the staff and committee of the Sgt's mess.

A. I don't know. Several times I have heard Sgt Deslaurier say about me "He knows he has a good job" or words to that effect and if that was so, I do not consider it necessary for him to spend 2 to 3 hrs in our rooms to further good relations.

Q. When I made such a statement as just mentioned by you do you think I was serious or joking?

A. I thought you were serious.

The accused declines to further cross examine the witness.

G57173 Pte Buckley RG

THIRD WITNESS - M2642 Pte Nordby H, HQ 3 Cdn Inf Div CAOF, being duly sworn states:-

I am M2642 Pte Nordley H, employed as a permanent fatigue man in the Sgt's Mess HQ 3 Cdn Inf Div CAOF. Two or three weeks ago after a party at the Sgt's Mess on Sat night at approximately 0230 hrs on Sun morning, Sgt Deslaurier came into the room occupied by the Mess Staff. (there were four of us sleeping in this room). He came over to my bed and pulled the blankets off me, and then flopped down on the bed beside me, and as he did so he slapped me in the face. I jumped out of bed and he came after me. I went through the dining room with Sgt Deslaurier chasing me. I was scared of him. I didn't know what he would do if he caught me but I wasn't taking any chances. After I got into the dining room I saw CQMS McNaughton come down the stairs and he asked what was going on. After that I went to bed. Shortly afterwards Sgt Deslaurier came back into my bed room and went to Pte White's bed. I saw Pte White grab Sgt Deslaurier and throw him right over the bed. Sgt Deslaurier must have hurt his foot because he was limping when he got up, after that Sgt Deslaurier left the room.

Cross-examined by accused:-

Q. Would you say I was sober or intoxicated when I entered the room?

A. I couldn't say you were intoxicated but you had been drinking.

Q. Why do you think I pulled your blankets off you?

A. I don't know.

...../4

Q. When I slapped your face did you think I was fooling with you or threatening you?

A. I think you were more or less fooling.

Q. After I chased you into the dining room did you think I was fooling then?

A. No.

Q. At any other time have I ever or did you consider I threatened you?

A. No.

Q. Do you think that my visits to the Staffs quarters after a party, were for any other reason than to further good relations?

A. It is my opinion that you wouldn't stay for two or three hrs to further good relations.

Q. Did you object to me visiting the staff's quarters and staying for two or three hrs and if so what were your objections?

A. Yes. I wanted to go to sleep.

Q. Do you think that your attitude towards my visiting the staff was that of the rest of the staff?

A. Yes. I think they all felt the same way.

The accused declines to further cross examine the witness.

M2642 Pte Nordby H

FOURTH WITNESS - B163645 Pte White KA, HQ 3 Cdn Inf Div CAOP, having been duly sworn states:-

I am B163645 Pte White KA employed as Head waiter in the Sgts Mess HQ 3 Cdn Inf Div CAOP. There was a party in the Sgt's Mess on Sat 15 Sep 45. After the party I and Ptes Wright and Herbert, went to our billets which are next door to the Sgt's Mess shortly after Pte Buckley came to the billets also. The time was approximately 0200 hrs Sun 16 Sep. Shortly afterwards Sgt Deslaurier came into our room and after a few minutes he started to fool around with Pte Buckley, by that I mean that he caught Buckley by the hair and made him do as he told him such as directing him to sit down, stand up, enforcing the demands by pulling Buckley's hair. Buckley was in his pyjamas at the time. He in turn caught hold of Sgt Deslaurier's hair and threw him on the floor. After that Pte Buckley let go of Sgt Deslaurier's hair and got away from Sgt Deslaurier by going into the next rooms. Sgt Deslaurier was following him at the time. After that Buckley disappeared and Sgt Deslaurier came to me and asked me where he was.

...../5

I told Sgt Deslaurier that Buckley may have gone to the Sgt's Mess to sleep for the night, at that Sgt Deslaurier went out of the room. While he was away Buckley came into the room took one blanket and got under my bed. Approximately 5 minutes later Sgt Deslaurier came back, so I asked him if he had found Buckley and he said "No", so he sat down and started talking to me, then he came over to my bed and started to fool with me apparently wanting to wrestle. I grabbed him by the arms and threw him onto to Pte Buckley's bed, and when I had him down once he said "You are not my type", and I said, "I'm damn sure you are not my type", he said "Buckley is my type". He then said he would "Fuck Buckley until his arse was so sore he wouldn't be able to sit on it in the morning". He still kept wrestling, so I got mad and told him he had better go home, before I dorve him through the window, so at that he left. By this time it was approximately 0600 hrs. This type of occurence has been going on nearly every night after a party in the Sgt's Mess. The previous Sat night he came into our quarters which at that time were in the Sgt's Mess. He fooled around with the staff, sitting on their beds and wrestling especially Pte Nordby. He slapped Nordby's face and hit him on the head. So Nordby at last took hold of him and held him down. The rest of the men went to the kitchen outside and in a few minutes we saw Pte Nordby running around in his underwear and bare feet with Sgt Deslaurier chasing him. When Nordby was sitting down in the bar CWMS McNaughton came downstairs, he had a hammer in his hand which he said he had taken off Sgt Deslaurier. We then went to our room and Sgt Deslaurier came in a few minutes later. The other fellows let on that they were sleeping so I was the only one for him to wrestle or fool with. I told him to "Bugger" off two or three times, he would not go and this was making me mad, so I grabbed him by the arm and threw him over my bed. In a few minutes he got up and hobbled out of the room.

Cross-examined by accused:-

Q. Do you consider that when I was pulling Pte Buckley's hair I was doing it maliciously or just joking?

A. I consider it was vicious.

Q. Would you consider I was quite sober when I was doing this?

A. I wouldn't consider you strictly sober. You had been drinking, but you knew what you were doing.

Q. Do you think that my visits to the staff's quarters after a party were for any other reason than to further good relations?

A. In your position as secretary of the Sgt's Mess you have the right to visit our quarters but not to stay two or three hrs.

Q. Did you object to my visits to your room?

A. No. Only when you stayed too long did it annoy me.

Q. Why do you think I made such lengthy visits?

A. At the times of the visits I did not know, but I was rather suspicious.

The accused declines to further cross-examine the witness.

Pte White KA

FIFTH WITNESS - L36187 CQMS McNaughton HA, HQ 3 Cdn Inf Div CAOF, being duly sworn states:-

I am L36187 CQMS McNaughton HA, HQ 3 Cdn Inf Div CAOF where I am a resident in the Sgt's Mess. One night approximately three weeks ago I had been writing letters until a late hr in my room, after finishing I went to bed and was trying to go to sleep when I was interupted by a commotion downstairs so I arose and dressed and went downstairs to investigate. As I entered the hallway I saw one of the mess staff (who's name I do not remember) run from the kitchen hallway into the barroom dressed in underwear only presumably being chased by Sgt Deslaurier who stopped in the hallway and picked up a hammer which was laying on the table in the hall. I didn't know what was going on so I went to Sgt Deslaurier and took the hammer away from him. It is my opinion that Sgt Deslaurier was under the influence of alcohol. After that I went through to the bar and asked the chap who was in his underwear what was wrong, but he would not give me any reply. I went to the staff's quarters and they all seemed aroused and awake. I informed them it was a late hr and that they were making too much noise. I then went back to bed leaving Sgt Deslaurier in the staff's room.

Cross-examined by accused:-

Q. When I picked up the hammer, did I go near Nordby at all?

A. No, I did not give you the chance.

Q. Would you consider I had any murderous or evil intentions when I picked up the hammer?

A. I don't know, my presence seemed a surprise to you.

Q. At any time during the incident did the chap in question seem at all scared?

A. He seemed scared, because he would not speak to me when I questioned him.

Q. At the time would you consider that I knew what I was doing, or was I incapable of knowing my actions?

A. It is my opinion that you knew what you were doing, although you had been drinking.

The accused declines to further cross-examine the witness.

L36187 CQMS McNaughton HA

The accused was cautioned as follows:-

Q. Do you wish to make a statement or give evidence on oath? You are not obliged to unless you wish to do so. But whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused, sworn, states:-

I am C96464 Sgt Deslaurier JH Clerk in AQ Branch and Secretary of the Sgt's Mess HQ 3 Cdn Inf Div CAOF. On Mon 10 Sep 45 I left the Sgt's Mess at approximately 1900 hrs and went to 16 Cdn Gen Hosp to visit a patient who is a member of my mess, before leaving the mess I had been drinking in the bar from approximately 1730 hrs. At approximately 2015 hrs I left the hospital ward and in company with Sgt Smith Educational Sec I went to the Sgts Mess of the Hospital. We drank there until approximately 2115 hrs and then returned to my mess. Upon arrival at the mess I took over as barman as the barman and steward both requested permission to go out. I remember nothing more until approx 0630 hrs 11 Sep 45 when I awoke and found myself lying on the divan in the lounge of the mess. I immediately arose and went to bed. At approximately 1230 hrs the same day I was informed by Sub Condr Rabie that I had "passed out" the evening before and that he placed me on the divan. I do not remember whether or not he mentioned the hr at which I "passed out". On the 15th Sep 45 a dance was held in my mess at which I did considerable drinking. I remember very little from 2300 hrs until 0100 hrs 16 Sep 45, at that time the female guests left the mess and I returned to the bar. I resumed drinking with the few remaining male guests and a few of the members of the mess. The next thing I remember was 1000 hrs the same day when Sub Condr Rabie awoke Sgt Smith and myself and invited us to his room for a few drinks. There were approximately ten other soldiers in his room. We drank until approximately 1100 hrs. I remember nothing else until 0300 hrs the following morning when I awoke on my own bed. I arose and went to the sink to wash. In doing so I awakened Sgt Smith who informed me that I had come to my room to lie down just before lunch the previous day. That is all I know about the alleged incidents.

C 96464 Sgt Deslaurier J H

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of seven pages was taken down by me in the presence of the accused and that RP 4 (c)(d)(e) (f) and (g) have been complied with.

In the Field
18 Sep 45.

(F Leaman) Capt
Camp Comd 3 Cdn Inf Div CAOF

Summary of evidence in the case of C. 96464 Sgt Deslaurier J.H. charged with Disgraceful Conduct of an unnatural nature.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS: 102405 SGT SMITS.H. H.Q. "3 CDN INF DIV C.A.O.F. SWORN. STATES.

I am Sgt H Smits Army no 102405 Dutch Interpreter attached to H.Q. 3 Cdn Inf Div, on the night of the tenth Sept 45, there was a party and sing song among several members of the Sgts mess H.Q. 3 Cdn Inf Div of which I am a member. Around 2200 hrs I went outside to get some fresh air. I was standing on the porch of the Sgts mess, when Sgt Deslaurier joined me, he grabbed me by the arm and said "Lets go for a little walk, - I want to tell you something" or words to that effect We stepped off the porch and walked to the side of the Sgts mess, - when we got into the shadow of the building, he grabbed my shoulder and pushed me against the wall ~~or he~~ after that he tried to unbutton my trousers ~~at~~ the fly but I pushed him back. I held him at a distance and told him to go inside and not to behave like a fool - he answered me "I have been wanting to see that thing behind there for almost two weeks now" I tried to persuade him again to go inside - but he said "when we walk into the shadow around the corner here I can give you a wonderful sensation" or words to that effect - I refused again and not wanting to hurt his feelings, ~~[illegible]~~ I talked him for some time telling him that he should go inside and try to avoid things like this happening. - then I went up to the porch again while he was still standing down below - again I tried to persuade him to come inside with me, - whilst I was doing this I was leaning on the bandstrade of the porch and he

continued to try and unbutton the fly of my trousers, so much so that I had to back away and bend forward to get that part of my body away from him. - After that seeing that my efforts were not successful I went into the Sgts mess and rejoined the party one or two minutes later Sgt DesLaurier followed me into the mess - when I went to bed about an hour later. I found him leaning on the bannistrade of the staircase in front of the door of my bedroom. I told him to go to bed and not to bother me. and went into my room, a few seconds later he opened the door and tried to walk in. I brought him outside to his room which is on the same corridor as mine and then I went back and locked my door, about half a minute later I saw the door handle turn and this happened several times - I called several times "who is there" but no one answered - and then I went to bed. - I did not mention the nights occurence as I thought that I was the only person that this had happened to. at no other time has Sgt DesLaurier accosted me.

~~Question by accused~~

~~You stated in your evidence that you left the mess at approx 2300 and that I followed you from the mess 10 minutes later. yet later in your evidence you stated that the reason you argued with me and thought~~

The accused declines to cross examine the witness.

H. Smith
Sgt.

SECOND WITNESS. G57173 PTE BUCKLEY R.G. H.Q. 3 CDN INF DIV HAVING BEEN DULY SWORN STATES.

I am G57173 Pte Buckley R.G. I am employed as barman in the Sgts mess H.Q. 3 Cdn Inf Div. - On Sunday 16 Sept 45 at approx 0200 I knocked off work after a party at the Sgts mess. I was in bed at approx 0220 when Sgt DesLaurier came into my room - he which I share with Pte White. - He came

drinking. I remember very little from 2300 until 0100 hrs 16 Sept 45, at that time the female guests left the mess and I returned to the bar I resumed drinking with the few remaining male guests and a few of the members of the mess. The next thing I remember was 1000 hrs the same day when Sub Cond. Rabie awoke Sgt Smith and myself. and invited us to his room for a few drinks. there were approx ten other soldiers in his room. we drank until approx 1100 hrs. I remember nothing else until 0300 hrs the following morning when I awoke on my own bed. I rose and went to the sink to wash. In doing so I awakened Sgt Smith who informed me that I had come to my room to lie down just before lunch the previous day. That is all I know about the alleged incidents

J.A. Des Laurier, Sgt.
696464

The accused does not call any witnesses

I certify that the foregoing Summary of Evidence consisting of eleven pages was taken down by me in the presence of the accused and that R.P. 4 (C)(D)(E)(F) and (G) have been complied with

In the Field
18 Sept 45

O. Leaman Capt
Comp. Comd. 3 Cdn Inf. Div. (CAOF)

Answer

He seemed scared because he would not speak to me when I questioned him.

Question

At the time would you consider that I knew what I was doing, or was I incapable of knowing my actions

Answer

It is my opinion that you knew what you were doing, although you had been drinking

The ~~witness~~ accused declines to further cross examine the witness

2.36187 S.A.M. / McNaughton H.A.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:- DO YOU WISH TO MAKE A STATEMENT ~~THE ACCUSED~~ OR GIVE EVIDENCE ON OATH. YOU ARE NOT OBLIGED TO UNLESS ~~STATES~~ YOU WISH TO DO SO. BUT WHATEVER YOU SAY OR ANY EVIDENCE YOU GIVE WILL BE TAKEN DOWN IN WRITING AND MAY BE GIVEN IN EVIDENCE

THE ACCUSED ...NG, DULY ...AN STATES:- I am CG6464 Sgt Deslaurier J. H. Clerk in A/Q Branch and Secretary of the Sgts Mess H.Q. 3 Cdn Inf Div (C.A.O.F.) on Monday 10 Sept 45 I left the Sgts Mess at approx 1900 hrs and went to 16 Cdn Gen Hospital to visit a patient who is a member of my mess, before leaving the mess I had been drinking in the bar from approx. 1730 hrs. At approx 2015 hrs I left the hospital ward and in company with Sgt Smith Educational Sec I went to the Sgts Mess of the Hospital - we drank there until approx 2115 hrs and then returned to my mess upon arrival at the mess I took over as barman as the barman and steward both requested permission to go out. I remember nothing more until approx 0630 hrs 11 Sept 45 when I awoke and found myself lying on the divan ~~in~~ in the lounge of the mess. I immediately arose and went to bed. At approx 1230 hrs the same day I was informed by Sub Cond. Rabie that I had "passed out" ~~the evening~~ before and that he placed me on the divan I do not remember wether or not he mentioned the hour at which I passed out.

On the 15th Sept 45 a dance was held in my mess at which I did considerable

over to my bed and told me to get up. ~~at~~ I lay there for a few minutes and he started to pull my hair - he did this three or four times and I got mad and threw him on the floor and pulled his hair, he then "fooled around me" - by that I mean that he put his hand on my thigh and face. during this he was talking and mumbling and said "If I ever get you I will fuck the arse off you" or words to that effect. I pushed him away and left the room but he followed me. I went through two or three room and got away from him and then got under the bed of another soldier who sleeps in the next room. I heard Sgt Deslaurier go into my room and start talking to Pte White. he asked Pte White where I had gone and Pte White told him that I had probably gone to the Sgts Mess. (the building in which my quarters are located is next to the one containing the Sgts Mess). Sgt Deslaurier then said to Pte White - "If he is in my room I'll fuck him till his arse is sore." - I heard Sgt Deslaurier leave my room so I went into it and said to Pte White "I may as well go to bed." he said "Well he is coming back" so then I got under Pte Whites' bed - in approx ten minutes Sgt Deslaurier came back into the room and asked Pte White where I was - Pte White said he did not know. - from that time until approx 0600 hrs he stayed in the room talking to Pte White: after he left I went to bed.

~~[illegible]~~ Every time we have had a party at weekends Sgt Deslaurier has come to our room after the party and stayed several hours - ~~[illegible]~~ I went to Sgt Deslaurier on Sunday noon to get the keys for the bar to open it - and he asked me where I had been - I told him I was out walking - after he gave me the keys I went behind the bar and he followed me - he started to play around and put his hands down on my legs. I then pushed him away - I left the room and didn't see him again.

Question by accused

Is it not my habit as Sec. of the Sgts

mess to go round to all rooms on the ground floor after a party to check and see that everything is allright

Ans. After a party Sgt Deslaurier was in the habit of coming to my and other occupied bot Sgts mess help rooms and staying two or three hours.

Question - Did this habit of mine annoy you

Ans - Yes. I was unable to get to sleep as Sgt Deslaurier would sit on my bed and pull my hair and fight

Question Is it not true that several times I have had to see that various men working for the mess had to be told to go to bed.

Ans: That is true

Question ~~Have you ever~~ Did you ever think that my reason for visiting the mess staff was for any other purpose than to further good relations between the staff and committee of the Sgts mess

Ans. I dont know - several times I have heard Sgt Deslaurier say about me "He knows he has a good job." or words to that effect and if that was so, I do not consider it necessary for him to spend 2 or 3 hours in our rooms to further good relations.

Question When I made such a statement as just mentioned by you do you think I was serious or joking

Ans. I thought you were serious.

The accused declines to further cross examine the witness.

G57173. Buckley R.-G.

THIRD WITNESS:- M2642 PTE NORDBY H HQ "3 CDN INF DIV BEING DULY SWORN STATES.

I am M2642 Pte Nordby H employed as a permanent fatigue man in the Sgts mess HQ "3 Cdn Inf Div. Two or three weeks ago

FIFTH WITNESS L367187 C.Q.M.S. ~~McNaughton~~ McNaughton H A HQ "3 CDN INF DIV (C.A.O.F.) BEING DULY SWORN STATES:-

I am L367187 C.Q.M.S ~~McNaughton~~ McNaughton H.A. "3 Cdn Inf Div (C.A.O.F.) where I am a resident in the Sgts mess - one night approx three weeks ago I had been writing letters until a late hour in my room - after finishing I went to bed and was trying to go to sleep when I was interrupted by a commotion downstairs so I arose and dressed and went downstairs to investigate, as I entered the hallway I saw one of the mess staff (who's name I do not remember) run from the kitchen hallway into the barroom dressed in underwear only presumably being chased by Sgt Deslaurier who stopped in the hallway and picked up a hammer which was laying on the table in the hall - I didn't know what was going on so I went to Sgt Deslaurier and took the hammer away from him. It is my opinion that Sgt Deslaurier was under the influence of alcohol - after that I went through to the bar and asked the chap who was in his underwear what was wrong - but he would not give me any reply. I went to the Staffs' quarters and they all seemed aroused and awake. I informed them it was a late hour and that they were making too much noise I then went back to bed leaving Sgt Deslaurier in the Staffs room.

Question When I picked up the hammer did I go near Nordby at all

Answer No. I did not give you the chance.

Question Would you consider I had any murderous or evil intentions when I picked up the hammer

Answer I dont know. my presence seemed a surprise to you

Question At any time during the incident did the chap in question seem at all scared

for Lim to wrestle or fool with. I told Lim to Bugger off two or three times - he would not so and this was making me mad so I grabbed Lim by the arm and threw Lim over my bed - in a few minutes he got up and dabbed out of the room.

Question Do you consider that when I was pulling Pte Buckley's hair I was doing it maliciously or just joking

Answer I consider it was vicious

Question Would you consider I was quite sober when I was doing this?

Answer I wouldnt consider you strictly sober - you had been drinking, but you knew what you were doing.

Question Do you think that my visits to the staff quarters after a party were for any other reason than to further good relations

Answer In your position as Sec. of the Sgts Mess you have the right to inspect our quarters but not to stay two or three hours.

Question Did you object to my visits to your room

Answer no! only when you stayed too long did it annoy me.

Question Why do you think I made such lengthy visits

Answer At the times of the visits I did not know but I have since my opinion.

The accused declines to further cross examine the witness.

Pte White K.A.

after a party at the Sgts mess on Saturday night at approx 0230 hrs on Sunday morning Sgt Deslauriers came into the room occupied by the mess staff. (there were four of us sleeping in this room.) He came over to my bed and pulled the blankets off me and then flopped down on the bed beside me and as he did so he slapped me in the face. I jumped out of bed and he came after me. I went through the dining room with Sgt Deslauriers chasing me. I was scared of Lim - I didnt know what he would do if he caught me but I wasnt taking any chances. after I got into the dining room I saw C.Q. N.S. Hampton come down the stairs and he asked what was going on. - after that I went to bed. Shortly afterwards Sgt Deslauriers came back into my bed room and went to Pte Whites' bed - I saw Pte White grab Sgt Deslauriers and throw him right over the bed. Sgt Deslauriers must have hurt his foot because he was limping when he got up. After that Sgt Deslauriers left the room.

Question Would you say I was sober or intoxicated when I entered the room?

Answer I couldnt say you were intoxicated but you had been drinking

Question Why do you think I pulled your blankets off you?

Answer I dont know

Question When I slapped your face did you think I was fooling with you or threatening you?

Answer I think you were more or less fooling

Question After I chased you into the dining room did you think I was fooling then?

Answer no!

Question At any other time have I ever or did you consider I threatened you?

Answer no!.

Question — Do you think that any visits to the Staffs quarters after a party, were for any other reason than to further food relations?

Answer — It is my opinion that you wouldn't stay for two or three hours to further food relations.

Question — Did you object to me visiting the staffs quarters and staying for two or three hours and if so what were your objections?

Answer — yes. I wanted to go to sleep.

Question — Do you think that your attitude towards my visiting the staff was that of the rest of the staff?

Answer — yes. I think they all felt the same way.

The accused declines to further cross examine the witness

M2642 Nordby H

FOURTH WITNESS:- B163645 PTE WHITE K.A. HQ 3 CDN INF DIV (CAOF) HAVING BEEN DULY SWORN STATES:-

I am B163645 Pte White K.A. employed as Head waiter in the Sgts mess HQ 3 Cdn Inf Div. - There was a party in the Sgts mess on Saturday 15 Sept 45. After the party I and Ptes Wright and Herbert went to our billets which are next door to the Sgts mess shortly after Pte Buckley came to the billets also, the time was approx 0200 hrs Sunday 16 Sept. Shortly afterwards Sgt Desrosiers came into our room and after a few minutes he started to fool around with Pte Buckley, by that I mean that he caught Buckley by the ears and made him do so he told him and so directing him to sit down, stand up, enforcing the demands by pulling Buckleys' ears. - Buckley was in his pyjamas at the time. He in turn caught hold of Sgt Desrosiers hair and threw him on the floor. after that Pte Buckley got go of Sgt Desrosiers' hair and got away from Sgt Desrosiers by going into the next room. Sgt Desrosiers was following him at the time. after that Buckley disappeared and Sgt Desrosiers came to me and asked me where he was. I told Sgt Desrosiers that Buckley may have gone to the Sgts mess to sleep for the night, at that Sgt Desrosiers went out of the room, while he was away Buckley came into the room took one blanket and got under my bed approx 5 minutes later Sgt Desrosiers came back, so I asked him if he had found Buckley and he said no. so he sat down and started talking to me. then he came over to my bed and started to fool with me apparently wanting to wrestle. I grabbed him by the arms and threw him onto to the Buckleys' bed. and when I had him down said he said "you are not my type" and I said "Buckley is my type" he then said he would "suck Buckley until his arse was so sore he wouldn't be able to sit on it in the morning" He still kept insisting, so I got mad and told him he had better go home. before I drove him through the window - so at that he left.

By this time it was approx 0600 hrs.

This type of occurance has been going on nearly every night after a party in the Sgts mess the previous Saturday night he came into our quarters which at that time was in the Sgts mess - he looked around until he caught sight of Cpl Nordby, he stopped Nordby; especially Pte Nordby, he slapped Nordby's face and hit him in the head. So Nordby at last took hold of him and held him down - the rest of the men went to the kitchen outside and in a few minutes we saw Nordby running around in his underwear and barefeet with Sgt Desrosiers chasing him

when Nordby was either down in the C.Q.'s mess hall or down stairs - he had a hammer in his hand which he said he had taken off Sgt Desrosiers - we then went to our room and Sgt Desrosiers came in a few minutes later - the other fellows left in that they were sleeping so I was the only one

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-96464 Sgt. John Harcourt Deslauriers.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 18(5)	Not Guilty	Guilty	
2nd AA Sec 40	Not Guilty	Guilty	
3rd AA Sec 40	Not Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~No~~ prompt under sentence for; beginning on (date); (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks and to undergo detention for ninety (90) days.

(Sgd) M.L. Keycraft, Judge-Advocate, if any. 27 Sep 45, Date Awarded. (Sgd) C. Doolittle, Major, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be ultered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

RM [redacted]

Date 29 Sep 45 (Sgd) R C Houston Lt Col, Commanding Sqn 3 Cdn Inf Div CAOF, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
C96464 Sgt Deslauriers JH.	29 Sept 45	J Norman Capt Camp Comdt 3 Cdn Inf Div (CAOF)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 8 OCT 1945 JAG BRANCH CMHQ

C.A.O.F. - No 27

FIELD GENERAL COURT-MARTIAL

(P.A.M.S. 1676-1 (1944))

Convening Order of Brig R.L. Houston Comd Sqn 3 Cdn Inf Div dated 22 Sept 45 CAOF

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C96464	Sgt	John Harcourt	Deslauriers	HQ 3 Cdn Inf Div CAOF

PROCEEDINGS REVIEWED

9 Oct 45 L J Brady, Maj

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS REVIEWED 3 NOV 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 27 Sep 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A92, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 109, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ ~~Ans.~~

~~The Interpreter is sworn.~~(1) ~~Do you object to ..... as shorthand writer?~~ ~~Ans.~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ~~present~~ ranks, names and units of the offrs comprising the Court, etc.:

President	Major	C. Doolittle	3/CH&J Q (M&E) CAOF
Member	Capt	G.C.D. Adams	2/7 Cdn Recce Regt CAOF
Member	Lieut	J.M. Proctor	3/CH&J Q (M&E) CAOF
Judge-Advocate	Capt	M.L. Keycraft	3 Cdn "B" Cdn Sec
Prosecutor	Capt	A.M. Weldon	HQ 3 Cdn Inf Div CAOF
Defending Offr	Capt	R.B. Wetherton	HQ 3 Cdn Inf Div CAOF

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be retained separately with proceedings for information of Court Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Ch 9 p 33.)

A8. The accused C96464 Sgt. John Harcourt Deslauriers before arraignment make(s) (no) ~~no~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the decision, if any, and finding and sentence per Notes. For forms of record see Appendix A to this or RP Chap. Insert in the case and name of the accused making the plea.)

A9. The accused is (are) ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A80 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~A~~ D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without asthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the finding of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; mooring and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans [redacted] (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on [redacted] charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on [redacted] charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex [redacted], initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing is Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~his~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the [redacted] charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the [redacted] charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Give evidence on oath. Do you intend to call witnesses on your behalf ?
Ans No Sir Are they witnesses as to character only ? Ans
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 1st, 2nd and 3rd charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(2) (d), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MEM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through my Defending Officer (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 9.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, ~~Champ~~.(2)
(1. *When several accused tried separately see RP 70(b). One sentence only, comprised of the punishment or punishments laid down in AA 47, 48 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 3(9), 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 71(3), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(19), 68(1), KR Con 544.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

5-J-131

Pte. Deslauriers L.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas ... of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate ... AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and ... RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 300, 328, ...

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-58023	Pte		Lucien	DESLAURIERS	CIC 4

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 May 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E M MILLER, ED	H4 CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	3 CITR
Lieutenant	to be detailed by Comd	1 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	1 CITR

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 15 May 45

K G Blackader. (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(K G Blackader)

Commanding 13 Cdn Inf Trg Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFA3) 40/P & S/1697 (4931)

(See overleaf for oaths and notes for use on trial.)

Medical Offr's Certificate
K R (Can) para 537

I certify that I have this morning examined No: D-58023
(Rank)
Pte. DESLAURIERS, L. of 4 C.I.T.R. and in my opinion he is
(Name)

~~UNFIT~~ to undergo trial by Court Martial.

Station BEAUMONT-HKS.

Date 16-IIIay 1945

SGD _____
(Medical Offr)
4 C ITR

D.58023 CASE OF

Pte DESLAURIERS L

E-1 STATEMENT BY ACCUSED
(ON OATH)

Since I've been in the Army I've always been in trouble, Sir. Wh
joined up my wife was 2 mths without having any money at all and
5 kids, and I lost my furniture and my wife was thrown out by the
lord, and we had a 2 wks old baby when this happened. Then I star
going AWL because I had to find a place for her and so finally my
was fixed up, I came o/s and was 2½ yrs without a crime, then 6 mths
after I got letters from my wife saying she didn't get any money at
all for 6 mths. I went to see the Pmr about this and showed him the
letter she wrote to me. I heard nothing about it so I decided to make
inquiries on my own, and I wrote to the Women's Aux Social Organizatio
in Montreal and got a reply through my CO that my wife hadn't been
there for a week and that the kids were filthy dirty and had no bed
to sleep in. I kept after the Pmr, she sent me another letter that
she had recd $48 paid to her in weeks. After that I recd another letter
that she had $80 a month and she's been getting that amount, $80, ever
since. I got another letter from her blaming me for her allowance
being cut off, and I kept on about it to the Pmr that she should get
$118. About 6 mths ago I got another letter from her that she
doesn't want to see me again, saying that when I'm through over here
I needn't come back home. When I got that letter I just went AWL.

CROSS-EXAMINED

Q. Did you ever ask your Coy offr to write your wife for you?

A. No. Before I finish I would like to know now what has
happened to the money she didn't get. For 6 mths at all
no money, then for 6 mths $48, and then for another 6 mths
$80, what happened to the rest of it is what I want to know.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

PLEA IN MITIGATION
(BY DEF OFFR)

The only thing I wish to add Sir is that the accused is 31 yrs of age, is
still Cat A, and he has told me time after time that he

CASE OF

D.58023 Pte DESLAURIERS L 4 CITR

R-1 STATEMENT BY ACCUSED
(ON OATH)

Since I've been in the Army I've always been in trouble, Sir. When I joined up my wife was 2 mths without having any money at all and I've 5 kids, and I lost my furniture and my wife was thrown out by the landlord, and we had a 2 wks old baby when this happened. Then I started going AWL because I had to find a place for her and so finally my pay was fixed up, I came o/s and was 2½ yrs without a crime, then 6 mths after I got letters from my wife saying she didn't get any money at all for 6 mths. I went to see the Pmr about this and showed him the letter she wrote to me. I heard nothing about it so I decided to make inquiries on my own, and I wrote to the Women's Aux Social Organization in Montreal and got a reply through my CO that my wife hadn't been there for a week and that the kids were filthy dirty and had no bed to sleep in. I kept after the Pmr, she sent me another letter that she had recd $48 paid to her in weeks. After that I recd another letter that she had $80 a month and she's been getting that amount, $80, ever since. I got another letter from her blaming me for her allowance being cut off, and I kept on about it to the Pmr that she should get $118. About 6 mths ago I got another letter from her that she doesn't want to see me again, saying that when I'm through over here I needn't come back home. When I got that letter I just went AWL.

CROSS-EXAMINED

Q. Did you ever ask your Coy offr to write your wife for you?

A. No. Before I finish I would like to know now what has happened to the money she didn't get. For 6 mths at all no money, then for 6 mths $48, and then for another 6 mths $80, what happened to the rest of it is what I want to know.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

PIRA IN MITIGATION
(BY REP OFFR)

The only thing I wish to add Sir is that the accused is 31 yrs of age, is still Cat A, and he has told me time after time that he wants to go o/s.

SUMMARY OF EVIDENCE

In the case of No D-58023 Private Lucien DESLAURIERS, of The Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of The Canadian Army Overseas.

By direction of The Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieut F.A. Barberis, of The Canadian Infantry Corps, on strength of 4 C.I.T.R., having been duly sworn states as follows:

" I produce the following documents, pursuant to Overseas Routine Order No 5382, which have been read over and shown to the accused, and which are attached hereto as exhibits:

(a) A certified true extract from 4 C.I.T.R. Daily Orders Part II. No 10, para 18-0 d/12 Jan 45. This is to show the start of A.W.L. PRODUCED AND MARKED EXHIBIT "A". "

The accused declines to cross-examine this witness.

F.A. Barberis Lieut
(F.A. Barberis)

Second Witness for the Prosecution

C-20980 L/Cpl Levere, J.M., of The Cdn Inf Corps, on strength of 4 C.I.T.R., having been duly sworn states as follows:

" I am on the Regt'l Police of 4 C.I.T.R. At 1830 hrs 8 May 45 the accused, D-58023 Pte Deslauriers, L. whom I now recognize, reported to me as being an absentee without leave, and surrendered himself to me. I placed him under close arrest and notified his Wing Commander of his return."

The accused declines to cross-examine this witness.

J.M. Levere L/Cpl
(J.M. Levere)

The accused was then cautioned as follows: " Do you wish to make any statement or to give evidence on oath? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defense.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) & (F) have been duly complied with.

J.R. Mathieu Lieut
(J.R. Mathieu)
Officer detailed to take the Summary of Evidence.

IN THE FIELD
13 May 45.

SUMMARY OF EVIDENCE

In the case of No D-58023 Private Lucien DESLAURIERS, of The Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of The Canadian Army Overseas.

By direction of The Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieut F.A. Barberis, of The Canadian Infantry Corps, on strength of 4 C.I.T.R., having been duly sworn states as follows:

" I produce the following documents, pursuant to Overseas Routine Order No 5352, which have been read over and shown to the accused, and which are attached hereto as exhibits:

(a) A certified true extract from 4 C.I.T.R. Daily Orders Part II, No 10, para 16-C d/12 Jan 45. This is to show the start of A.W.L.
PRODUCED AND MARKED EXHIBIT "A". "

The accused declines to cross-examine this witness.

F.A. Barberis Lieut
(F.A. Barberis)

Second Witness for the Prosecution

C-20930 L/Cpl Levere, J.M., of The Cdn Inf Corps, on strength of 4 C.I.T.R., having been duly sworn states as follows:

" I am on the Regt'l Police of 4 C.I.T.R. At 1630 hrs 8 May 45 the accused, D-58023 Pte Deslauriers, L. whom I now recognize, reported to me as being an absentee without leave, and surrendered himself to me. I placed him under close arrest and notified his Wing Commander of his return."

The accused declines to cross-examine this witness.

J.M. Levere L/Cpl
(J.M. Levere)

The accused was then cautioned as follows: " Do you wish to make any statement or to give evidence on oath? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) & (F) have been duly complied with.

J.R. Mathieu Lieut
(J.R. Mathieu)
Officer detailed to take the Summary of Evidence.

IN THE FIELD
12 May 45.

EXHIBIT "A"

LAST ORDER
NO 9
11 Jan 45

4 CANADIAN INFANTRY TRAINING REGIMENT
DAILY ORDERS PART II
issued by
COLONEL J.GAVAN POWER, E.D., OFFICER COMMANDING

THIS ORDER
NO 10
12 Jan 45

PAGE 7

SECTION "B" OTHER RANKS

18 STRENGTH DECREASE

18-0 S.C.S. as a des w.e.f. 4 Jan 45 having been declared illegally absent by a ct of Inq from 0630 hrs 9 Dec 44. Deficiencies of kit 6-18-4.

D-88023 Pte Deslauriers, L. (R de Hull)

Signed F. Laverdure Lt.
for (R. Laverdure) Captain
for Major i/c Administration
4 CIR INF TRG REGT

Certified true extract [signature]
(K.J.C. Ridley) Capt & Records Offr
4 CIR INF TRG REGT
Officer having custody of original.

dated 13 May 45.

ARMY FORM B.286.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-58023	Pte	Deslauriers, L	4 CDN INF TRG REGT

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 877, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

* Within last 12 months. *Since Enlistment.

For ~~An Sec 15(1) AWL~~ 4 times 7 times.

For ~~times~~ ~~times~~

For ~~times~~ times.

~~times~~ times.

~~Number of instances of gallantry or distinguished conduct~~

~~The date or dates of entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, or

~~The previous conviction of the accused by a court martial or civil court, summary award under section 47 of the Army Act, and dispensation with trial under section 78 of the Army Act are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~The award of the present term is under sentence.~~ beginning on the ~~day~~

4. The accused has been in confinement, awaiting trial on the present charges, for 74 days in civil custody, and 7 days in military custody, making a total of 7 days, of which 24 days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 31 yrs old

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 26 Jun 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 yrs 32 days

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 32 days service.

9. The accused is entitled to reckon 4 yrs 32 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decoration or military reward~~ is in possession of or entitled to (*state any military decoration or reward*). GVSM & Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of dated

this regiment (or corps or department) the rank of dated

[illegible] 12/40 A.A.F.W.1161 60,000

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D-58023 Rank Pte Name Deslauriers. L of 4 GITR Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of May 45

Barbara Lunt
officer having custody of regt'l books

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of years.

In the rank of years.

In the rank of years.

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph entered amended accordingly.*)

No. D-58023 Name Deslauriers, L.

Date of last entry in Company Conduct Sheet: N/A

Sqn, Battery, or Company: N/A

No. and date of last drunk: N/A

COMPILED FROM MFM 2

Corps C.I.C.

Period not reckoning towards freedom from extra fine: N/A

Date of enlistment: 26 Jun 40

Sheet No. 1

Signature OC Company, etc

Service or Proficiency Pay

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order deciding with trial	By whom awarded	Remarks
Valcartier Field	5-9-41	Pte		AA Sec 15(1) AWL	Doc	15 dys CB fined $54.71	5 Sep 41	DO 218/41	for AWL
"	30-8-43	"		AA Sec 15(1) AWL 1 day	"	4 dys CB	30 Aug 43	DO 78/43	forf 1 dys pay
"	20-1-44	"		AA Sec 15(1) AWL	"	7 days pay	20 Jan 44	DO 3/44	
"	12-6-44	"		AA Sec 15(1) AWL	"	7 " "	12 Jun 44	DO 141/44	
"	23-8-44	"		AA Sec 15(1) AWL	"	40 " "	23/8/44	DO 202/44	
"	24-10-44	"		AA Sec 15(1) AWL	"	42 " "	24 Oct 44	DO 81/44	
"	7-12-44	"		AA Sec 15(1) AWL	"	37 " "	7 Dec 44	DO 33/44	

Certified true copy compiled from MFM 2 ..... Capt & Records Offr 4 C.I.T.R. Officer having custody of original

(K.J.C. Ridley)

Dated 14 May 45.

MISCELLANEOUS

In the case of No .D-58023..... Rank ...Pte..... Name ...DESLAURIERS, L.....
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING REGIMENT, a soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. Lieut F.A. Barberis....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
2. C-20930 L/Cpl Levere, J.M....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENSE

1. NIL....., of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

.....Lt. R. Marier.....

if he is available.

In the Field

14th day of May 1945.

Deslauriers L.....
(L. Deslauriers) Pte

LIST OF EXHIBITS

EXHIBIT "A" - Certified true extract from 4 CITR Daily Orders Part II, No 10, para 18-C d/12 Jan 45.

IN THE FIELD
14 May 45.

CHARGE SHEET

The accused, No D-[illegible] Private Lucien [illegible], of The Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of The Canadian Army Overseas, is charged with;

FIRST CHARGE
SECTION 16(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave from 0630 hours on the 9th day of December 1944 until surrendering himself at Unit Guard Room 4 C.I.T.R. at 1830 hours on the 8th day of May 1945.

(Total absence 150 days 12 hours)

(R.C. Clark) Col
Commander
4 CDN INF TRG REGT

IN THE FIELD
13 May 45
/HWH

To be tried by Field General Court Martial.

(K.C. Blackader) Brig
Comd
13 Cdn Inf Trg Bde

IN THE FIELD
15 May 45

RECORDED AT CMHQ IN AB 160. 5I-131

29 MAY 1945 AG Branch C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA31) 40/P & S/1466 (4/45)

4/38B

Convening Order: Brigadier K G Blackader Comd 13 CITB dated 15 May 45 HQ, NC, ED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-[illegible]		Lucien	DESLAURIERS	OIC 4 CITR

PROCEEDINGS REVIEWED so much as concerns me.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 16 May 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(*PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 102, 119, 132.*)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. *As to use of Summary of Evidence see RP 17 fn 6.* 2. *AA 49, 50, RP 105-107.* 3. *RP 11-13, 23, 24.*)

A3. The Court is opened. The accused is (are) brought before the Court. At 1450 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. *KR Can 557.* 2. *AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.*)

A5. President to accused: ~~Do you object to~~ ~~as interpreter~~ ? Ans ~~The Interpreter is sworn.~~(1) Do you object to Pte Lapointe as shorthand writer ? Ans No The shorthand writer is sworn.(1)

(1. *RP 72. Delete, if none employed.*)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. *RP 110.* 2. *If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.*)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.M. Mercer	HQ CR
Member	Capt.	J.C. Peters	3 C SDR
Member	Lieut	R. Ostfield	1 C SDR
~~Judge Advocate~~			
Prosecutor	Lieut	J.G.H. Lapointe	4 C SDR
Defending Offr	Lieut	H.L. Marier	4 C SDR

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. *RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.*
2. *If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See CF p 3.*)

A8. The accused ~~before arraignment made(s) (no) (a) plea~~ (1)

(1. *If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.*)

A9. The accused is ~~are~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. *RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings.* 2. *RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.*)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 5. The proceedings are continued on Record Form 5B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D/58023 Pte Lucas, DESERTING - OIC - 4 CITR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(2)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 733, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for NOT beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355/or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for One (1) Year

(Sgd) Judge-Advocate, if any. 16 May 45 Date awarded. (Sgd) Lt. Col. President. (RP 45, 50.) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be [illegible] detention [illegible] further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 18 May 45 (Sgd) H.G. BLACKADER Brig Commanding Cond-13 Cdn Inf Trg Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 51, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D58023 Pte Lucas, D.	21 May 45 D.O. #117/45	[illegible] Maj 2/OC Dep Bn 4 Cdn Inf Trg Regt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on* ***each charge sheet*** (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p. 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (2).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s) being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans ~~No~~ Myself only
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I leave my case with the Court (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him, ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas Rl 309, 1122A, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

COUNTER NUMBER 54766

HOUR 10 25

OPERATOR'S INITIALS GM

RELIEVING OPERATOR GG

Correspondence to be PINNED here.

Certified true Copy
Dindeau Capt
(R. CORDEAU)
XX-71

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Third Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~ "T.G.G"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint:—~~

~~*(1) Three Officers to form the Court;~~

~~*(2) A Field Officer as President;~~

~~for the following reasons, namely:—~~ "T.G.G"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.S.E. Waterman	West NSR

Members.

Rank.	Name.	Regiment.
Captain	J.W.K. Smeltzer	West NSR
Captain	W.R. Moore	West NSR
Lieutenant	F. Brunet	R 22e R.

(Waiting)

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier,

Commanding 3 Cdn Inf Bde.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D58101 Private Deslauriers, Roland R 22e R	First Charge AA Sec (12)(1)(a)	Not Guilty "R.W"	Guilty "R.W"	I confirm the finding of the Court. I vary the sentence so that it shall read as follows, to be imprisoned with hard labour for two years and I confirm the sentence as so varied. P.J. Montague Brigadier General Force Canadian Soldiers Headquarters
	Second Charge AA Sec 12(1)(a)	Not Guilty "R.W"	Guilty "R.W"	
			To suffer Penal Servitude for a term of 3 years. "R.W"	
				I reserve confirmation of the finding and sentence of the Court for superior authority "T.G.Gibson" Brig.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G.Gibson" Brigadier (Signed) "R. Waterman" Major
Commanding 3 Can Inf Bde — West N.S.R.
Convening Officer (*e*) — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 11th day of November 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) 24983 Sgt. Girouard, R. R 22e R
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 11th day of November 1943.

"R. Waterman" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~ P/Cn

Signed this 18 day of Dec 19 43

P.J. Montague Brigadier General
Force Canadian Soldiers
Confirming Officer. Headquarters

Promulgated and extracts taken in the case of D 58101 Pte Deslauriers, R. R.R.

(*a*) (Dated) 21 December 43 (Signed) [signature] Adjutant
A/Capt Asst Adjt Headquarters Canadian Soldiers Force

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CIPHER MESSAGE IN

SIGS NO.7127

TO : FLAMBO FOR CANDEX

FROM: CANMILITRY A 4918 DEC

REFERENCE A 4615 AND YOUR ACA 1567. PARA 1 IN CASES LESLANC D LESLANC E DESLAURIERS R SENIOR OFFICER ENDORSED PROCEEDINGS 18 DECEMBER 43 QUOTE I CONFIRM THE FINDING OF THE COURT I VARY THE SENTENCE SO THAT IT SHALL READ AS FOLLOWS TO BE IMPRISONED WITH HARD LABOUR FOR TWO YEARS AND I CONFIRM THE SENTENCE AS SO VARIED UNQUOTE. PARA 2. IN CASE BEAULIEU JR ENDORSEMENT SAME DATE QUOTE I DO NOT CONFIRM THE FINDING OR SENTENCE UNQUOTE

SMC/DIS/ACTION. CDN SEC

SMC/TOR/200400A CM

SUMMARY OF EVIDENCE

In the case D.58101 Private Roland DESLAURIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this summary of evidence was taken under oath.

1st Witness for the Prosecution — P.48791 Sgt. Careau, M., Royal 22e Regiment, posted to "D" Coy, having been duly sworn, states:-

"I am P.48791 Sgt. Careau, M., R.22e.R., posted to "D" Coy, Platoon Sergeant of No.18 Platoon. On the 9th of October 1943, at 1230 hrs, my Platoon was under enemy shelling. The accused whom I now recognize, and who was in my Platoon, was told several times to keep up with his section. The last time I told him to keep up with his section, he said that on account of the enemy shelling he could not move forward, or something to that effect. A few minutes later, I noticed that he was missing without permission. He reported himself to me at 1300 hrs on the 17th of October 1943."

"M. Careau" Sgt.

The accused declines to cross examine the witness.

2nd Witness for the Prosecution — Lieut. Frechette, P., Royal 22e Regiment, posted to "D" Coy, having been duly sworn, states:-

"I am Lieut. Frechette, P., R.22e.R., posted to "D" Coy. I command No.18 Platoon, and the accused, whom I now recognize, is in my platoon. On the 9th of October 1943, at 1230 hrs, my Platoon was under enemy shelling. At this time, the accused was told several times by my Sergeant to keep up with his section. A few minutes afterwards, my Sergeant told me that the accused was missing. He had no permission whatsoever to leave the Platoon. He reported himself back at 1300 hrs on the 17th of October 1943."

"Pierre Frechette" Lieut.

The accused declines to cross examine the witness.

1st & 3rd Witness for the Prosecution — P.48791 Sgt. Careau, M., Royal 22e Regiment, posted to "D" Coy., having been duly sworn, states:-

"I am P.48791 Sgt. Careau, M., R.22e.R., posted to "D" Coy. I am Platoon Sergeant of No.18 Platoon. On the 22nd of October 1943, at 1545 hrs, I was forming up the platoon to leave this sector, when the accused, whom I now recognize, reported himself to me as being released from Close Arrest. I told him to place his pack in one of the trucks which was near by, and to report back to me. He did not report to me afterwards."

"M. Careau" Sgt.

The accused declines to cross examine the witness.

"R.S"

SUMMARY OF EVIDENCE - Continued.

4th Witness for the Prosecution — E.4188 P/Sgt. Lebel, L.P., Royal 22e Regiment, having been duly sworn, states:-

"I am E.4188 P/Sgt. Lebel, L.P., R.22e.R. On October 22nd, 1943, Pte. Deslauriers, R., whom I now recognize, was released from Detention by Major Allard, 2 i/c Royal 22e Regiment. Major Allard told him that he had to report to his former platoon. He further advised him that his coy was moving forward towards the enemy, and that he would have to carry on with his normal duties. This was at about 1430 hrs."

"L.P. Lebel" P/Sgt.

The accused declines to cross examine the witness.

5th Witness for the Prosecution — C.30760 L/Cpl. Nicholas, A.R., No.1 Provost Coy, RCMP, having been duly sworn, states:-

"I am C.30760 L/Cpl. Nicholas, A.R., of No.1 Provost Coy RCMP. At about 1730 hrs on the 26th of October 1943, I was informed by Sgt. Henzie, orderly sergeant, to proceed to s vicinity in CAMPORASSO where, Sgt. Henzie said, we would pick up two A.W.L. D.58101 Pte. Deslauriers, R., whom I now recognize was one of the two A.W.L. On the journey back to our detachment the two prisoners did not give us any trouble at all."

"A. Nicholas" L/Cpl.

The accused declines to cross examine the witness.

The accused having been duly cautioned in French in accordance R.O. 1424 reserves his defence.

I certify that the foregoing of Summary of Evidence consisting of three (3) pages was taken down in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

"Charles E. Levesque" Lieut.

Officer taking Summary

In the Field

5th November 1943. "R. Waterman" Major

List of Witnesses for the Prosecution

Case of: D.58101 Pte. Desleuriers, R.

P.48791	Sgt.	Careau, M.	"D" Coy, R.22e.R.
	Lieut.	P. Frechette,	"D" Coy, R.22e.R.
P.48791	Sgt.	Careau, M.	"D" Coy, R.22e.R.
E.4188	F/Sgt.	Lebel, L.P.	R.22e.R.
C.30760	L/Cpl.	Nicholas, A.R.	No.1 Prov. Coy, RCMP.

Defence

N I L

B.2.

CHARGE SHEET

In the case of D.58101 Private Roland DESLAURIERS, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service, is charged with:-

1st Charge:
A.A. Sec.12(1)(a)

DESERTING HIS MAJESTY'S SERVICE,

in that he,

In the Field, on the 9th of October 1943, when advancing towards the enemy did absent himself from 1230 hrs until he reported himself at 1300 hrs on the 17th of October 1943, with the intention to avoid battle with the enemy.

2nd Charge:
A.A. Sec.12(1)(a)

DESERTING HIS MAJESTY'S SERVICE,

in that he,

In the Field, on the 22nd of October 1943, when advancing towards the enemy did absent himself from 1545 hrs until he was apprehended at 1800 hrs the 28th of October 1943, with the intention to avoid battle with the enemy.

"P.E. Bernatchez"
Lt-Col.,
Commanding Royal 22e Regiment.

In the Field

5th November 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
8 Nov 43

"T.G. Gibson" Brigadier,
Commanding 3 Cdn Inf Bde.

"R. Waterman" Major

Army Form A 9

A

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Fd.General Court-Martial held at in the field on the 11th day of November 19 43 by order of

Brigadier T.G. Gibson

Commanding 3rd Cdn Inf Bde

dated the 8th day of November 19 43.

President

Major. R.S.E. Waterman, West N.S.R.

Members

Capt. J.W.L. Smeltzer, West N.S.R.

Capt. W.R. Moore, West N.S.R.

Judge Advocate

Trial of D.58101 Pte. Roland Deslauriers, R.22e.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

, writing member takes his place as member of the Court.

"R.W"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Lt. C.E. Levesque, R.22e.R.

Counsel or defending officer Lt. A. Letourneau, R.22e.R.

At 1345 hrs o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No.

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R. Waterman" Major

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have beenprejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer No.

The prosecutor makes an opening address (hands in a written address which is read, marked "R.W", signed by the President, and attached to the proceedings.)

The prosecutor proceeds to call witnesses.

First witness) for prosecution)

"R. Waterman" Major.

being duly sworn, is examined by the Prosecutor.

Army Form A 9

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Fd.General Court-Martial held at in the field on the 11th day of November 1943 by order of

Brigadier T.G. Gibson

Commanding 3rd Cdn Inf Bde

dated the 8th day of November 1943.

President

Major. R.S.E. Waterman, West N.S.R.

Members

Capt. J.W.R. Smeltzer, West N.S.R.

Capt. W.R. Moore, West N.S.R.

Judge Advocate

Trial of D.58101 Pte. Roland Deslauriers, R.22e.R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that is available to serve, swing as , waiting member takes his place as a member of the Court. "R.4"

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Lt. C.E. Levesque, R.22e.R.

Counsel or defending officer Lt. A. Letourneau, R.22e.R.

At 1345 hrs o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No.

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R. Waterman" Major

The President, members and judge advocate are duly sworn.
"R.W."

The following officers under instruction are duly sworn:

Do you object to E.4923 Sgt. Girouard, R., R.22e.R., acting as interpreter?
No, Sir.
The interpreter is duly sworn. "R.W"

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the (first) charge against you, which you have heard read?

Not Guilty
Answer

Are you guilty or not guilty of the second charge against you, which you have heard read?

Not Guilty
Answer

Are you guilty or not guilty of the third charge against you, which you have heard read? "R.W"

Answer

Are you guilty or not guilty of the fourth charge against you, which you have heard read? "R.W"

Answer

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35(b) are here complied with.
"R.W"

If the trial proceeds upon any charge to which there is a plea of "Not Guilty", the Court will not proceed upon the record of a plea of "Guilty", until after the finding on that other charge.

"R. Waterman" Major.

C

PROCEEDINGS ON PLEA OF NOT GUILTY

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have beenprejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer No.

The prosecutor makes an opening address (hands in a written address which is read, marked "R.W" signed by the President, and attached to the proceedings.)

The prosecutor proceeds to call witnesses.

First witness for prosecution) "R. Waterman" Major.

being duly sworn, is examined by the Prosecutor.

Case of D.52101, Pte. DESLAURIER.

First Witness for the Prosecution

P.48791 Sgt. Careau, M., R.22.R., having been duly sworn, states:

The witness identifies the accused.

As platoon sergeant of No.18 Platoon on the 9 Oct 43 we were advancing towards the enemy. The accused was in my platoon, during the morning we were under enemy shelling which was not really for us. The accused was warned a few times to keep up with his section. About 1230 hrs I noticed that the accused was missing from the platoon. Before he left I warned him myself, he told me that he could not go any further forward because of the enemy shelling. He did not have the nerve to go further. He reported back to me at 1300 hrs 17 Oct 43. On the 22 Oct 43 the accused reported to me from the guard room saying that he had been released from close arrest. I was forming up the platoon to move forward to another sector. I told him to put his large pack in the truck and then join the platoon. He failed to return.

Question: Did he tell you on the 9 Oct 43 that he was afraid to go forward?

Answer: He told me he was afraid to go forward and would not go forward.

Questions by the Defence

Question: Did you see the accused leave the platoon on the 9 Oct 43?

Answer: No, sir.

Question: Did the accused tell you he was afraid?

Answer: Yes, sir.

Question: Did he tell you that he could not control his nerves?

Answer: He said he was nervous and could not stand the enemy shelling.

Question: Was there any enemy activity around when the accused reported to you on the 22 Oct 43?

Answer: No, sir.

Question: Did you tell the accused on this date that you were going to attack the enemy?

Answer: No, sir.

R.P. 83(b) complied with.

"R. Waterman" Major.

Second Witness for the Prosecution — Lieut. Frechette, P., R.22.R., having been duly sworn, states:

Witness identifies the accused.

I am No.18 Platoon commander and the accused is in my platoon. On the 9 Oct 43 my platoon came under enemy shell fire at approximately 1215 hrs. That is when the accused started to fall back. Finally, at about 1230 hrs the accused left the platoon and reported back 17 Oct 43 at 1300 hrs.

Question: When the accused left was the platoon still under enemy shelling?

Answer: Yes.

Question: Did he leave with or without permission?

Answer: Without permission.

Question: Were you still commanding No.18 platoon on the 22 Oct 43?

Answer: Yes.

Question: Did the accused report himself to you on that date?

Answer: No.

Questions by the Defence

Question: Did you see the accused when the shelling started?

Answer: No.

Question: Did you see him at all during the shelling?

Answer: No.

Question: Have you any reason to think that the accused might have lost her nerve?

Answer: No, because the fire was not close enough.

Question by the Court

Question: What leads you to believe the accused left at 1230 hrs?

Answer: The platoon halted for a brief rest and the platoon sergeant reported the incident at this time.

R.P.83(b) complied with. "R.W."

Third Witness for the Prosecution — M.4188 Sgt. Lebel, L.P., R.22.R., having been duly sworn, states:

Witness identifies the accused.

On the 22 Oct 43 I paraded all the prisoners to Major Allard, 2 i/c R.22.R. Major Allard told them (the accused was present) I am sending you all back to your own platoons because the regiment will advance forward against the enemy. Before Major Allard sent them back to their platoons he told them, if all of you are good soldiers during the next exercise your previous charge will be destroyed, and sent them back to their own platoons.

Question by the Defence

Question: Did Major Allard specify any particular time the regiment was advancing.

Answer: He said. I do not know exactly when but soon.

Question by the Court

Question: At what time did you parade the prisoners to Major Allard.

Answer: At about 1400 hrs.

R.P.83(b) complied with. "R.W"

Fourth Witness for the Prosecution — C.30760 L/Cpl. Nicholas, A.R., No.1 Provost Coy (RCMP), having been duly sworn, states:

Witness identifies the accused.

At approx ~~1400~~ hrs 28 Oct 43 I was informed by Sgt. Menzie, Orderly Sergeant, that I was to proceed with three other ranks to a certain locality in or about Campobasso for the purpose of apprehending two soldiers of the R.22.R. I proceeded to said locality and took the two soldiers in custody. The accused was one. We returned to our detachment at Campobasso. I apprehended them at 1730 hrs.

Defence declines to cross examine the witness.

R.P.83(b) complied with. "R.W"

The prosecution is closed.

DEFENCE

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer No.

Question Do you intend to call any other witness in your defence?

Answer No.

Question ~~Is he a witness as to character only?~~ Answer. "R.W"

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40(C)(iv) and 41(A)(i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

- - - - - - - -

(Where any evidence is given for the defence)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (see overleaf).

- - - - - - - -

(Where the accused does not give evidence upon oath).

Question to the accused. Have you anything to say in your defence?

Answer No. ~~The accused in his defence says:~~ *
~~(hands in a written address which is read, marked signed by the President and attached to the proceedings.)~~ "R.W"

- -

* In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, see Instructions to the Court above).

SUMMING UP CASE OF DESLAURIERS 11-11-43

On Oct 9th 1943, being under enemy shelling the accused was advised more than once that he had to follow up with his Section, which he did not. He then left his Section without his support and so deserted his comrades. He also admitted he was afraid of going forward.

Moreover, on the 22nd he advised a second time that he would have to meet the enemy. He refused to advance by not showing up at his Section and a second time deserted his comrades.

In thus avoiding an important duty, the accused can be qualified of desertion according to M.M.I. Chap III, Sub 20, and that's what I am asking the Court to find him guilty of.

"Charles E. Levesque" Lt.

"R. Waterman" Major.

CLOSING UP ADDRESS

On the 9th of Oct. 1943 the accused complained several times that his nerves were in very bad shape and that he was loosing control.

No witness have proved that the accused left his Pl during actual shelling. I really think that the accused had no intention of avoiding an important duty, but I think that the accused nerves failed to give him support, and that it is the reason why he left his Platoon.

On the 22nd of October 1943 the accused was sent to his Coy. There was no enemy activity. There nobody told him that his way was to meet the enemy on that day. Major Allard before dismissing the accused did not specify any time as when his Coy was going to meet the enemy. The accused left that 22nd of Nov.

"A. Letourneau"

"R. Waterman" Major.

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused is Guilty of Deserting His Majesty's Service on the 1st & 2nd charges as laid.

It is noted that there is a discrepancy of the 30 min in commencement of absence 2nd charge.

"R. Waterman" Major.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Lt. C.E. Levesque, R.22e.R. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness.

Yes.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E1 & E2, signed by the President, and annexed to the proceedings.

Question by the President: Is the accused the person named in the statement which you have read? Answer by the Witness.

Yes.

Question: Have you compared the contents of the above statement with the regimental books? Answer.

Yes, as far as available.

Question: Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes, to my best knowledge & belief.

~~Cross-examined by the accused.~~ "R.W"

Do you wish to address the Court? Answer No.

The Court is closed for the consideration of the sentence.

"R. Waterman" Major

No. D58101 Name Deslauriers,R Sqn., Battery, or Company Temporary Sheet. Corps R.22e.R. Date of enlistment 25-7-40 G.C. Badges Service or Proficiency Pay M.F.M. 6

B.1. Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. "B.Guimond" Lt. & Adjt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Certified true copy			3Nov43		J.A.Leclaire Capt.
Field	12-7-43	Pte		W.O.A.S. Breaking out of barracks whilst he was confined to barracks A.A.10(4)	CSM Leclaire	14 days C.B.	13-7-43	Capt J.E. Chicoine J.A.G.	
				Certified true copy "B.Guimond" Adjutant, Royal 22e Regiment					
									"E. Waterman" Major.

(P.T.O.)

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused is Guilty of Deserting His Majesty's Service on the 1st & 2nd charges as laid.

It is noted that there is a discrepancy of the 30 min in commencement of absence 2nd charge.

"R. Waterman" Major.

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Lt. C.E. Levesque, R.22e.R. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness.

Yes.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Z1 & Z2, signed by the President, and annexed to the proceedings.

Question by the President: Is the accused the person named in the statement which you have read? Answer by the Witness.

Yes.

Question: Have you compared the contents of the above statement with the regimental books? Answer.

Yes, as far as available.

Question: Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes, to my best knowledge & belief.

~~Cross-examined by the accused.~~ "R.W"

Do you wish to address the Court? Answer No.

The Court is closed for the consideration of the sentence.

"R.Waterman" Major

F

SENTENCE

The Court sentence the accused D50101 Pte Roland Deslauriers R.22E.R. **Sentence**

To suffer Penal Servitude for a term of three years.

"R. Waterman" Major

No. D98101 Name Deslauriers, R. Sqn., Battery, or Company — Temporary Sheet. Corps R.22e.R. Date of enlistment 25-7-40 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F. B.122) 40/P & /5136 (2965)

E.1. Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc. "B.Guimond" Lt. & Adj. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy			3Nov43		J.A.Garceau Capt.
Field	12-7-43	Pte		W.O.A.S. Breaking out of barracks whilst he was confined to barracks A.A.10(4)	CSM Leclaire	14 days C.B.	13-7-43	Capt J.E. Chicoine J.A.G.	

Certified true copy
"B.Guimond" Adjutant,
Royal 22e Regiment

"R. Waterman" Major.

(P.T.O.)

B.2.

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 256

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D50191	Pte.	Deslauriers, R.	Royal 22 Regiment.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 73 A.F.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. N/A

or,

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

4. The accused has been in confinement awaiting trial on the present charges, for ..... days in civil custody, and 23 days in military custody, making a total of 23 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 25

6. The date of his ~~enlistment~~ attestation specified in his record of service is attestation paper 25-7-40

7. The service which the accused is allowed to reckon towards discharge is 3 years

7a. The accused is entitled to deferred pay or gratuity in respect of 1 years 4 months service.

8. The accused is entitled to reckon 3 years service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

"R. Waterman" Major.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number D58101 Rank Pte

Name Deslauriers, Roland of R. 22e Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. "B.Guimond" Capt & Adj. R.22e.R., C.A.S.F.

Signed this 4th day of Nov 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

MEDICAL OFFICERS CERTIFICATE

FA (CAN) 552

I certify that I have this morning examined No. D58101 Rank Pte Name DesLaurier, R., of Royal 22e Regt. and in my opinion he is fit to undergo Trial by a Court Martial.

Station In the Field

Date 11th Nov 1943

"Guy Latour" Capt
Medical Officer

"R. Waterman" Major

COUNTER NUMBER 547693

HOUR 10.30

OPERATOR'S INITIALS GG

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Germaine Mc...il of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated NOV. 24 1958

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

Camera # 8 Book No. 12.1

PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		8 1/6
TOTAL NO. OF IMAGES		5,104

JOB NO. 44 REEL NO. 16

BOOK NO. 12-1

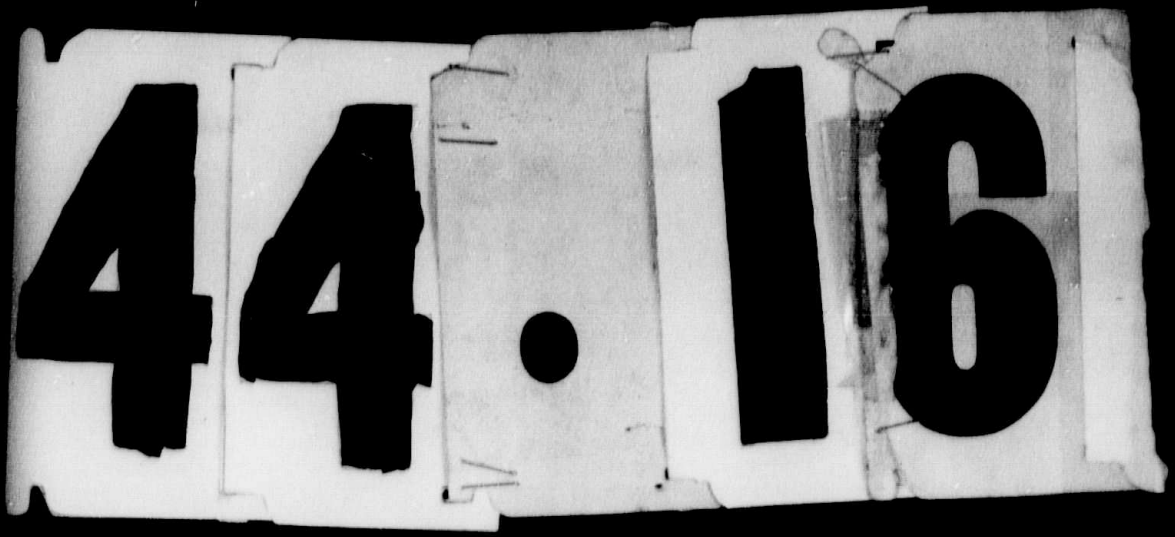
44-16 A INDEXING DATA	44-16B
BEGINS WITH DEANE D.G.	DEMPSEY J.
1. DEION F.	DENNISON D.G.
2. DELINE P.G.	DERBY R.F.
3. DEMERS A.	DESJARDINS A.
ENDS WITH DEMPSEY G.	DESLAURIERS L.

P.G.

END

SECOND

SIDE


44.16